



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS

NO. 575

**INQUIRY CONCERNING THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO**

CLEAR FLOAT GLASS

**EXPORTED TO AUSTRALIA FROM
THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF
INDONESIA AND THE KINGDOM OF THAILAND**

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ABBREVIATIONS

\$	Australian dollars
AAP	AGC Asia Pacific Pte Ltd
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901 (Cth)</i>
the Australian industry, Oceania Glass	Oceania Glass Pty Ltd
CFG, the goods	clear float glass
CFR	Cost and Freight
China	the People's Republic of China
CIF	Cost, Insurance and Freight
COGS	cost of goods sold
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Cooling Brothers	Cooling Brothers Glass Pty Ltd
CSR Viridian	CSR Viridian Limited
CTMS	cost to make & sell
DCR	Dumping Commodity Register
DSN	dumping specification number
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975 (Cth)</i>
DXP	dumping export price
EPR	electronic public record
EXW	Ex Works
FIS	Free Into Store
FOB	Free On Board
FY	financial year(s)
GAAP	generally accepted accounting principles
Guardian	Guardian Industries Corp Ltd
GOI	Government of Indonesia
the goods	the goods the subject of the application (also referred to as the goods under consideration)
the Guidelines	<i>Guidelines on the Application of Forms of Dumping Duty (November 2013)</i>
IDD	interim dumping duty
Indonesia	The Republic of Indonesia
the inquiry period	1 January 2020 to 31 December 2020

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the Manual	<i>Dumping and Subsidy Manual (November 2018)</i>
MCC	model control code
the Minister	the Minister for Industry, Science, and Technology
NIP	non-injurious price
OCOT	ordinary course of trade
Original investigation	Investigation 159C
period of analysis	1 January 2017 to 31 December 2020
PT Asahimas	PT Asahimas Flat Glass Tbk
the Regulation	<i>Customs (International Obligations) Regulation 2015 (Cth)</i>
REP 159C	International Trade Remedies Report No. 159C
REP 335	Anti-Dumping Commission Report No. 335
REQ	response to exporter questionnaire
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general, and administration
sqm	square metres
Thailand	The Kingdom of Thailand
UAE	United Arab Emirates
USP	unsuppressed selling price
Xinyi	Xinyi Ultrathin Glass (Dongguan) Co Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether the continuation of the anti-dumping measures, in the form of a dumping duty notice, applying to clear float glass (CFG, the goods) exported to Australia from the People's Republic of China (China), the Republic of Indonesia (Indonesia) and the Kingdom of Thailand (Thailand) (the subject countries) is justified. This SEF sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base their recommendations to the Minister for Industry, Science and Technology (the Minister).

The anti-dumping measures currently applicable to exports of the goods to Australia from the subject countries (the current measures) are due to expire on 17 October 2021.¹

The inquiry was initiated on 2 February 2021 following the Commissioner's consideration of an application lodged by Oceania Glass Pty Ltd (Oceania Glass, the Australian industry), being the person specified under section 269ZHB(1)(b)(ii) the *Customs Act 1901 (Cth)* (the Act)² representing the whole of the Australian industry producing like goods to the goods covered by the current measures.

1.2 Legislative framework

Division 6A of Part XVB sets out, among other things, the procedures to be followed by the Commissioner when considering an application for the continuation of anti-dumping measures.

Section 269ZHE(1) requires that the Commissioner publish a SEF on which they propose to base their recommendations to the Minister concerning the continuation of the anti-dumping measures. Section 269ZHE(2) requires that in doing so the Commissioner must have regard to the application, any submissions received within 37 days of the initiation of the inquiry and may have regard to any other matters that he considers relevant.

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and / or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

Pursuant to section 269ZHF(1)(a), in giving the Minister a report, the Commissioner must recommend:

- that the notice remain unaltered; or

¹ Under section 269TM, dumping duty notices and countervailing duty notices expire 5 years after the date on which they were published, unless they are revoked earlier.

² All legislative references in this report are to the *Customs Act 1901 (Cth)* unless otherwise stated.

- that the notice cease to apply to a particular exporter or to a particular kind of goods; or
- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- that the notice expire on the specified expiry day.

1.3 Preliminary findings

Based on the evidence currently available, the Commissioner is satisfied that the expiration of the current measures in respect of exports of the goods from PT Asahimas and all other exporters from Indonesia (excluding PT Muliaglass) would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the measures are intended to prevent.

The Commissioner is not satisfied that the expiration of the current measures in respect of exports of the goods from China, Thailand and PT Muliaglass would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the measures are intended to prevent.

In order to assess whether dumping may continue or recur, the Anti-Dumping Commission (Commission) has obtained information relevant to the assessment of dumping for the inquiry period 1 January 2020 to 31 December 2020. In relation to PT Asahimas, the Commission has found that there has been a change in the variable factors.³

1.4 Proposed recommendation

Based on the above findings, the Commissioner proposes to recommend that the Minister:

- take steps to secure the continuation of the dumping duty notice applicable to the goods exported from PT Asahimas and all other exporters from Indonesia (excluding PT Muliaglass);
- alter the variable factors for the dumping duty notice in relation to PT Asahimas; and
- allow the dumping duty notice applicable to the goods exported from China, Thailand and PT Muliaglass to expire.

1.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base their final recommendations to the Minister.

This SEF represents an important stage in the inquiry. It informs interested parties of the facts established and allows them to make submissions in response to the SEF.

³ The variable factors relevant to the dumping duty notice are the normal value, the export price and the non-injurious price (NIP) (section 269T(4D)(a) refers). If the measures are continued, the Commission considers that it is appropriate to establish a contemporary basis for calculating the payment of interim duty.

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It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **26 July 2021**.⁴

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.

Submissions may be provided by email to investigations3@adcommission.gov.au

Alternatively, interested parties may post submissions to:

Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. Information in relation to making submissions is available on the Commission's website at www.adcommission.gov.au

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The electronic public record (EPR) is available via the Commission's website. Interested parties should read this SEF in conjunction with other documents on the public record.

1.6 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.⁵

The Commissioner will consider submissions made in relation to this SEF in making their final report to the Minister.

The Commissioner must report to the Minister by no later than **18 August 2021**.

⁴ The original due date for submissions in response to this SEF was 25 July 2021. As this date is a Sunday, the deadline becomes the next business day.

⁵ Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see Anti-Dumping Notice (ADN) No. 2017/010.

2 BACKGROUND

2.1 Initiation and current measures

The anti-dumping measures were declared by public notice on 17 October 2011 by the then Attorney-General.⁶ This followed their consideration of the recommendations in *International Trade Remedies Report No. 159C* (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 by CSR Viridian Limited (CSR Viridian) 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 5 years.⁷ This followed consideration of the Commissioner's recommendation in *Anti-Dumping Commission Report No. 335* (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.⁸ This followed consideration of the Commissioner's recommendation in REP 479 as a result of *Anti-Circumvention Inquiry No. 479*.

The anti-dumping measures currently apply to all exporters of the goods from China (except Xinyi Ultrathin Glass (Dongguan) Co Ltd (Xinyi)), Indonesia and Thailand.

A background to key cases in relation to the goods is summarised in Table 1 below.

⁶ Australian Customs Dumping Notice No. 2011/050 refers.

⁷ ADN No. 2016/085 refers.

⁸ ADN No. 2019/019 refers.

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Case type and no.	ADN number	Date	Country of export	Findings
Investigation No. 159C	2011/050	17 October 2011	China Indonesia Thailand	Measures imposed on exporters from China (except Xinyi), Indonesia and Thailand.
Continuation Inquiry No. 335	2016/085	8 September 2016	China Indonesia Thailand	Measures continued and variable factors altered for all exporters generally (except Xinyi).
Anti-Circumvention Inquiry No. 479	2019/019	7 March 2019	Thailand	Notice altered in relation to Thailand.

Table 1: Summary of cases undertaken in relation to the goods

Table 2, below, sets out the current measures applying to exports of the goods to Australia.

Country	Exporter	Form of Measures	Fixed rate of interim dumping duty (IDD)	Ascertained Export Price ⁹
China	Xinyi Ultrathin Glass (Dongguan) Co Ltd	Exempt	Exempt	Exempt
	All other exporters	<i>ad valorem</i>	16.2%	N/A
Indonesia	PT Asahimas Flat Glass Tbk	<i>ad valorem</i>	14.4%	N/A
	PT Muliaglass	<i>ad valorem</i>	0.3%	N/A
	All other exporters	<i>ad valorem</i>	28.3%	N/A
Thailand	All exporters	Combination of fixed and variable	25.8%	Confidential

Table 2: Current measures applying to exports of the goods

Further details on the current measures is available on the Dumping Commodity Register (DCR) at www.adcommission.gov.au

2.1.1 Submissions in relation to initiation and current measures

In its submission of 31 March 2021, the Government of Indonesia (GOI) submitted that the application should not have been accepted on the grounds that the applicant did not provide an explanation for the effect of the increased volumes of exports from Malaysia and the United Arab Emirates (UAE).¹⁰

In order to initiate a continuation inquiry, the Commissioner must be satisfied that there are reasonable grounds to assert that the expiration of these measures (which apply only

⁹ Relevant to variable interim duty.

¹⁰ EPR 575, No. 007, p 2-3.

to China, Indonesia and Thailand) would lead or be likely to lead to a continuation or recurrence of the material injury that the measures, are intended to prevent.

Even accounting for a possible increase in imports from countries not subject to the measures, the Commissioner was satisfied that there was a sufficient basis to conduct an inquiry into the continuation of these measures. The Commissioner's reasons for not rejecting Oceania's application were set out in full in ADN 2021/010, which is available on the Commission's website.

The GOI further submitted that as the measures have currently been in place for 10 years, the Australian industry has had enough time to be able to recover from injury, and thus the measures are no longer warranted.¹¹ This issue was also raised by PT Asahimas Flat Glass Tbk (PT Asahimas) in its submission of 30 April 2021.¹² The Commission has assessed the economic condition of the Australian industry in Chapter 6.

PT Asahimas also stated that it was "unfair and breaching the spirit of the WTO Agreement" for this inquiry to exclude imports from Malaysia and the United Arab Emirates (UAE).¹³

The Commissioner is unable to expand the scope of a continuation inquiry to include exports from countries not subject to the measures. However, other potential causes of injury to the Australian industry, such as imports from other countries, were considered in the Commission's injury analysis in Chapter 8 of this SEF. The Commissioner also initiated an investigation into alleged dumping of clear float glass from Malaysia and the UAE on 27 April 2021.¹⁴

2.2 Conduct of inquiry

The Commissioner established an inquiry period of 1 January 2020 to 31 December 2020 (the inquiry period) for the purposes of making findings and recommendations regarding the dumping and injury for this inquiry.

A number of interested parties commented on the appropriateness of using the calendar year of 2020 as the inquiry period, primarily because the COVID-19 pandemic affected markets in 2020.¹⁵

The Commission generally establishes the inquiry period as the 12 months preceding the initiation date and ending on the most recently completed quarter or month. The Commission adopted its usual practice when determining an appropriate inquiry period for this inquiry, but has had regard to the effects of the COVID-19 pandemic in its analysis of the likelihood of continuation or recurrence of dumping and material injury. For example,

¹¹ EPR 575, No. 007, p 1.

¹² EPR 575, No. 013, p 5.

¹³ EPR 575, No. 013, p 1.

¹⁴ ADN No. 2021/054.

¹⁵ EPR 575, Nos. 003, 013 and 014.

the Commission has considered the effect of the increase in shipping costs on pricing decisions as raised by PT Muliaglass.¹⁶

The GOI also submitted that the information provided in the application reflected a different period to the inquiry period.¹⁷ The Commission has used its own more contemporaneous inquiry period in the assessment of dumping and injury for the purposes of this continuation. A similar issue was also raised by PT Muliaglass in its submission of 7 May 2021.¹⁸ As detailed in section 7.4.1 of this report, the Commission has used the verified information provided by PT Muliaglass in its response to the exporter questionnaire (REQ) for the assessment of PT Muliaglass's variable factors.

The GOI also requested that the confidential information provided by the applicant in its application be made available to interested parties.¹⁹ The Commission is unable to publish the confidential data within the application on the public record. However, the applicant provided a non-confidential version of the application, as required by section 269ZJ(2), which was published on the public record. As detailed in Chapter 7, the Commission has used each exporter's own information where available when assessing whether the goods were dumped in the inquiry period. The calculations used to determine the variable factors were provided to the cooperating exporters as part of the verification process.

The Commission has also examined the data from the Australian Border Force (ABF) import database from 1 January 2017 and financial data from the Australian industry from 1 January 2017 for the purposes of analysing trends in the market for the goods and assessing potential injury factors.

2.2.1 Statement of essential facts

The initiation notice advised that the SEF would be placed on the public record by 24 May 2021. However, as advised in ADN No. 2021/070,²⁰ the Commissioner approved an extension of time for the publication of the SEF until 5 July 2021.

2.2.2 Australian industry

The Commissioner is satisfied that the Australian industry for the continuation of the measures, Oceania Glass, is the person specified under section 269ZHB(1)(b)(ii), being the person representing the whole of the Australian industry producing like goods to the goods covered by the current measures.

The Commission conducted a remote verification of the information provided by Oceania Glass in its application. The report made in relation to the verification is available on the EPR.²¹

¹⁶ Section 8.5.1 of this report.

¹⁷ EPR 575, No. 007, p 2.

¹⁸ EPR 575, No. 014, p 3.

¹⁹ EPR 575, No. 007, p 2.

²⁰ EPR 575, No. 015.

²¹ EPR 575, No. 016.

2.2.3 Importers

The Commission identified several importers in the ABF import database that imported the goods from the subject countries during the inquiry period. The Commission forwarded importer questionnaires to 22 importers and placed a copy of the importer questionnaire on the Commission's website for completion by other importers who were not contacted directly. The Commission received one importer questionnaire response from Cooling Brothers Glass Pty Ltd (Cooling Brothers). The Commission made further inquiries with Cooling Brothers, and identified that it was not an importer of the goods from the subject countries. Accordingly, the Commission did not have regard to the importer questionnaire response provided by Cooling Brothers.

2.2.4 Cooperating exporters

At the outset of the investigation the Commission forwarded questionnaires to exporters that had cooperated in *Continuation Inquiry No. 335* as well as exporters identified in the ABF import database that the Commission was able to obtain contact information for. A copy of the exporter questionnaire and associated spreadsheets was also placed on the Commission's website for completion by other exporters which were not contacted directly.

After granting an extension of 14 days to the initial deadline for the receipt of questionnaires by 11 March 2021,²² the Commission received completed REQs from the following exporters.

Country	Exporter	EPR item number
Indonesia	AGC Asia Pacific Pte Ltd	011
	PT Asahimas Flat Glass Tbk	010
	PT Muliaglass	009
Thailand	Guardian Industries Corp Ltd	008

Table 3: Responding exporters

The Commission verified the information in each of the REQs. Information relating to the verifications can be found on the EPR.²³

The Commissioner considers each of the exporters listed in the above table to be cooperating exporters for the purposes of this inquiry.

2.2.5 Uncooperative exporters

All other exporters not listed in Table 3 from the subject countries (with the exception of Xinyi who are not subject to the current measures) that have not provided information that the Commissioner considers to be relevant to the inquiry (i.e. a completed REQ) within a period the Commissioner considers reasonable, in accordance with section 269T(1) and

²² EPR 575, No. 005.

²³ EPR 575, Nos. 019 and 021.

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the *Customs (Extensions of Time and Non-cooperation) Direction 2015 (Cth)*, are considered to be uncooperative exporters in relation to this inquiry.

2.3 Submissions received from interested parties

The Commission has received 7 submissions during the course of the inquiry which have been considered in this SEF. 3 submissions have not been considered by the Commissioner in reaching the conclusions contained within this SEF as they were lodged outside of the 37 day period after publication of the initiation notice, and to consider them would have prevented the timely placement of the SEF on the public record.²⁴ These 3 submissions will be considered in the Commissioner's final report and recommendations to the Minister.

All 10 submissions received are available on the EPR.

The Commission will have regard to the 10 submissions and any submissions submitted within 20 days of the publication of this SEF in the preparing the final report.

EPR item number	Interested Party	Date lodged	Considered in SEF?
003	PT Muliaglass	10 March 2021	Y
004	Guardian Industries Corp Ltd	11 March 2021	Y
006	PT Muliaglass	31 March 2021	Y
007	Government of Indonesia	31 March 2021	Y
013	PT Asahimas Flat Glass Tbk AGC Asia Pacific Pte Ltd	30 April 2021	Y
014	PT Muliaglass	7 May 2021	Y
017	Oceania Glass Pty Ltd	28 May 2021	Y
018	Oceania Glass Pty Ltd	24 June 2021	N
020	PT Asahimas Flat Glass Tbk AGC Asia Pacific Pte Ltd	30 June 2021	N
022	Guardian Industries Corp Ltd	2 July 2021	N

Table 4: Submissions received prior to publication of the SEF

2.4 Public record

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's verification reports and other publicly available documents. It is available online via the EPR at www.adcommission.gov.au

Documents on the public record should be read in conjunction with this SEF.

²⁴ Section 269ZHE(3) refers.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commissioner considers that the clear float glass produced locally are “like” to the goods subject to the anti-dumping measures.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping or subsidisation, the Commissioner assesses whether the goods produced by the Australian industry are “like” to the imported goods. Section 269T(1) defines like goods as:

“Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations including:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods

3.3.1 Goods subject to measures

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.

Nominal thickness (mm)	Acceptable tolerances (mm)	
	Minimum	Maximum
3	2.80	3.50
4	3.51	4.50
5	4.51	5.50
6	5.51	7.00
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 only²⁵, 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.

3.3.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:²⁶

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

²⁵ ADN No. 2019/019 refers.

²⁶ 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 ²⁷	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 5: Tariff classification of the goods

3.4 Model control code

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.²⁸

As detailed in the initiation notice, the Commission proposed the following MCC structure at the initiation of this inquiry.²⁹

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 6: MCC structure

No submissions were received about this structure from interested parties. The MCC structure outlined in Table 6 was therefore applied in this inquiry.

3.5 Like goods

This section sets out the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'. For the purposes of the findings below, the Commission has relied upon information obtained from the verification of Oceania Glass's manufacturing facilities, information provided by cooperating exporters of the goods, and prior findings of the Commission.

²⁷ Applicable to goods exported to Australia from Thailand only.

²⁸ Guidance on the Commission's approach to model matching is in the Anti-Dumping Commission, *Dumping and Subsidy Manual* (November 2018), available at www.adcommission.gov.au

²⁹ ADN No. 2019/086.

3.5.1 Physical likeness

The CFG produced by the Australian industry for sale in the Australian market are considered to be physically like to the goods. They share similar physical characteristics, being clear (transparent), flat, rectangular or square in shape and traded with a nominal thickness of 3 to 12 mm.

3.5.2 Commercial likeness

The CFG produced by the Australian industry for sale in the Australian market are considered to be commercially like to the goods. They are sold into the same market sectors, are considered interchangeable and use similar distribution channels.

3.5.3 Functional likeness

The CFG produced by the Australian industry for sale in the Australian market are considered to be functionally like to the goods. They have similar end-uses, including window and door applications, as well as being able to be further worked into alternate products through laminating, coating, and other value-add processes.

3.5.4 Production likeness

The CFG produced by the Australian industry for sale in the Australian market are manufactured using the same or similar raw material inputs and manufacturing processes used to produce the goods.

3.5.5 Like goods assessment

Based on the above findings the Commission considers that the clear float glass manufactured by the Australian industry, whilst not identical, have characteristics closely resembling, the goods exported to Australia, as:

- the primary physical characteristics of the goods and locally produced goods are similar;
- the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- the goods and locally produced goods are functionally alike as they have a similar range of end uses; and
- the goods and locally produced goods are manufactured in a similar manner.

In light of the above, the Commissioner is satisfied that the Australian industry for clear float glass produces like goods to the goods the subject of the application, as defined in section 269T(1).

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

The Commissioner is satisfied that there is an Australian industry producing like goods, consisting solely of Oceania Glass.

4.2 Legislative framework

The Commissioner must be satisfied that the like goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Australian industry

Oceania Glass is the only operator of a float glass manufacturing line in Australia. The Commission visited Oceania Glass's manufacturing facilities in Dandenong, Victoria and were able to observe the production process. No further Australian industry manufacturers of the goods identified themselves to the Commission following the initiation of the inquiry, nor were any further Australian industry manufacturers identified by the Commission during the inquiry.

Based on these considerations, the Commission is satisfied that there is an Australian industry consisting only of Oceania Glass that produces like goods in Australia.

4.4 Production process

During its visit to Oceania Glass, the Commission observed the production process of like goods and can confirm that the following float process occurs entirely at Oceania Glass's manufacturing facilities in Australia:

- The raw materials (such as soda ash and sand) are first melted together in a large furnace, after which the molten glass is floated on a 'bath' of molten tin which gives the glass an evenly formed width and height;
- after the molten glass is formed, it is cooled in a controlled environment and cut into large stock sheets; and
- the production process results in a degree of glass which is non-conformant, called cullet. Cullet is eventually fed back into the process at the raw materials stage to be used for new glass production.

4.5 Summary

The Commission is satisfied that the manufacture of CFG is substantially carried out in Australia, and therefore there is an Australian industry who continue to produce like goods.

5 AUSTRALIAN MARKET

5.1 Preliminary finding

The Commission has found that, during the inquiry period, the Australian market for the goods was supplied by the Australian industry, imports from China, Indonesia and Thailand, and imports from other countries not subject to measures.

5.2 Market structure

The market structure for CFG in Australia consists of:

- domestic manufacturers of CFG (consisting solely of Oceania Glass);
- importers of CFG;
- downstream domestic glass processors;
- downstream domestic glass fabricators; and
- importers of processed or fabricated glass.

Oceania Glass sells to domestic glass processors and fabricators. Once the glass has been subject to processing or fabrication, it is no longer considered the goods.

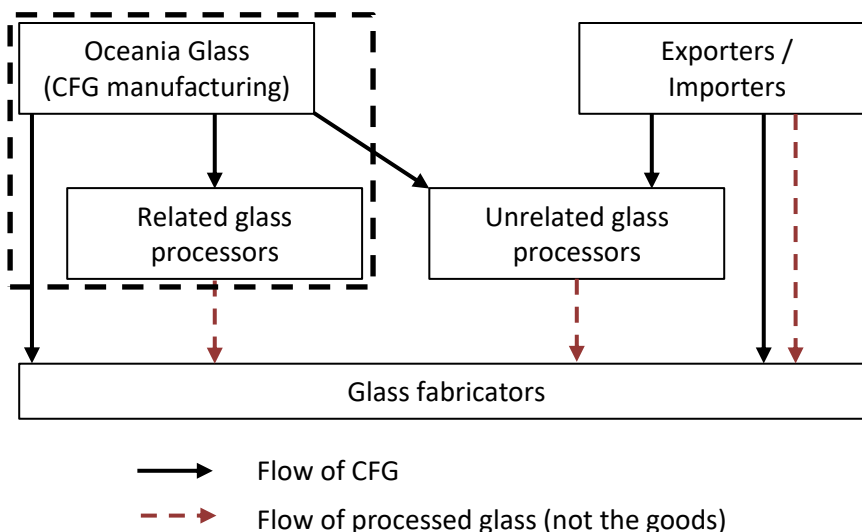


Figure 1: Australian market structure for CFG

5.2.1 Supply and distribution

Oceania Glass distributes its CFG through 3 avenues; direct distribution to the customer from the Dandenong factory, transport to distribution centres and transport to merchandising stores.

Oceania Glass's distribution and merchandising centres are located at the following:

- Dandenong, VIC (manufacturing site);
- Ingleburn, NSW (distribution centre);
- Port of Brisbane, QLD (distribution centre);

- Bibra Lake, WA (distribution centre);
- Springvale, VIC (merchandising); and
- Ingleburn, NSW (merchandising).

Oceania Glass uses a combination of transportation modes that allow for cost minimisation and high utilisation of the fleet. The transport modes include sea-freight to WA and the use of 'Floatliners' for road transport. Oceania Glass owns a substantial fleet of custom-built containers specifically for transporting glass. It uses a third-party freight provider to transport these containers.

For merchandising deliveries Oceania Glass uses its own drivers and vehicles.

5.2.2 Demand

Oceania Glass indicated that demand for CFG is driven by activity in the residential (e.g. housing) and commercial (e.g. retail and offices) building construction sectors. There are a number of measures of activity in these sectors, including building commencements. To assess the demand factors, the Commission has examined data relating to building commencements and dwelling approvals available from the Australian Bureau of Statistics (ABS).

Figure 2 shows the value of building commencements for residential and non-residential buildings. Residential includes buildings such as houses and apartments, all of which utilise CFG in their construction. Non-residential includes buildings such as retail and office buildings, however it also includes other building such as warehouses, which may not have as high a demand for CFG as the other categories. The value of residential building commencements has decreased slowly, spiking in 2018 before decreasing overall into 2020. Non-residential construction has remained at broadly consistent levels since 2016. The Commission considers that the decrease in residential building commencements has a greater impact on the demand due to the higher requirement of CFG for this type of building.

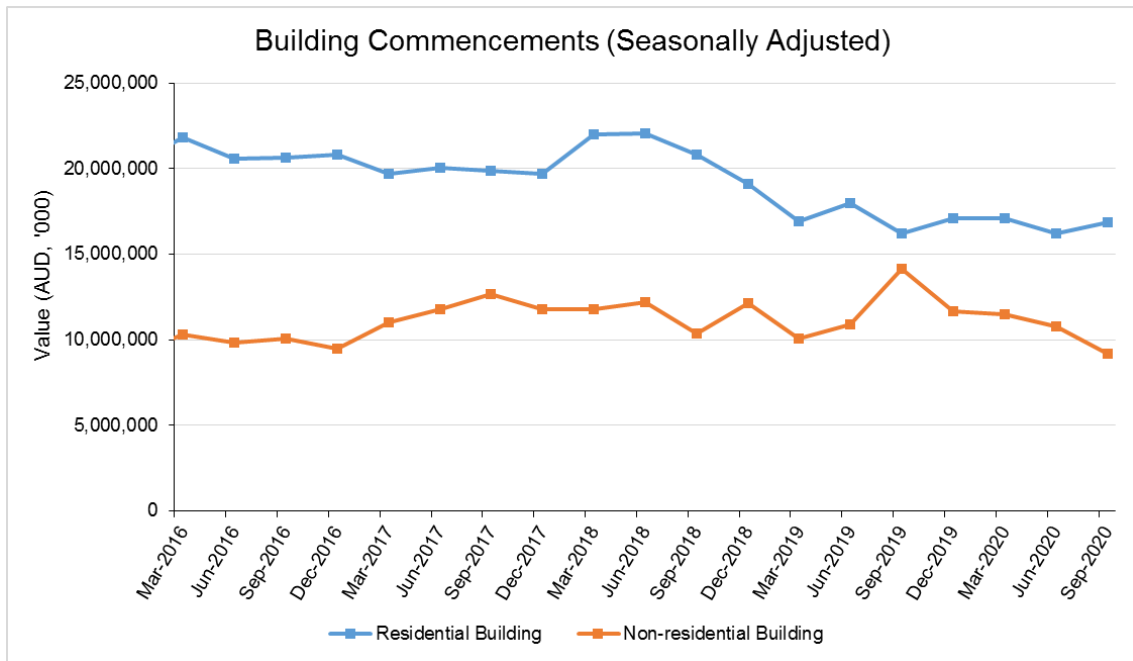


Figure 2: Australian building commencements

The dwelling approvals data shown in Figure 3 indicate that there is a potential for a recovery of the residential building sector. Dwelling approvals have fallen, however they have slightly recovered in mid-2020, although there is a dip in Jan-2021. The Commission considers that this indicates that demand for CFG may increase in the future if the residential building sector recovers.

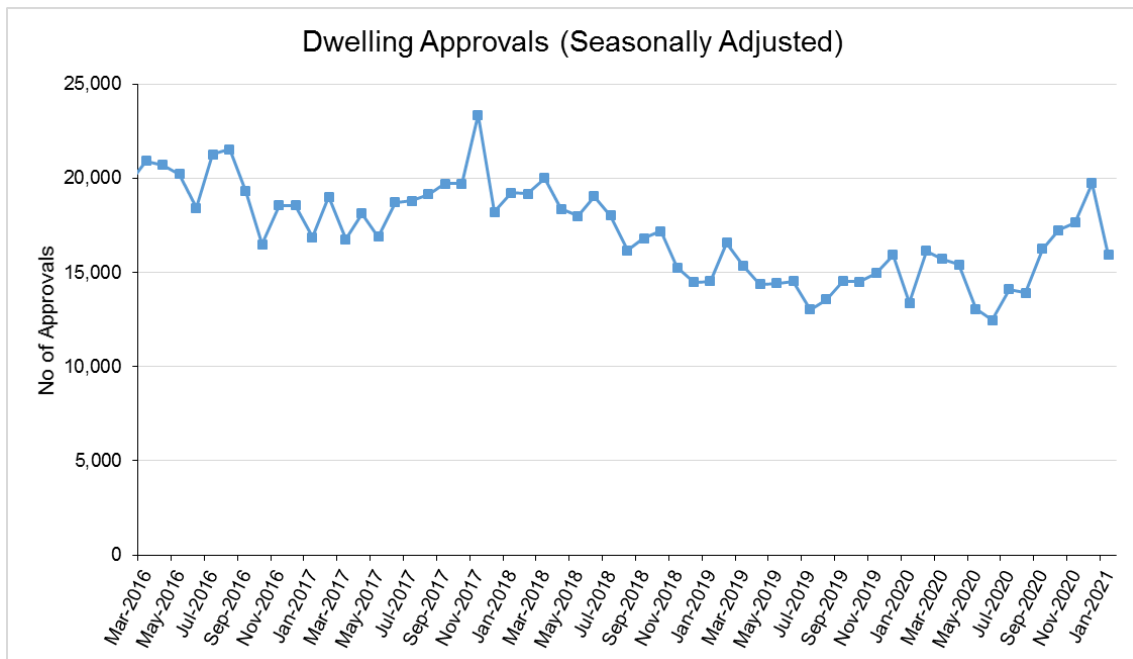


Figure 3: Australian dwelling approvals

5.3 Pricing

Due to the homogenous nature of CFG, price is the primary negotiating factor in the Australian market. As a commodity, there is very little differentiation between suppliers, going so far that in the absence of inline markings it is not possible to trace the origins of the CFG.

Oceania Glass considers that the following features and characteristics affect price:

- demand and supply across the Asian region and globally;
- construction activity across residential and commercial sectors;
- environmental regulation that is increasingly mandating minimum performance of glass, particularly in respect of thermal performance;
- natural gas costs;
- current strength of AUD v USD; and
- freight costs.

In terms of price setting practices, Oceania Glass determines its prices using an import price parity model, which is significantly influenced by lower-priced imports. Development of such a model is possible due to the relative transparency of pricing within the Australian market, with importers offering price lists in order to establish new customers and supply lines into Australia.

Oceania Glass charges a slight premium for its merchandising sales, which covers additional expenses associated with operation of the merchandising centre.

5.4 Market size

The Commission has estimated the size of the Australian market for CFG using the domestic sales data from Oceania Glass and data sourced from the ABF import database. The information sourced from the ABF import database was determined using the relevant tariff codes for CFG, 7005.29.00 and 7006.00.00³⁰, and additional filtering to remove imports that are not the goods.

Estimate of imports from Thailand

CFG imported under the tariff code 7006.00.00 is not required to be declared in any particular unit of measure. As a result, the Commission has estimated the volume of imports from Thailand under tariff code 7006.00.00 using the following methodology:

1. Calculate the unit value in AUD per square metre (sqm) for goods imported from Thailand under tariff code 7005.29.00 for each year of the analysis period; and
2. Divide this value by the value in AUD for goods imported from Thailand under tariff code 7006.00.00 for each year of the analysis period, to arrive at an estimated import volume in sqm.

³⁰ 7006.00.00 relates to imports from Thailand only.

Figure 4 below depicts the Commission's estimate of the Australian market size for CFG from 1 January 2017 to 31 December 2020, using the approach outlined above.

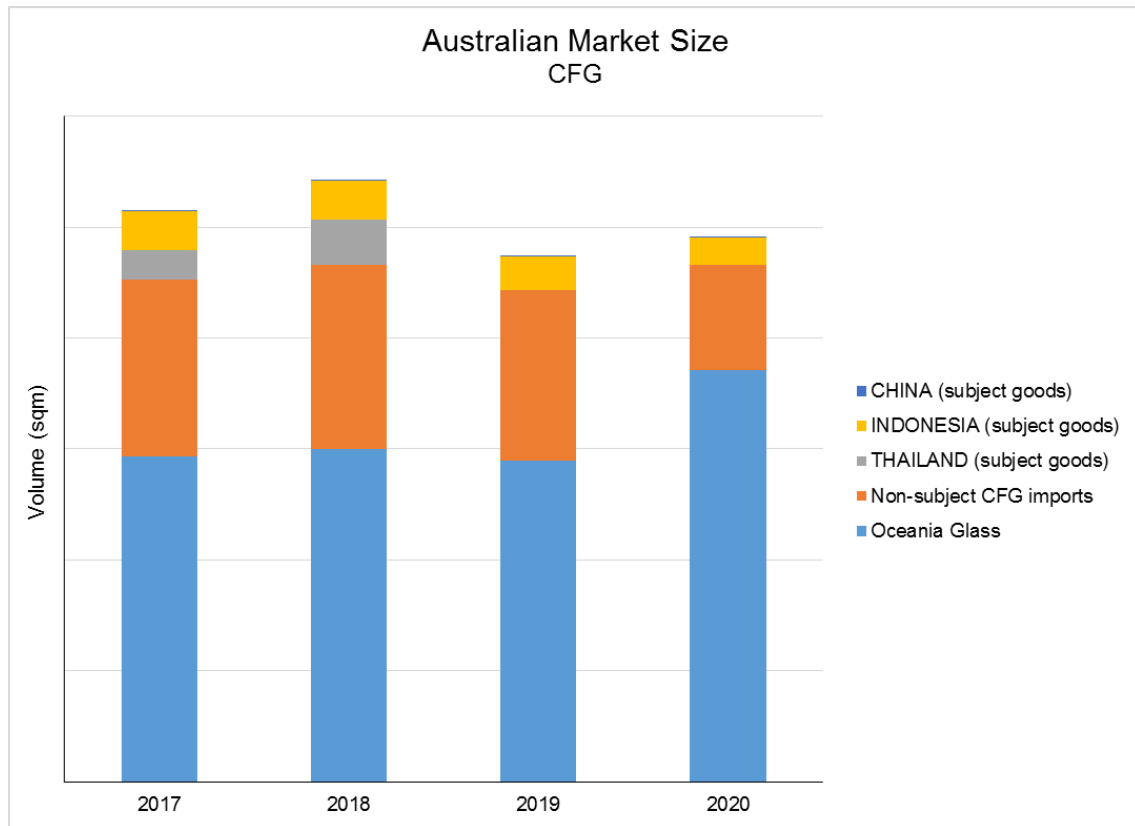


Figure 4: Australian market size

The trend depicted in Figure 4 shows that the overall size of the Australian market for CFG has decreased since 2017. This decrease appears to be due primarily to a decrease in imports of CFG, as the Australian industry has increased its overall Australian sales volume since 2017. The volume of non-subject CFG imports in Figure 4 includes imports from the exempt Chinese exporter, Xinyi.

This trend can be observed clearly in Figure 5, which demonstrates that the market share of imports of subject goods (includes Thailand, Indonesia and China from Figure 4 above), and non-subject CFG imports (including Xinyi) have decreased overall.

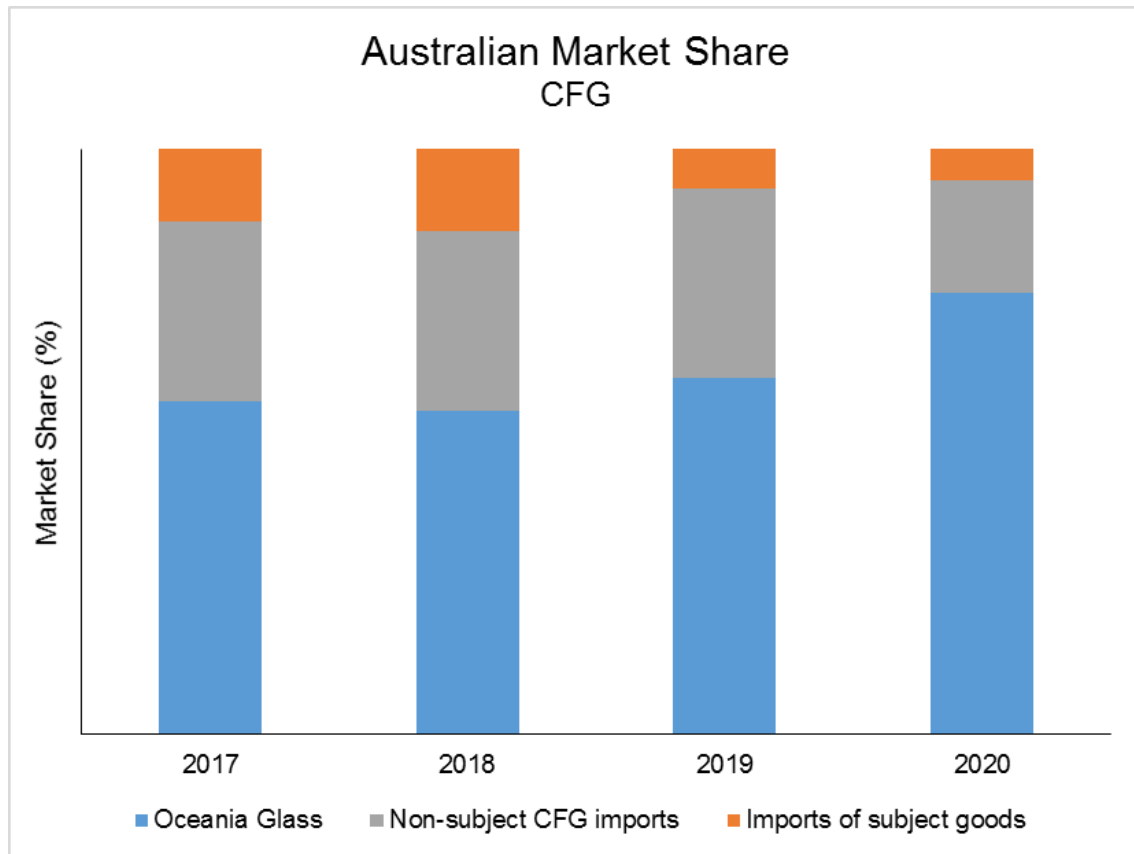


Figure 5: Australian market share

The Commission's assessment of the size of the Australian market is provided at **Confidential Attachment 1**.

5.5 Submissions in relation to the Australian market

In its submission of 31 March 2021, the GOI highlighted the decrease in export volume from the subject countries over a four year period, 2017 to 2020.³¹ The Commission has discussed the decrease in volumes from the subject countries as part of its assessment under section 8.4 of this report.

³¹ EPR 575, No. 007, p 2.

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Preliminary finding

The Commission preliminarily finds that the economic performance of the Australian industry generally declined in the period from 1 January 2017 to 31 December 2020. The Australian industry experienced a deterioration in its economic performance in the form of:

- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced assets;
- reduced return on investment (ROI);
- reduced employment;
- reduced wages; and
- increased receivables turnover.

6.2 Approach to analysis

The Commission has assessed the economic condition of the Australian industry from 1 January 2017 to 31 December 2020 (period of analysis).

The analysis detailed in this chapter is based on verified financial information submitted by Oceania Glass as well as data obtained from the ABF import database.

The data and analysis on which the Commission has relied to assess the economic position of the Australian industry is at **Confidential Attachment 2**.

Consideration of whether the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or recurrence of, material injury caused by dumping is discussed in Chapter 8 of this report.

6.3 Finding in previous continuation inquiry

In REP 335, the Commission found that the economic performance of the Australian industry producing like goods across the period 1 January 2012 to 31 December 2015 reflected:³²

- a stable sales volume;
- a recovery in the unit selling price compared to the unit cost to make and sell (CTMS); and
- a recovery in the unit profit and profitability.

³² REP 335 examined calendar years in the period from 1 January 2012 to 31 December 2015, for the purposes of examining trends in the economic condition of the Australian industry following the imposition of the anti-dumping measures.

6.4 Volume effects

6.4.1 Sales volume

Figure 6 below charts Oceania Glass's sales volume in sqm across the period of analysis:

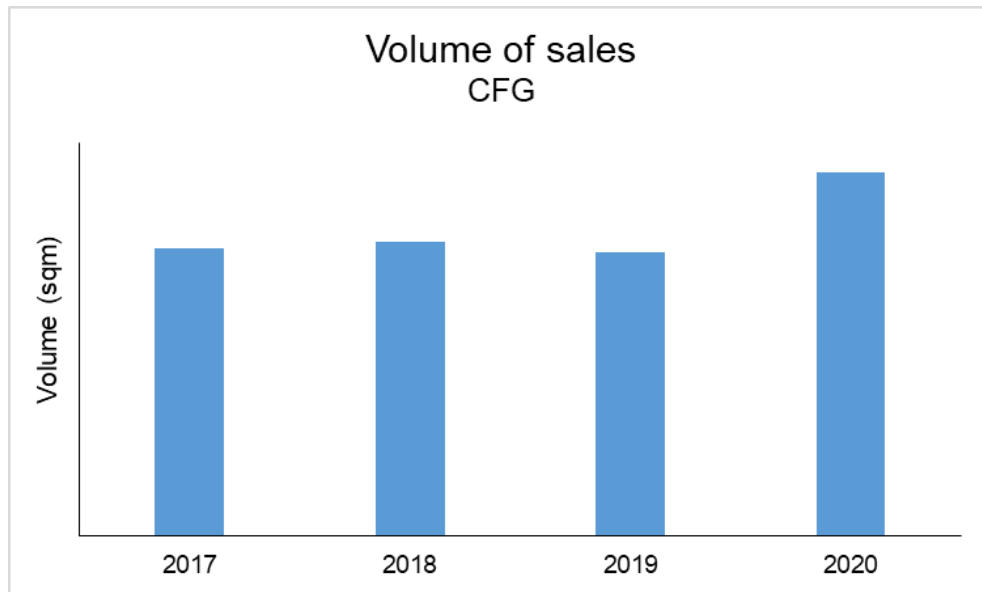


Figure 6: Sales volume

The chart indicates stable sales volumes until 2019 followed by a significant increase in 2020.

6.4.2 Market share

Figure 7 below charts the market share of the Australian market:

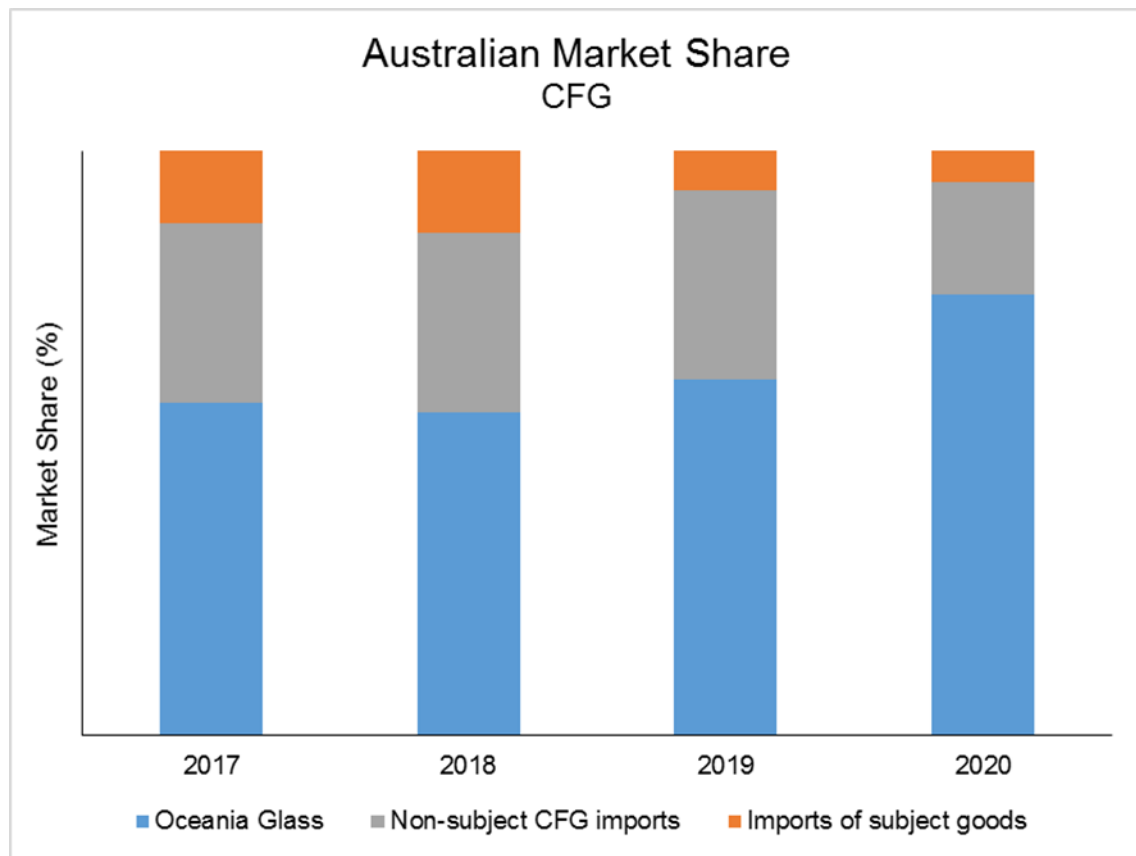


Figure 7: Market share ³³

The chart indicates that, in relation to the period of analysis:

- Oceania Glass maintained a relatively stable market share until 2019, with an increase in market share in 2020;
- imports of subject goods have experienced an overall reduction in market share throughout the period of analysis; and
- non-subject CFG imports experienced a growth in market share until 2019, after which time market share reduced significantly.

6.4.3 Submissions in relation to volume effects

Multiple interested parties have submitted that imports of CFG are required as Oceania Glass is unable to supply the whole of the Australian market, and in some cases, that it has imported CFG itself.³⁴

The Commission notes that it is not a requirement for the Australian industry to be able to supply the whole of the Australian market. The measures are intended only to remove the injurious effects of dumping.

³³ Subject country imports of the goods includes circumvention goods from Thailand exported under tariff code 7006.00.00.

³⁴ EPR 575, Nos. 003, 006, 013 and 014.

6.4.4 Conclusion – volume effects

Based on the available information, the Commission does not consider that Oceania Glass has experienced a deterioration in its economic performance in the form of reduced sales volume or reduced market share.

6.5 Price effects

6.5.1 Price depression

Price depression occurs when a company, for some reason, lowers its prices.

Figure 8 below charts Oceania Glass's per unit selling price across the period of analysis:



Figure 8: Unit selling price

The chart indicates that Oceania Glass experienced reducing per unit selling prices from 2017 to 2019, with a stabilisation in 2020.

The Commission considers that this may be indicative of price depression.

6.5.2 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

To assess whether Oceania Glass has experienced a deterioration in its economic performance in the form of price suppression, the Commission has had regard to Oceania Glass's per unit selling prices and CTMS. This relationship is presented in Figure 9 below:

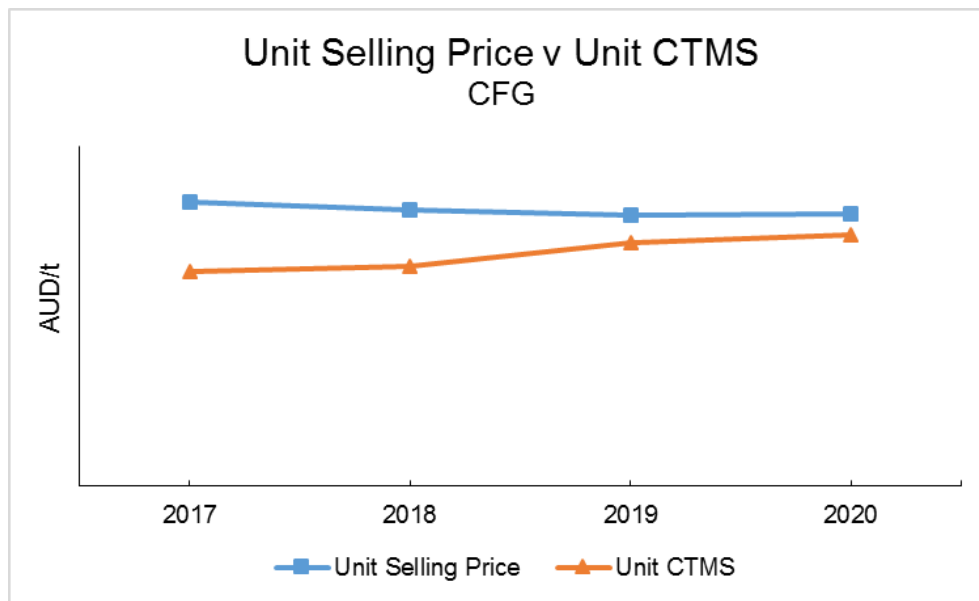


Figure 9: Unit price and unit CTMS

Having regard to the relationship between trends in the above chart, the Commission makes the following observations:

- unit selling prices decreased through the period 2017 to 2019 with a stabilisation in 2020; and
- unit CTMS increased throughout the period of analysis.

Based on the observation that Oceania Glass has not been able to increase unit selling prices despite an upward trend in unit CTMS, and that across the period of analysis the margin between unit selling prices and unit CTMS had narrowed, the Commission considers that price suppression is evident.

6.5.3 Conclusion – price effects

Based on the available information, the Commission considers that over the course of the period of analysis Oceania Glass has experienced a deterioration in its economic performance in the form of price depression and price suppression.

6.6 Profit effects

6.6.1 Profit and profitability

Figure 10 below charts Oceania Glass's total profit and profitability as a percentage of revenue across the period of analysis:

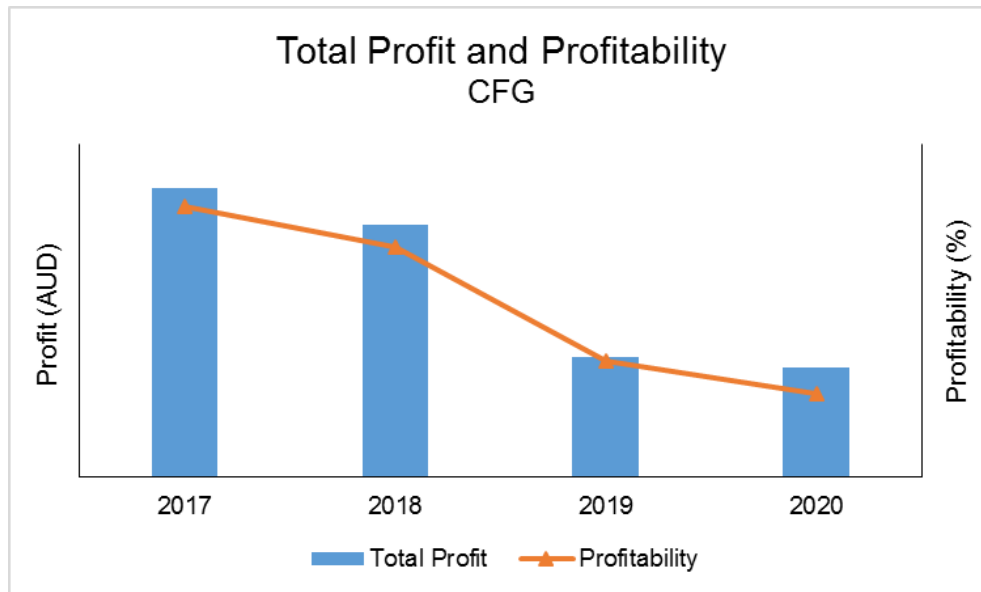


Figure 10: Profit and profitability

The chart shows that Oceania Glass experienced deteriorating profit and profitability across the period of analysis.

6.6.2 Conclusion – profit effects

Based on the available information, the Commission considers that Oceania Glass has experienced a deterioration in its economic performance in the form of reduced profit and profitability across the period of analysis.

6.7 Other economic factors

Oceania Glass provided data relating to the period of analysis for a range of other economic factors.

6.7.1 Assets

Figure 11 below charts Oceania Glass's assets across the period of analysis:

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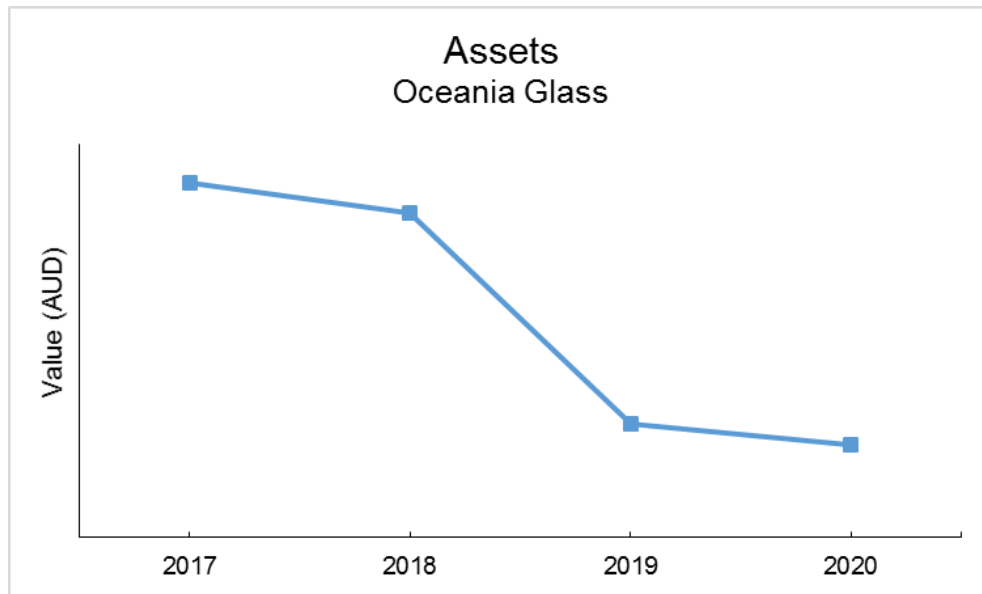


Figure 11: Assets

The chart indicates that the value of assets dropped significantly from 2018 to 2019. The Commission understands that Oceania Glass split from CSR Viridian Limited in January 2019 by way of an asset sale to form a new company. The assets were purchased by Oceania Glass at a reduced book value to that which was previously carried by CSR Viridian Limited.

6.7.2 Capital Investment

Figure 12 below charts Oceania Glass's capital investment across the period of analysis:

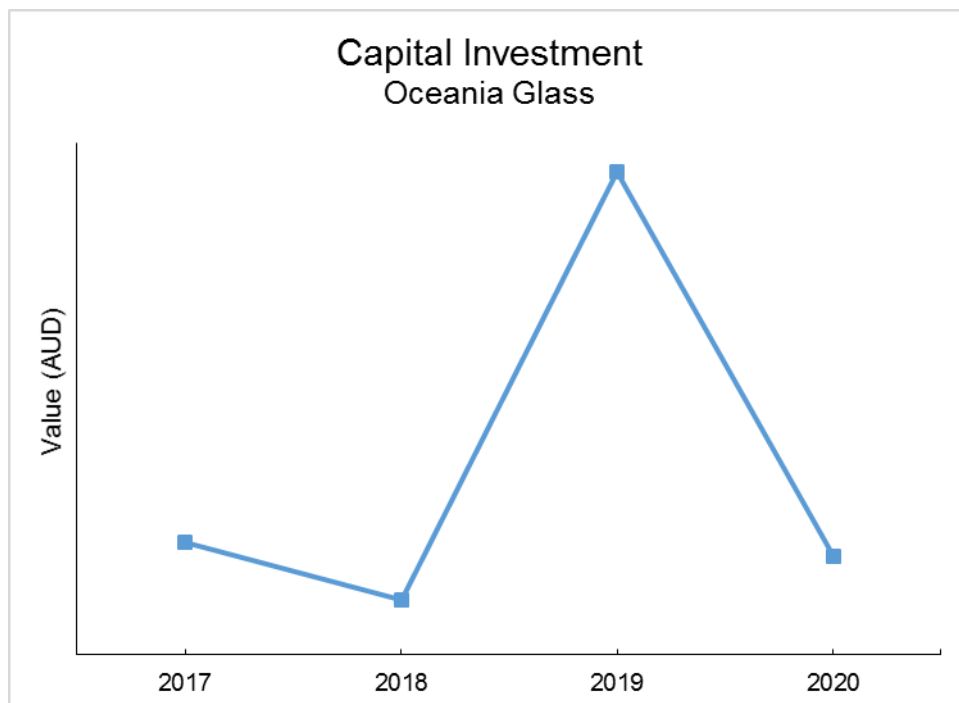


Figure 12: Capital investment

The above chart indicates that capital investment spiked in 2019, following the restructure of the business. The Commission noted that the spike in capital investment related to a furnace sidewall overcoating project. Following this spike capital investment returned to prior year levels.

6.7.3 Revenue

Figure 13 below charts Oceania Glass's revenue across the period of analysis:

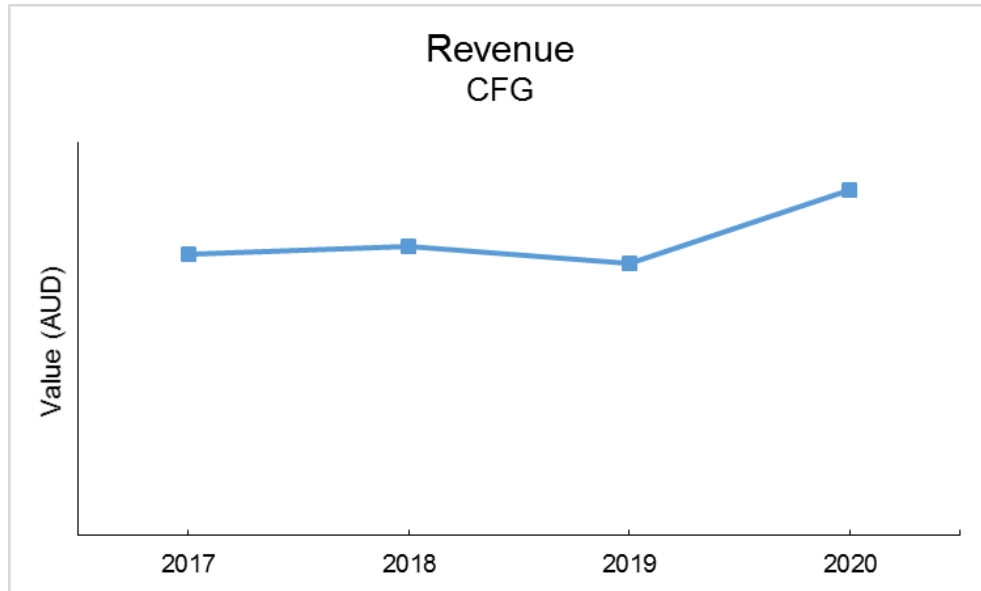


Figure 13: Revenue

The chart indicates that Oceania Glass experienced stable revenue until 2019. Revenue has grown in 2020.

6.7.4 Return on investment

Figure 14 below charts Oceania Glass's ROI, calculated as trading profit divided by revenue, across the period of analysis. The Commission notes that ROI has been presented for the entire business as it was not possible to isolate ROI as it related specifically to the domestic sale of manufactured like goods.

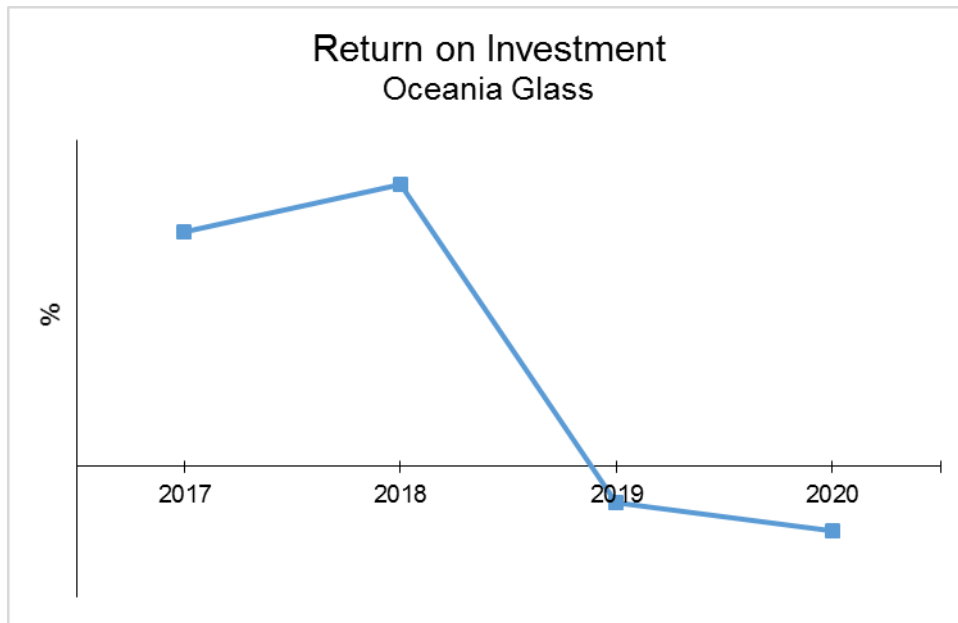


Figure 14: Return on investment

This chart indicates increasing ROI until 2018 after which ROI has fallen significantly such that for 2019 and 2020 ROI has been negative.

6.7.5 Capacity utilisation

Figure 15 below charts Oceania Glass's capacity utilisation across the period of analysis. The Commission notes that capacity utilisation has been calculated based on actual production compared against budgeted production. Due to the product mix variances the total volume of actual production in tonnes can differ.

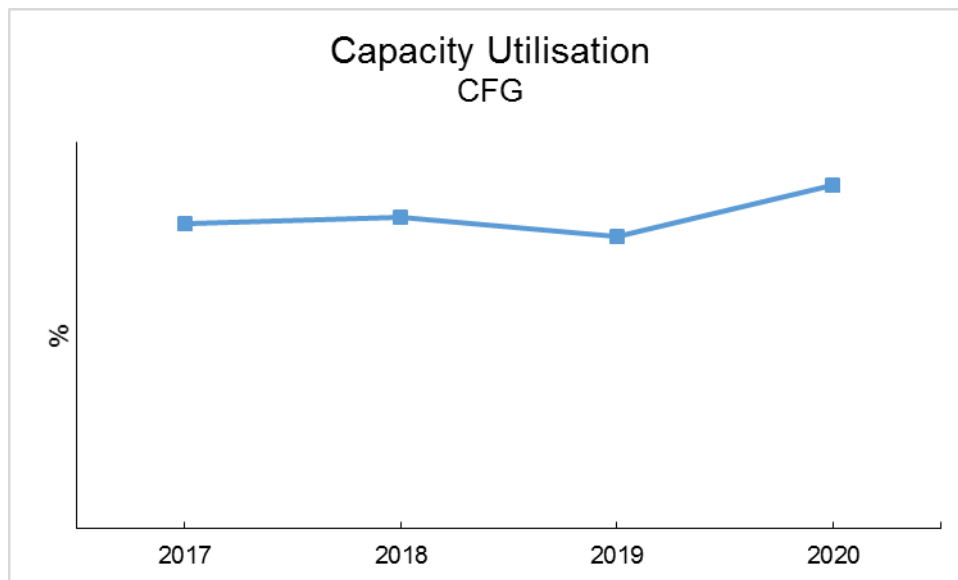


Figure 15: Capacity utilisation

This chart indicates a consistently high level of capacity utilisation, with capacity utilisation rising in 2020. It is noted that this movement is reflective of a change to the budgeted product mix such that an increase in capacity utilisation was possible by producing a different mix of products.

6.7.6 Employment

Figure 16 below charts Oceania Glass's employment numbers across the period of analysis:

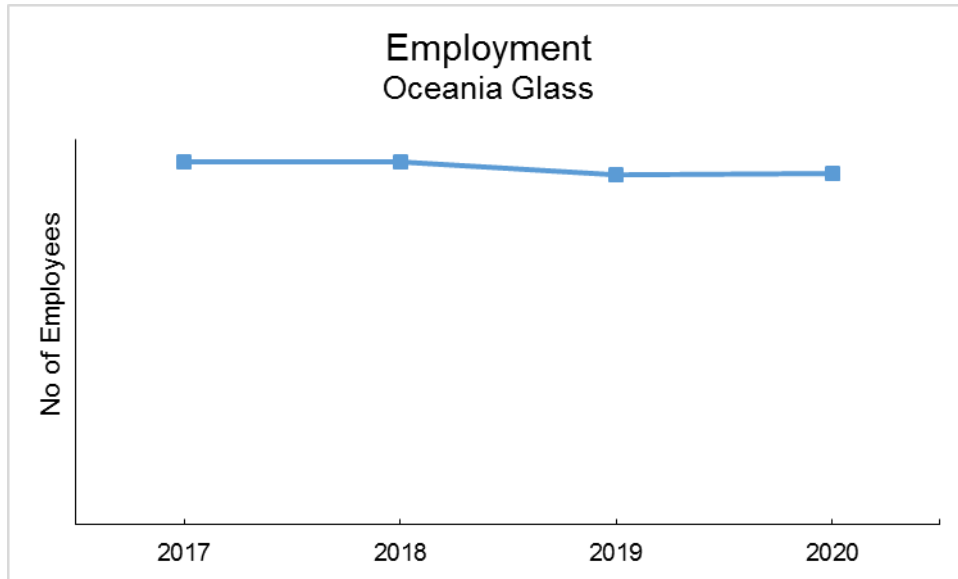


Figure 16: Employment

The chart indicates that Oceania Glass's employment level has been steady with a slight reduction in 2019.

6.7.7 Wages

Figure 17 below charts Oceania Glass's total wages across the period of analysis:

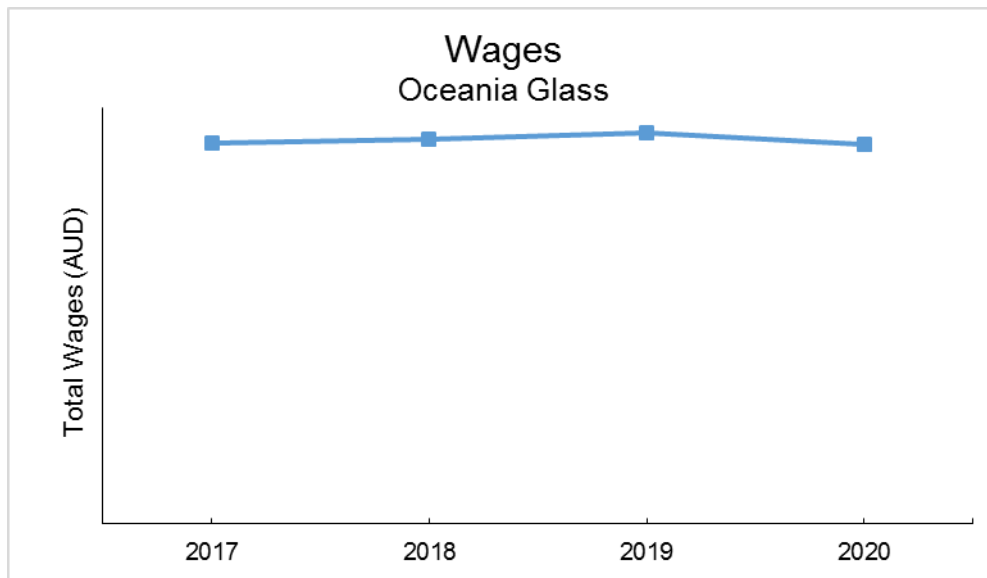


Figure 17: Wages

The chart indicates that wages for like good production has been relatively stable throughout the injury analysis period with a slight reduction in 2020.

6.7.8 Receivables turnover

Figure 18 below charts Oceania Glass's receivables turnover in relation to like goods across the period of analysis:

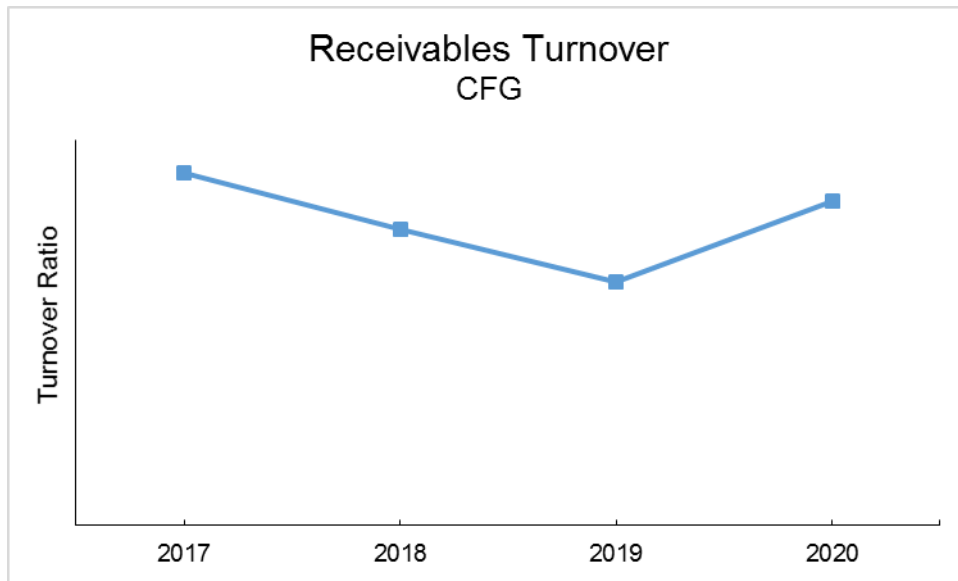


Figure 18: Receivables turnover

The chart indicates receivables turnover reducing from 2017 to 2019 before rising into 2020.

6.8 Conclusion

Based on the Commission's analysis of the data provided by Oceania Glass in respect of other economic factors, it appears that Oceania Glass has experienced a deterioration in its economic performance in the form of:

- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced assets;
- reduced ROI;
- reduced employment;
- reduced wages; and
- increased receivables turnover.

7 DUMPING IN THE INQUIRY PERIOD

7.1 Preliminary finding

For the purpose of assessing whether dumping is likely to continue or recur, the Commissioner has examined whether exports in the inquiry period were dumped.

The Commissioner has ascertained dumping margins as summarised in Table 7.

Country	Exporter	Dumping Margin
China	Uncooperative and all other exporters	28.2%
Indonesia	PT Muliaglass	-2.6%
	PT Asahimas Flat Glass Tbk	15.3%
Thailand	Guardian Industries Corp Ltd	47.8%

Table 7: Summary of preliminary dumping margins

7.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. The Commission applied the methodology in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

Further details of the export price and normal value calculations for each exporter are set out below.

7.3 Dumping assessment – China

As outlined at section 2.2, there were no cooperating exporters from China.

The Commission considers all exporters of the goods from China are uncooperative exporters for the purposes of this inquiry (excluding Xinyi who are not subject to the current measures).

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

Export price

Pursuant to section 269TACAB(1)(d), the Commission has determined an export price for the uncooperative exporters from China pursuant to section 269TAB(3), having regard to all relevant information.

In the absence of any data from cooperating Chinese exporters which may be representative of the export price of uncooperative exporters, the Commission has used the weighted average FOB export price of Chinese exporters subject to measures who exported to Australia during the inquiry period, as reported in the ABF import database. The weighted average export price is calculated using all exports of the goods by those exporters during the inquiry period.³⁵

Normal value

Pursuant to section 269TACAB(1)(e), the Commission has determined the normal value for the uncooperative exporters from China pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has constructed a normal value for uncooperative Chinese exporters as follows:

- manufacturing and selling costs were calculated based on the verified costs of the Australian industry (adjusted for labour in the country of export to be more representative of a cost in China);³⁶
- an amount for profit based on information provided by the Australian industry in its application; plus
- the highest inland transport and export handling costs based on verified data for third country exporters of the goods.³⁷

Dumping margin

The preliminary dumping margin in respect of the goods exported to Australia by uncooperative Chinese exporters for the inquiry period is **28.2%**.

The Commission's calculations are included in **Confidential Attachment 3**.

³⁵ This methodology is similar to the approach taken by Oceania Glass in its application, which relied on aggregated import data from the ABS. However, in this report the Commission has relied on import data from the ABF on the basis that it was able to be refined by applying filters to remove non-subject goods.

³⁶ Labour rates were adjusted using World Bank GDP per capita data for 2019, which the Commission considers to be a reputable source for this purpose.

³⁷ This methodology is similar to the approach taken by Oceania Glass in its application, however the Commission has relied on verified Australian industry manufacturing and selling costs.

7.4 Dumping assessment – Indonesia

7.4.1 PT Muliaglass

Verification

The Commission undertook verified the information PT Muliaglass provided in its REQ.

The Commission is satisfied that the information provided by PT Muliaglass is accurate and reliable for the purpose of determining whether its exports during the inquiry period were dumped.

A report covering the verification findings is available on the public record.³⁸

Export price

The Commission is satisfied that PT Muliaglass's Australian customers were the beneficial owner of the goods at the time of importation, and therefore the importer, as they:

- are named on the commercial invoice as the customer;
- are named as the consignee on the bill of lading;
- pays for all the importation charges (excluding ocean freight and marine insurance); and
- arranges delivery from the port.

In relation to the goods exported by PT Muliaglass to Australia, the Commission is satisfied that the customers listed for each shipment were the beneficial owners of the goods at the time of importation, and therefore were the importers of the goods.

The Commission is satisfied that PT Muliaglass is the exporter of the goods, as PT Muliaglass is:

- the manufacturer of the goods;
- named on the commercial invoice as the supplier;
- named as consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export;
- arranges and pays for the port handling charges at the port of export; and
- arranges and pays for the ocean freight and marine insurance.

The Commission is satisfied that for all Australian export sales during the period that PT Muliaglass was the exporter of the goods.³⁹

³⁸ EPR 575, No. 021.

³⁹ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

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In respect of PT Muliaglass's Australian sales of the goods to its unrelated customers during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁴⁰

The Commission is therefore satisfied that all export sales made by PT Muliaglass to its unrelated Australian customers during the period were arms length transactions.

From the above findings, the Commission is satisfied that PT Muliaglass is the exporter of the goods to Australia, that the goods were exported to Australia otherwise than by the importer and that the goods were purchased in arms length transactions by the importer from the exporter.

Accordingly, in respect of the Australian sales of the goods by PT Muliaglass, the Commission has determined the export price under section 269TAB(1)(a), being the price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

During the inquiry period, PT Muliaglass only made domestic sales to its parent company, PT Mulia Industrindo Tbk.

In respect of PT Muliaglass's domestic sales of like goods to PT Mulia Industrindo Tbk related customer during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

However, the Commission found evidence that the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁴¹ The Commission found that PT Muliaglass paid a reimbursement to PT Mulia Industrindo Tbk after the sale of the goods, as compensation for use of PT Mulia Industrindo Tbk's sales staff.

Under section 269TAA(1A), sales of goods which fall under section 269TAA(1)(c) may be treated as arms length having regard to the following matters:

⁴⁰ Section 269TAA refers.

⁴¹ See section 269TAA(1)(c).

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- any agreement, or established trading practices, in relation to the seller and the buyer, in respect of the reimbursement;
- the period for which such an agreement or practice has been in force;
- whether or not the amount of the reimbursement is quantifiable at the time of the purchase or sale.

The Commission considers that the price discount paid by PT Muliaglass to PT Mulia Industrindo Tbk reflects an established trading practice, that is, reimbursement for the use of PT Mulia Industrindo Tbk's sales staff. This practice was found to have been in place for an extended period of time. Finally, the Commission was able to quantify the amount of the reimbursement at the time of the sale.

The Commission therefore considers that all domestic sales made by PT Muliaglass to PT Mulia Industrindo Tbk during the period were arms length transactions, subject to section 269TAA(1A).

Section 269TAAD states that domestic sales of like goods are not in the OCOT if arms length transactions are:

- unprofitable in substantial quantities over an extended period; and
- unlikely to be recoverable within a reasonable period.⁴²

The Commission tested profitability by comparing the net invoice price, less any reimbursements, against the relevant cost for each domestic sales transaction.

The Commission then tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period.

Finally, the Commission tested recoverability by comparing the net invoice price, less any reimbursements, against the relevant weighted average cost over the period for each domestic sales transaction.

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export. An exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

As the volume of domestic sales of each of PT Muliaglass's exported models are 5% or more of the volume exported, the Commission considers a proper comparison can be made at the MCC level. The Commission also assessed the total volume of relevant sales

⁴² In general, the Commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

of like goods as a percentage of the goods exported to Australia and found that the volume of sales was not less than 5%.

From the above, the Commission is satisfied that there are sufficient volumes of sales of like goods sold for home consumption in the country of export that were arms length transactions and at prices that were within the OCOT.

Accordingly, the Commission has determined the normal value for PT Muliaglass under section 269TAC(1).

Adjustments

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure that differences between the normal value of goods exported to Australia and the export price of the exported goods would not affect comparison of domestic prices with export prices.

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Basis for adjustment	Deduction/addition
Domestic credit terms	Credit terms are different between export and domestic sales.	Deduct an amount for domestic credit
Domestic inland transport	Cost incurred from transporting like goods from the factory to the domestic customer.	Deduct an amount for domestic inland transport
Domestic packaging	Domestic packaging was found to be different to export packaging.	Deduct an amount for domestic packaging
Export packaging	Export packaging was found to be different to domestic packaging.	Add an amount for export packaging
Export inland transport	Cost incurred from transporting the goods from the factory to the port.	Add an amount for export inland transport
Export port charges	Cost incurred at the port, including port handling charges, bill of lading fees, etc.	Add an amount for port charges
Export credit terms	Credit terms are different between export and domestic sales.	Add an amount for export credit terms

Table 8: Summary of adjustments - PT Muliaglass

Dumping margin

The dumping margin in respect of the goods exported to Australia by PT Muliaglass for the inquiry period is **negative 2.6%**.

The Commission's calculations are included in **Confidential Attachments 4 to 7**.

7.4.2 PT Asahimas Flat Glass Tbk

Verification

The Commission conducted a benchmark verification of the REQ by PT Asahimas Flat Glass Tbk (PT Asahimas) and AGC Asia Pacific Pte Ltd (AAP). A combined verification was conducted for these entities as AAP is the entity which facilitates the Australian sales of the goods manufactured by PT Asahimas.

A file note covering the findings of the benchmark verification is available on the public record.⁴³

Export price

The Commission considers that for all Australian export sales during the inquiry period, supplied directly from PT Asahimas or through AAP, PT Asahimas is the exporter of the goods.

The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

The Commission considers that PT Asahimas meets the latter definition. Furthermore:

- PT Asahimas is named as the manufacturer on the invoice; and
- PT Asahimas is named as the shipper/exporter on the bill of lading.

The Commission therefore considers that for all Australian export sales during the inquiry period, PT Asahimas is the exporter of the goods.

In respect of PT Asahimas's sales of the goods to its unrelated customers through AAP during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price;
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁴⁴

⁴³ EPR 575, No. 019.

⁴⁴ Section 269TAA refers.

The Commission therefore considers that all export sales to Australia made by PT Asahimas via AAP during the inquiry period were arms length transactions.

In respect of Australian sales of the goods by PT Asahimas, the Commission considers that the importer has not purchased the goods from the exporter, and export prices cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b). The Commission has therefore determined the export price under section 269TAB(1)(c), having regard to all circumstances of the exportation. Specifically, the Commission has calculated the export price as the price paid by the importer to AAP, less transport and other costs after exportation.

Normal value

PT Asahimas did not make domestic sales of like goods to any related customers during the inquiry period. In respect of its domestic sales of like goods to its unrelated customers during the inquiry period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price;
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁴⁵

The Commission therefore considers that all sales made by PT Asahimas to its domestic customers during the inquiry period were arms length transactions.

Section 269TAA states that domestic sales of like goods are not in the OCOT if arms length transactions are:

- unprofitable in substantial quantities over an extended period; and
- unlikely to be recoverable within a reasonable period.⁴⁶

The Commission tested profitability by comparing the net invoice price, less any reimbursements, against the relevant cost for each domestic sales transaction.

The Commission then tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period.

Finally, the Commission tested recoverability by comparing the net invoice price, less any reimbursements, against the relevant weighted average cost over the period for each domestic sales transaction.

⁴⁵ Section 269TAA refers.

⁴⁶ In general, the Commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

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Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export. An exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

As the volume of domestic sales of each of PT Asahimas's exported models are 5% or more of the volume exported, the Commission considers a proper comparison can be made at the MCC level. The Commission also assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of sales was not less than 5%.

From the above, the Commission is satisfied that there are sufficient volumes of sales of like goods sold for home consumption in the country of export that were arms length transactions and at prices that were within the OCOT.

Accordingly, the Commission has determined the normal value for PT Asahimas under section 269TAC(1).

Adjustments

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure that differences between the normal value of goods exported to Australia and the export price of the exported goods would not affect comparison of domestic prices with export prices.

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Basis for adjustment	Deduction/addition
Domestic sales commission	Commission paid on domestic sales only.	Deduct an amount for domestic sales commission
Domestic credit terms	Credit terms apply to domestic sales only.	Deduct an amount for domestic credit terms
Domestic inland transport	Cost incurred from transporting like goods from the factory to the domestic customer.	Deduct an amount for domestic inland transport
Export inland transport	Cost incurred from transporting the goods from the factory to the port.	Add an amount for export inland transport
Export port charges	Cost incurred at the port, including port handling charges, bill of lading fees, etc.	Add an amount for export handling & other

Table 9: Summary of adjustments - PT Asahimas

Dumping margin

The dumping margin in respect of the goods exported to Australia by PT Asahimas for the inquiry period is **15.3%**.

The Commission's calculations are included in **Confidential Attachments 8 to 11**.

7.5 Dumping assessment – Thailand

7.5.1 Guardian Industries Corp Ltd

Verification

The Commission conducted a benchmark verification of the REQ by Guardian Industries Corp Ltd (Guardian).

A file note covering the findings of the benchmark verification is available on the public record.⁴⁷

Export price

Guardian made one export sale to an unrelated customer in the inquiry period.

Guardian noted in its REQ that this sale of the goods was approximately 0.7 tonnes and was the result of an order being mistakenly accepted from a customer which normally places one order of 2 mm clear float glass (not the goods subject to measures) with Guardian per year.⁴⁸

The Commission considers that for this sale, Guardian is the exporter of the goods, as:

- Guardian is the manufacturer of the goods located in the country of export;
- Guardian is named as the seller on the commercial invoice;
- Guardian arranged transportation of the goods to the port of export to Australia;
- Guardian is named as the shipper on the bill of lading; and
- Guardian was aware that the goods were destined for Australia.

Guardian did not make export sales of the goods to any related customers in Australia during the inquiry period. In respect of its sale of the goods to its unrelated customer during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price;
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or

⁴⁷ EPR 575, No. 019.

⁴⁸ EPR 575, No. 008, p 16.

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- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁴⁹

The Commission therefore considers that the one sale made by Guardian during the inquiry period was an arms length transaction.

Accordingly, in respect of the Australian sale of the goods by Guardian, the Commission has determined the export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs after exportation.

Normal value

In respect of Guardian domestic sales of like goods to its unrelated customers during the inquiry period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price;
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁵⁰

The Commission therefore considers that all sales made by Guardian to its domestic customers during the inquiry period were arms length transactions.

Section 269TAAD states that domestic sales of like goods are not in the OCOT if arms length transactions are:

- unprofitable in substantial quantities over an extended period; and
- unlikely to be recoverable within a reasonable period.⁵¹

The Commission tested profitability by comparing the net invoice price, less any reimbursements, against the relevant cost for each domestic sales transaction.

The Commission then tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period.

Finally, the Commission tested recoverability by comparing the net invoice price, less any reimbursements, against the relevant weighted average cost over the period for each domestic sales transaction.

⁴⁹ Section 269TAA refers.

⁵⁰ Section 269TAA refers.

⁵¹ In general, the Commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export. An exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

As the volume of domestic sales of each of Guardian's exported model is 5% or more of the volume exported, the Commission considers a proper comparison can be made at the MCC level. The Commission also assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of sales was not less than 5%.

From the above, the Commission is satisfied that there are sufficient volumes of sales of like goods sold for home consumption in the country of export that were arms length transactions and at prices that were within the OCOT.

Accordingly, the Commission has determined the normal value for Guardian under section 269TAC(1).

Adjustments

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure that differences between the normal value of goods exported to Australia and the export price of the exported goods would not affect comparison of domestic prices with export prices.

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Basis for adjustment	Deduction/addition
Domestic packaging	Domestic packaging was found to be different to export packaging.	Deduct an amount for domestic packaging
Domestic inland transport	Cost incurred from transporting like goods from the factory to the domestic customer.	Deduct an amount for domestic inland freight
Export packaging	Export packaging was found to be different to domestic packaging.	Add an amount for export packaging
Export inland transport	Cost incurred from transporting the goods from the factory to the port.	Add an amount for inland freight
Export port charges	Cost incurred at the port, including port handling charges, bill of lading fees, etc.	Add an amount for port handling charges

Table 10: Summary of adjustments - Guardian

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Dumping margin

As detailed above, Guardian made only one export sale during the inquiry period. The Commission has calculated a dumping margin of **47.8%** on this sale.

The Commission's calculations are included in **Confidential Attachments 12 to 15**.

8 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

8.1 Preliminary finding

On the basis of the evidence available, the Commissioner is satisfied that:

- in relation to all exporters from Indonesia other than PT Muliaglass, the expiration of the current measures would be likely to lead to a continuation of, or a recurrence of, the dumping and the material injury that the current measures are intended to prevent; and
- in relation to PT Muliaglass, all exporters from Thailand, and all exporters from China, that the expiration of the current measures would not be likely to lead to a continuation of, or a recurrence of, the dumping and material injury the current measures are intended to prevent.

8.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the Anti-Dumping Review Panel, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.⁵²

In its submission of 11 March 2021, Guardian submitted that the meaning of the word "likely" in section 269ZHF(2) means 'more than 50 percent chance' and the WTO has found that "likely" in this context means nothing less than "probable".⁵³ The Commission agrees with Guardian's submission of the meaning of "likely" in section 269ZHF(2) and that the findings in this report are made on this basis.

8.3 Australian industry's claims

In its application, Oceania Glass claims, among other things, that if the measures were allowed to expire:

- exports from China, Indonesia and Thailand would again increase;

⁵² [ADRP Report No. 44](#) (Clear Float Glass) refers.

⁵³ EPR 575, No. 004, p 1-2.

- exporters in China, Indonesia and Thailand have maintained distribution links (and active supply) into the Australian market and would seek to increase volumes by reducing selling prices (i.e. exporting at dumped prices);
- Guardian would be incentivized to shift supply from its present UAE production facility back to its facility in Thailand to supply the Australian market – most likely at a lower cost to it overall;
- PT Asahimas has increased production capacity to be able to supply increased volumes into the Australian market;
- the anti-circumvention activities of Guardian confirm that Australia remains an attractive market to Guardian and that it has sought to circumvent measures to re-establish supply from Thailand following the September 2016 extension of the measures;
- recent exports to Australia from Indonesia have been at dumped prices;
- although exports from China and Thailand appear not to have been at dumped prices in 2019/20, the expiration of the measures would likely lead to a resumption of dumping as exporters in China and Indonesia seek to match lower prices in Australia from alternate sources of supply;
- increases in imports from China, Indonesia and Thailand would likely result in reduced sales volumes and market share for Oceania Glass, contributing to increases in the unit cost of production that could not be recovered in selling prices; and
- 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.

8.4 Are exports likely to continue or recur?

To determine whether exports of CFG are likely to continue or recur should the measures be allowed to expire, the Commission has had regard to the following factors.

8.4.1 Import volumes

Subject country imports

Table 11 shows an index table of CFG (subject to measures) imported into Australia from each country since 1 January 2016:

Country	2016	2017	2018	2019	2020
China	100.00	37.31	10.53	20.24	12.73
Indonesia	100.00	115.13	113.49	99.59	81.29
Thailand	100.00	131.78	89.36	0.04	0.01

Table 11: Index of change in imports since 1 January 2016

Table 11 indicates that following the continuation of measures in October 2016 the volume of imports from:

- China decreased and have subsequently continued at significantly reduced volumes;

- Indonesia increased to a peak in 2017 however have reduced each year thereafter; and
- Thailand have almost ceased in 2020.

Are exports from China and Indonesia likely to continue or recur?

The Commission considers that, based on this pattern of exports from China and Indonesia since the continuation of measures in 2016, exports from these countries are likely to continue should measures be allowed to expire.

Are exports from Thailand likely to continue or recur?

In respect of Thailand, the Commission has recalculated the value of exports to reflect the findings of REP 479, which found that circumvention activity had occurred in relation to the dumping duty notice as it applies to Thailand. The notice was amended in March 2019.

The Commission has estimated the value of exports from Thailand by adding the value of the circumvention goods imported from Thailand prior to the amendment of the notice under tariff subheading 7006⁵⁴ to the value of imports covered by tariff subheading 7005.

Table 11 indicates that the value of imports from Thailand increased following the imposition of measures. The value of imports collapsed following REP 479 and only one import shipment was recorded in 2020, from Guardian. There were no other exporters of CFG from Thailand.

In its application Oceania Glass contend that if measures were allowed to expire, “Guardian would be incentivized to shift supply from its present UAE production facility back to its facility in Thailand to supply the Australian market – most likely at a lower cost to it overall”.⁵⁵ Oceania Glass further contended that the anti-circumvention activities of Guardian detailed in REP 479 confirm that Australia remains an attractive market to Guardian.

Guardian indicated in its REQ that the order shipped in the inquiry period was mistakenly accepted by the plant.⁵⁶ Guardian further asserted in a submission that it “does not intend to supply CFG from its Thailand plant” as “exporting CFG from Thailand into the Australian market in not aligned with its strategic objectives” which are focussed on “value added products including mirror, picture frame glass and laminated products”.⁵⁷

The Commission considered the following factors in assessing whether exports are likely to continue from Guardian should the measures expire:

- prior pattern of exports between Guardian operations in Thailand and the UAE;
- distribution links to the Australian market;

⁵⁴ The Commission notes that goods declared under tariff subheading 7006 are not quantified in metres squared as is the case for tariff subheading 7005 and as such the Commission has calculated an index for Thailand based on the AUD value of imports under both tariff subheadings.

⁵⁵ EPR 575, No. 001, Attachment A, p 6.

⁵⁶ EPR 575, No. 008, p 16.

⁵⁷ EPR 575, No. 004, p 2-3.

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- destination of exports and estimated delivery times between Guardian operations in Thailand and the UAE;
- costs of production between Guardian operations in Thailand and the UAE; and
- capacity utilisation between Guardian operations in Thailand and the UAE.

Guardian's pattern of exports

The Commission has compared the value of imports of the goods from 1 January 2016 until 31 December 2020 for Guardian Thailand and Guardian UAE using data obtained from the ABF import database. The comparison is shown below in Figure 19:

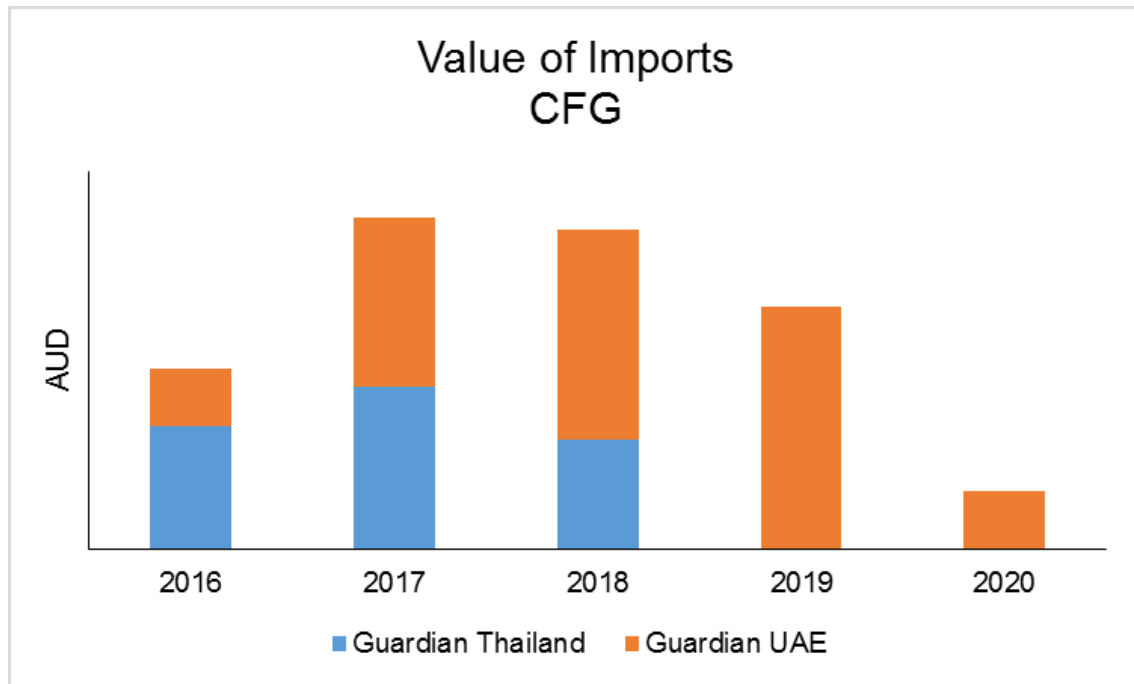


Figure 19: Value of imports from Guardian companies

Figure 19 above indicates that:

- in 2016, Guardian Thailand were responsible for the majority of the value of exports from the Guardian companies;
- in 2017, the value of exports increased from both Guardian Thailand and Guardian UAE. Overall the value of exports from the Guardian companies reached a peak;
- from 2018, Guardian UAE became responsible for the majority of the value of exports from the Guardian companies (noting that exports from Guardian Thailand were mostly circumvention goods, i.e. CFG with an edge working); and
- from 2019 Guardian UAE supplied almost the entirety of the goods exported by the Guardian companies.

The Commission considers that since the last continuation of measures in 2016, the Guardian companies have demonstrated a significant shift in their export behaviour in relation to the Australian market.

If the current measures relating to Thailand were to expire, the Guardian companies may shift exportation of the goods back to Guardian Thailand. The likelihood of this is assessed below.

Guardian's distribution links to the Australian market

The Commission examined the import behaviour of importers of goods from Thailand and the UAE across the period from 1 January 2016 until 31 December 2020 using information from the ABF import database.

The Commission identified 20 Australian importers who had imported from both of the Guardian companies over that period of time.

The Commission considers that Australian customers are prepared to import the goods from either of Guardian's manufacturing facilities.

The Commission found that Guardian's Thailand facility continues to produce CFG that is not subject to the anti-dumping measures considered in this inquiry. However, the Commission considers that Guardian's Thailand manufacturing facility has the ability to produce CFG that is subject to anti-dumping measures, should it wish to manufacture those goods. This is supported by the finding that Guardian did make one exportation of the subject goods to Australia during the inquiry period and that it sold like goods on its domestic market. Although Guardian submits that it does not intend to produce or export the subject goods from Thailand to Australia and that it fulfilled this customer order by mistake, that it was able to do so suggests that its manufacturing facility in Thailand is able to produce the particular CFG subject to measures should Guardian change its current business strategy.

Destination markets relating to Guardian's exports

The Commission compared third country sales data supplied by Guardian for Thailand and the UAE.⁵⁸

The Commission identified that 8 countries were supplied by both entities over the period from 1 January 2020 to 31 March 2021. Using a shipping distance estimation calculator⁵⁹ the Commission was able to establish the estimated shipping distances and shipping times between the port of despatch and the major port of delivery for each of the 8 countries identified, from which it was then possible to identify the total volume of the goods supplied from Thailand and the UAE with the shortest shipping times. The Commission established that 97% of the total volumes exported to these 8 common countries was supplied from the facility with the shortest shipping time.

The Commission notes that the estimated shipping time to Australia from Thailand is 22 days compared to 33 days from the UAE. A difference of 11 days in this context appears to be significant. There would be, approximately, a one-third reduction in shipping time if the goods were exported from Thailand rather than from the UAE. In the Commission's view, this reduction in shipping time may also pose cost savings that would create an

⁵⁸ Guardian supplied data in relation to its UAE facility for the purposes of Investigation No. 582.

⁵⁹ The calculator used can be found at <https://www.marinevesseltraffic.com/2013/07/distance-calculator.html>

incentive for Guardian to reassess its strategy of not exporting the subject goods to Australia from Thailand.

The Commission considers that this analysis indicates that Guardian generally seeks to supply from the facility with the shortest shipping time. Whilst shipping time and shipping cost is not the only consideration that contributes to commercial decisions regarding exports, in the absence of measures, these types of consideration may provide Guardian some incentive to supply from Thailand.

Costs of production

The Commission compared domestic costs of production for the goods using data supplied by Guardian for Thailand and UAE.

The Commission converted the cost of production data to US dollars for the purposes of the comparison. The Commission established that for the period where data was available for both facilities (1 April 2020 to 31 December 2020), Guardian's Thailand facility was the less expensive facility for all MCCs in all quarters.

The Commission considers that this analysis indicates that Guardian may have a lower cost of production in Thailand which would provide an incentive to produce the goods for the Australian market in Thailand rather than the UAE.

Guardian's capacity utilisation

The Commission has compared the available capacity for production of the goods using data supplied by Guardian for Thailand and the UAE.

The Commission determined that greater production capacity exists at Guardian's UAE facility, however the available excess capacity at the Thailand facility would be sufficient to produce the volume of goods exported to Australia from the UAE in the period 1 April 2020 to 31 March 2021. The Commission notes that the volumes for this period are lower than in all prior years since the continuation of measures in 2016, and Guardian may not have the production capacity to seek to supply those prior export volumes solely from Thailand.

Summary

In summary, the Commission considers that while Guardian may not currently be focussed on the Australian market as a strategic objective, it nevertheless:

- maintains the production capability to meet the product specifications required by Australian customers;
- has supplied the Australian market in each year since the continuation of measures in 2016, albeit in very small volumes in 2019 and 2020;
- has previously engaged in circumvention activities in respect of exports to Australia;
- based on an analysis of third country sales, broadly seeks to supply export destinations from the closest manufacturing facility, being Thailand for the Australian market;
- produces the goods more cost effectively in Thailand; and

- has the production capacity to supply the volume exported from the UAE in the most recent 12 months from Thailand.

For these reasons, the Commission considers it is likely that, if the measures were not continued, Guardian Thailand would review its stated strategy of ceasing the export of subject goods to Australia and focusing only on the production and export of non-subject goods to Australia from its Thailand facility. Should the measures not be continued, the Commission considers it likely that Guardian would be motivated to change its strategic objectives and would continue to export the goods to Australia.

Guardian is the only identified exporter of the goods from Thailand to Australia in recent years. However, the analysis in relation to Guardian is relevant to the Commission's assessment of the likelihood of exports from Thailand by other exporters resuming if measures are not continued. The geographic closeness of Thailand to Australia and the ability to ship the goods to Australia within a relatively short timeframe (approximately 22 days) means that Australia may be an attractive export market for the goods produced in Thailand. It appears to be cost effective for Guardian to produce the goods in Thailand, and as the cost base of the goods produced in Thailand would be similar for other manufacturers, the Commission considers it likely that other manufacturers of the goods in Thailand would enjoy similar cost effectiveness when producing CFG compared to producers in other countries. The presence of a nearby export market in Australia, and the absence of anti-dumping measures on exports of CFG from Thailand, would create an incentive for CFG manufacturers in Thailand to take advantage of the cost effectiveness of producing CFG and to seek to export those goods to Australia.

On balance, the Commission considers that it is likely that exports of the goods from Thailand would resume if measures are not continued. However, this issue is finely balanced and the Commission may come to a different view on these exports if additional evidence is submitted in this inquiry.

In relation to exports of the goods from Thailand by Guardian, the Commission considers it likely that exports would continue if measures are not continued.

8.4.2 Maintenance of distribution links to the Australian market

The Commission determined based on information provided by exporters and from the ABF import database that exporters from the subject countries continue to supply CFG to Australian customers.

Comparing the supplier and importer relationships that existed in the original investigation period and the inquiry period, the Commission has found that, in respect of exports from:

- Indonesia, the same parties continue to trade the goods in substantial quantities;
- China, 2 exporters continue to supply the same importers, one exporter has established links with a new importer and 14 new exporters have established distribution links into the Australian market; and
- Thailand, a small volume of exports were supplied by one exporter to an importer that was not identified during the original investigation.

On this basis, the Commission considers that exporters from each of the subject countries have maintained distribution links into the Australian market indicating that exports are likely to continue in the event that measures expire.

8.4.3 Excess production capacity in the domestic markets of the subject exporters

The Commission analysed the excess capacity available for each of the cooperating exporters during the inquiry period. The Commission determined that excess capacity ranged between four and 23%.

In respect of China, Oceania Glass noted in its application the Commission's findings in REP 335 and submitted that it did not consider that production capacity has altered since 2015 and that there continues to be excess production capacity. The Commission notes that there was no cooperation from Chinese exporters and as such the Commission did not have specific information available in respect of excess capacity for Chinese exporters, nor was the Commission able to obtain relevant information from publicly available sources.

As detailed in section 8.4.2 however, the Commission identified 14 new Chinese exporters in the Australian market since the measures were continued in 2016. The Commission considers that the emergence of these new exporters is indicative of spare production capacity within the Chinese domestic market.

In its submission of 30 April 2021, PT Asahimas claimed that its decreasing volume of exports of CFG to Australia and increase in production for the domestic market and exported value-added products indicated that it did not have excess capacity as alleged in the application.⁶⁰ PT Asahimas provided a breakdown of its capacity production as part of its REQ which indicated that it did have excess production capacity. The Commission further considers that the reduction in export volume to Australia indicates that PT Asahimas is in a position to direct this excess capacity to Australia if the measures are not continued.

8.4.4 Summary

The Commission considers that should the measures expire, exports from the subject countries are likely to continue on the basis that:

- imports have been identified in respect of each country in each year since the measures were continued in 2016;
- exporters maintain excess production capacity; and
- exporters have maintained distribution links to the Australian market.

The Commission's analysis of whether exports are likely to continue or recur is at **Confidential Attachment 16**.

⁶⁰ EPR 575, No. 013.

8.5 Will dumping continue or recur?

In assessing the likelihood of whether dumping and subsidisation will continue or recur, a number of factors are relevant as outlined in the Manual.

The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g., as a result of a review).⁶¹

The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold.⁶² No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the Commission considers are relevant to this inquiry.

This section assesses the likelihood that in the absence of measures CFG will be exported to Australia at dumped prices.

8.5.1 Analysis of dumping within inquiry period

The dumping margins from Chapter 7 of this report are reproduced below:

Country	Exporter	Dumping Margin
China	Uncooperative and all other exporters	28.2%
Indonesia	PT Muliaglass	-2.6%
	PT Asahimas Flat Glass Tbk	15.3%
Thailand	Guardian Industries Corp Ltd	47.8%

Table 12: Summary of preliminary dumping margins

The Commission has preliminarily determined that the goods exported to Australia from Indonesia by all exporters other than PT Muliaglass, Thailand and China were dumped in the inquiry period.

The Commission has examined the facts relevant to assessing the likelihood that these exporters will continue to export the goods at dumped prices.

In respect of goods exported to Australia from Indonesia by all exporters other than PT Muliaglass and by all exporters from China, the Commission considers that dumping by these exporters would be likely to continue if the anti-dumping measures expired, on the basis that:

- the goods have been exported at dumped prices during the inquiry period; and

⁶¹ The Manual, p.176 refers.

⁶² Ibid.

- these exporters' were first found to be dumping during the original investigation, and in subsequent matters where variable factors have been ascertained.

Thailand

In respect of Guardian, the Commission notes that the dumping margin determined in Chapter 7 of this report relates to a single export. Guardian claimed that this was their only export of the goods to Australia in the inquiry period which was corroborated by the Commission's review of ABF import data. The single export did not appear to be part of a broader pattern of exports of the goods and may have been atypical for this exporter in this particular period of time.

The Commission does not consider that this export sale is representative of the price (or the quantities) at which Guardian may export the goods to Australia in the absence of measures. Under these circumstances it is considered that Guardian's export during the inquiry period provides limited probative value for assessing whether dumping would be likely to continue should the anti-dumping measures be allowed to expire.

In its submission of 11 March 2021, Guardian submitted that as the applicant had determined that, over the 2019/2020 period used in the application, Guardian had either not exported the goods, or had exported at a negative dumping. Guardian suggested that due to this, further examination of its variable factors is not warranted.⁶³ Based on the Commission's assessment of Guardian's single export during the inquiry period above, the Commission agrees that is not sufficient to warrant a change in the variable factors in relation to Guardian.

The Commission also notes that the application for the continuation of the measures was silent on whether the goods exported from Thailand in the future would be dumped.

As only minimal evidence pertaining to the inquiry period was available, the Commission examined a broader range of information to assess the likelihood that Guardian, and Thailand as a whole, will resume exporting the goods to Australia at dumped prices in the future.

Table 13 shows the changes in dumping margins determined for Guardian since measures were originally imposed:

Guardian	REP 159C	REP 335	REP 479	SEF 575
Dumping margin	3.5%	8.8%	25.8% ⁶⁴	N/A

Table 13: Guardian changes in dumping margins

The Commission notes that throughout the period that measures have been applied to CFG Guardian has been found to be dumping, however the rate applied in REP 479 was not based on Guardian's exports, and as detailed above, the preliminary margin ascertained for the inquiry period is based on a single export which the Commission considers may not be representative of the export price of possible future exports. The

⁶³ EPR 575, No. 004, p 2.

⁶⁴ The Commission notes that variable factors were not ascertained for Guardian in REP 479 and instead the all other exporter rate applicable to exports from Thailand from REP 335 was applied to Guardian.

Commission considers that historical dumping may be an indicator that an exporter may dump in the future, but of itself is not sufficient to warrant a determination that an exporter is *likely* to export at dumped prices in the future.

To further inform its consideration, the Commission undertook an analysis of Guardian's third country sales relative to its domestic sales. However, the Commission noted considerable variability in export pricing relative to Guardian's weighted average domestic selling price. In particular, the Commission examined Guardian's exports of CFG to New Zealand. The Commission considers that New Zealand's geographical proximity to Australia and the similar level of market development may inform the Commission of the nature of exports if they were to resume to Australia. The Commission noted that Guardian's selling prices into the New Zealand market are comparable to Guardian's domestic selling prices. However, the Commission also noted that the prices into New Zealand were significantly higher than the weighted average selling price into all third countries and considers that this may not be reflective of Guardian's pricing strategy into Australia if it were to resume exports. Due to the limitations with Guardian's third country sales data, the Commission considers that it does not support a determination that dumping is likely to recur.

On the current balance of probabilities, the Commission considers that while Guardian may export at dumped prices in the future, there is insufficient evidence at present to conclude that it is *likely* that it will do so. However, this finding is finely balanced and may change if additional evidence was submitted that indicated that dumping is likely to continue.

Similarly, and given the absence of exports to Australia from other exporters in Thailand since the measures were continued in 2016, the Commission considers that while other exporters from Thailand may export at dumped prices in the future, there is insufficient evidence to conclude that it is *likely* that they will do so.

PT Muliaglass

In respect of PT Muliaglass, whose exports were found not to have been dumped during the inquiry period, the Commission has examined relevant information to assess the likelihood that PT Muliaglass will resume exporting the goods at dumped prices in the future.

Table 14 shows the changes in dumping margins determined for PT Muliaglass since measures were originally imposed:

PT Muliaglass	REP 159C	REP 335	SEF 575
Dumping margin	8.1%	0.3%	-2.6%

Table 14: PT Muliaglass changes in dumping margins

Table 15 shows index export volumes and FOB export pricing for PT Muliaglass for the years ending 31 December:

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PT Muliaglass	2016	2017	2018	2019	2020
Export volumes	100	828	1,131	854	847
FOB export pricing	100	120	143	146	130

Table 15: PT Muliaglass export volumes and pricing

The above tables indicate that:

- the dumping margin applicable to PT Muliaglass has moved from positive in REP 159C to being negative during the inquiry period;
- PT Muliaglass's FOB export pricing increased year on year since 2016 with the exception of 2020 where export pricing fell; and
- despite this increase in export pricing, PT Muliaglass experienced increasing export volumes until 2018 after which time export volumes have stabilised.

In addition to this historical analysis of dumping margins, export pricing and export volumes since the imposition of measures, the Commission also gave consideration to PT Muliaglass's broader domestic and export performance during the inquiry period. In Figure 20 the Commission has compared PT Muliaglass's CIF export pricing to Australia in IDR per tonne against its export CTM during the inquiry period, as well as domestic delivered selling prices against domestic CTM.

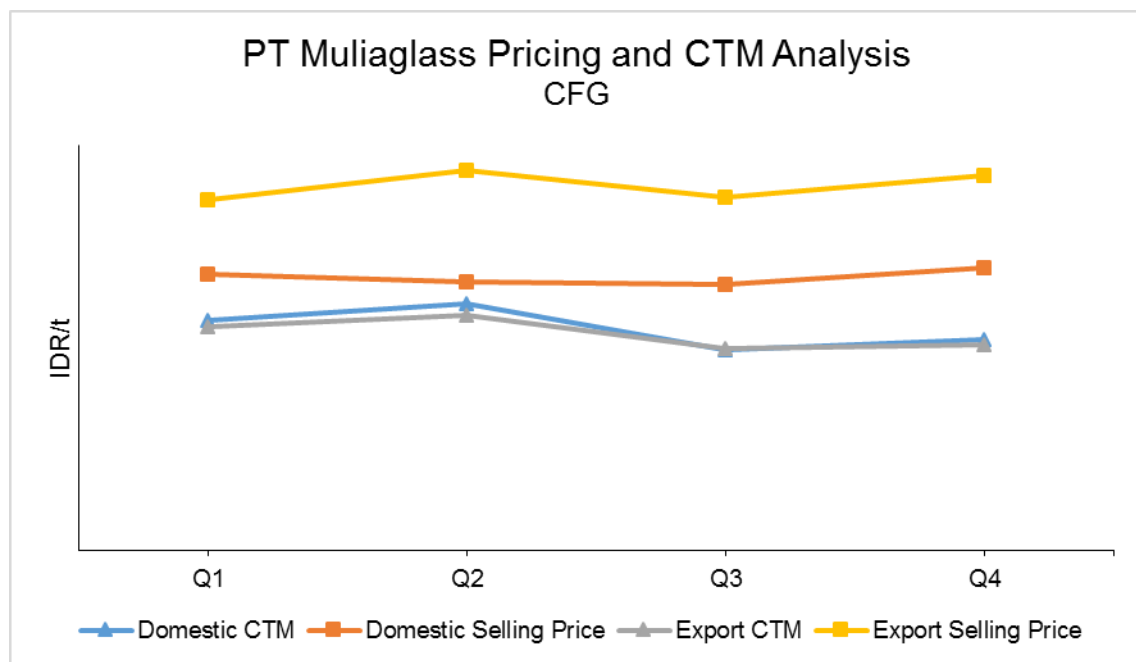


Figure 20: PT Muliaglass unit pricing and unit CTM comparison

Figure 20 shows that PT Muliaglass's domestic and Australian export pricing tracks closely with the underlying CTM for each sales channel. The Commission considers that this indicates that PT Muliaglass's Australian export prices are a function of its underlying CTM.

The Commission observed during verification of the financial information submitted by PT Muliaglass that in the fourth quarter of the inquiry period PT Muliaglass's ocean freight costs began to increase, reducing the FOB export price of its sales to Australia. The Commission determined from ABF import data that this trend continued into 2021, and

was considered whether a continuing reduction in FOB export prices may be indicative of future dumping.

The Commission observed from independent research that ocean freight costs have increased dramatically during the COVID-19 pandemic, and that commentators suggest such increases may be ongoing.⁶⁵

On this basis the Commission sought additional information from PT Muliaglass relating to sales occurring after the inquiry period to better understand the pricing impact of this ongoing increase in ocean freight costs. PT Muliaglass indicated that it had initially endeavoured to absorb the increased ocean freight costs in the hope that these costs would in time revert to pre COVID-19 levels, however in February 2021 concluded that it could no longer absorb these costs and notified customers that pricing increases would be necessary to recoup these increased costs. PT Muliaglass supplied supporting documents showing that the additional costs of ocean freight had been passed on to customers, correcting the temporary fall in FOB export prices identified in the ABF import database.

In addition, the Commission undertook an analysis of PT Muliaglass's third country sales relative to its domestic sales. The Commission notes that while PT Muliaglass does export to numerous countries its clear float glass revenue is predominantly generated from domestic sales, and that it is operating at close to full production capacity.

Where sufficient information had been supplied in respect of third country sales to enable the analysis, the Commission compared the aggregated weighted average ex-works selling price for sales to each third country (including Australian sales) against the weighted average ex-works selling price of domestic sales. The Commission established that ex-works selling prices between Australian and domestic sales are almost identical, however sales are generally made to other third countries at a lower ex-works value. The Commission considers that this indicates that PT Muliaglass is prepared to accept lower pricing into export markets.

The Commission considers that given PT Muliaglass is currently subject to a 0.3% *ad valorem* rate it could have pursued a more aggressive pricing strategy, consistent with other export markets, should there have been an incentive to do so. In view of the price undercutting findings detailed in section 8.6.1 below, the Commission does not consider that PT Muliaglass has an incentive to reduce its selling prices (to potentially dumped levels) into the Australian market.

As detailed in section 8.4, the Commission considers that, should measures expire, exports from PT Muliaglass will continue, however based on the Commission's observations that PT Muliaglass:

- has moved from a position of low levels of dumping in prior matters to a negative dumping margin during the inquiry period;

⁶⁵ H Ren, [Higher shipping costs are here to stay, sparking price increases](#), *Bloomberg*, 12 April 2021; [Why freight rates are high right now and how shippers can adapt?](#), *Hellenic Shipping News*, 4 May 2021; G Miller, [Why stratospheric container rates could rocket even higher](#), *American Shipper*, 16 May 2021; S Lannin, [Shipping cost surge raises retail price pressures and inflation risks](#), *ABC News*, 10 June 2021.

- has increased export pricing into the Australian market since the most recent continuation of measures;
- prices both export and domestic markets closely in accordance with its CTM;
- demonstrates comparable ex-works selling pricing between the Australian market and the domestic market despite a nominal currently applicable dumping margin and a trend toward under-pricing into other export markets;
- has responded to significantly increased ocean freight costs by increasing the price of its Australian exports to fully recoup those additional costs; and
- is operating with limited excess production capacity.

The Commission considers that PT Muliaglass is *unlikely* to export the goods at dumped prices in the future.

8.5.2 Availability of other markets – impact of trade remedies in other jurisdictions

Oceania Glass noted in its application that anti-dumping measures apply to CFG in Brazil for exports from China, Egypt, Mexico, Saudi Arabia, UAE and the United States, and in India on exports from Malaysia, Pakistan, Saudi Arabia and the UAE.

As such, China is the only country relevant to this application subject to anti-dumping measures in another jurisdiction. As detailed in section 8.4.1 above, exports from China have been in decline since the continuation of measures in 2016 and as such the Commission does not consider that anti-dumping measures applying to China in other jurisdictions have diverted exports to Australia.

8.5.3 Submissions in relation to the likelihood of dumping continuing or recurring

PT Muliaglass

In its submission of 10 March 2021, PT Muliaglass submits that any finding of dumping in relation to it should be attributed to the increase in the cost of ocean freight.⁶⁶ PT Muliaglass sells to its Australian customers at the CIF level, and has been absorbing the increased cost of ocean freight, at the expense of a reduction in its FOB price.

As detailed above in section 8.5.1, the Commission did not find that exports of the goods from PT Muliaglass to Australia were dumped and also found that PT Muliaglass was no longer able to absorb the rising cost of ocean freight. From the evidence provided by PT Muliaglass, the Commission is satisfied that it is passing the increased cost of ocean freight onto its Australian customers.

In its submission of 7 May 2021, PT Muliaglass raised the following issues in relation to dumping:⁶⁷

- that the Australian industry has sought to import the goods from PT Muliaglass shows that PT Muliaglass is not dumping;
- the lack of incentive for PT Muliaglass to export the goods to Australia at dumped prices;

⁶⁶ EPR 575, No. 003, p 2.

⁶⁷ EPR 575, No. 014.

- the decline in export volumes of the goods from PT Muliaglass to Australia since the last continuation inquiry;
- the rising ocean freight costs due to the ongoing effects of the COVID-19 pandemic; and
- that the dumping margins calculated by Oceania Glass in its application are not reliable.

As detailed above in section 7.4.1 the Commission has determined the variable factors in relation to PT Muliaglass having regard to its verified information. The dumping margins calculated in the application were not used in the assessment of whether PT Muliaglass would be likely to resume exporting the goods from Indonesia to Australia at dumped prices. As detailed above in section 8.5.1 the Commission does not consider that it is likely that PT Muliaglass will export the goods from Indonesia to Australia at dumped prices. In coming to this conclusion, the Commission has had regard to the matters raised by PT Muliaglass in its submission.

Guardian

In its submission of 11 March 2021, Guardian submits that the arguments made by Oceania Glass in its application in relation to the likelihood of the recurrence of dumping by Guardian are based on speculation, rather than fact and that due to this, the Commissioner cannot be satisfied that dumping is likely to continue or recur.⁶⁸

The Commission notes that the applicant is only able to provide information that it has available to it, and that the application is required to show that there appears to be reasonable grounds that the expiration of measures might be likely to lead to a continuation or recurrence of dumping and material injury. In conducting this inquiry, the Commission has had regard to information from multiple sources including the ABF import database and verified information provided by Guardian in its REQ.

8.5.4 Summary

In view of the above analysis, the Commission considers there is sufficient evidence to conclude that:

- the goods exported to Australia from China and Indonesia by exporters other than PT Muliaglass during the inquiry period were dumped; and
- exporters from China and Indonesia have maintained distribution links into the Australian market.

As a result, the Commissioner considers that, if the anti-dumping measures are not continued, the dumping of the goods from China and Indonesia, by exporters other than PT Muliaglass, is likely to continue or recur.

The Commissioner does not consider there is sufficient evidence to conclude that exports of the goods to Australia from Thailand at dumped prices are likely to continue or recur.

⁶⁸ EPR 575, No. 004.

The Commissioner does not consider there is sufficient evidence to conclude that exports of the goods to Australia from PT Muliaglass at dumped prices are likely to continue or recur.

The Commission's analysis of whether dumping is likely to continue or recur is at **Confidential Attachment 17**.

8.6 Will material injury continue or recur?

In its application Oceania Glass asserted that it has experienced a deterioration in its profit and profitability since 2018, and that this trend demonstrates both a broader deterioration in its economic performance over that time as well as its susceptibility to changes in events including the expiration of anti-dumping measures against exporters that have maintained distribution links to the Australian market.

Oceania Glass reiterated the findings in REP 335 that the Australian market for CFG is highly competitive with price competition occurring from all import sources, including China, Indonesia and Thailand. Oceania Glass considers that if the measures are allowed to expire exporters the subject of the measures would likely gain market share by reducing prices and displacing imports from other sources and sales by the Australian industry. The reduction in prices would have a further impact on Oceania Glass's deteriorating profit and profitability.

8.6.1 Likely effect on prices

FOB export pricing

The Commission has used ABF import data to analyse FOB export pricing since 2016 for the subject countries, as well as exempt Chinese exports, and exports from Malaysia, Saudi Arabia and the UAE. Together these exports account for 97% of export of the goods to Australia in 2020.

Figure 21 below demonstrates the comparative FOB export prices:

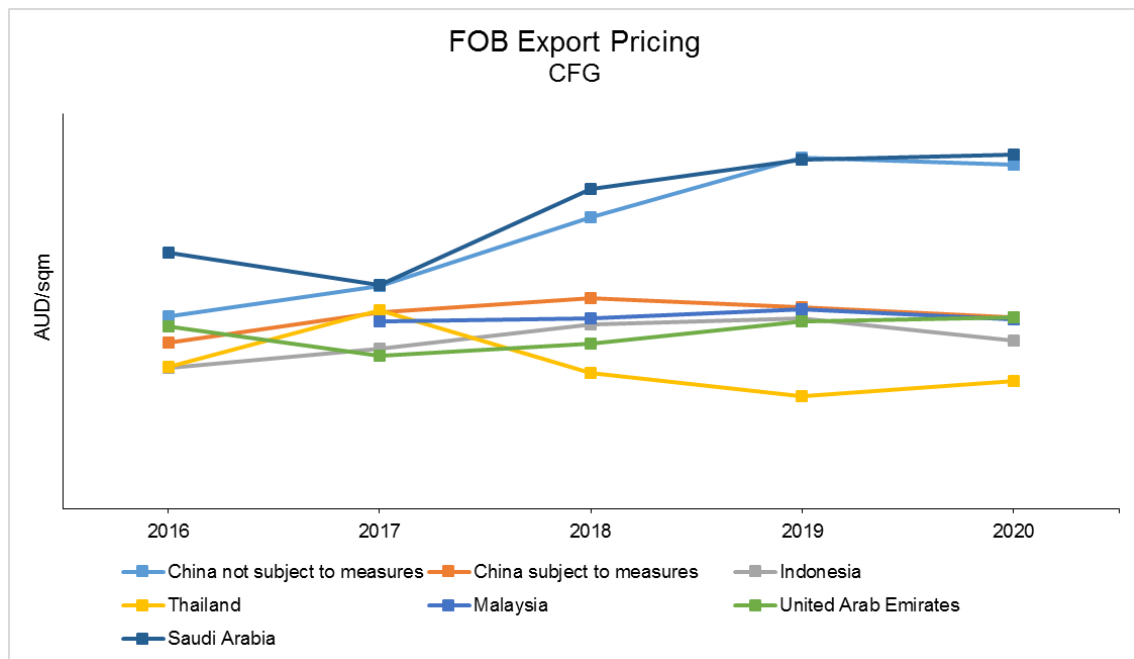


Figure 21: FOB export pricing

Figure 21 indicates that:

- exports from Chinese exporters that are not subject to measures and from Saudi Arabia are the highest priced in the Australian market which may be indicative of a focus on thicker CFG;
- export pricing for Chinese exporters subject to measures, as well as Indonesian, Malaysian and Emirati exporters converged leading into the inquiry period, however export pricing from Indonesia reduced at a greater rate in 2020; and
- Thai export pricing was lower than all others, however as detailed in section 8.4 above these prices are based on negligible volumes in 2019 and 2020 and are not considered to be influential as regards the overall pricing trend within the Australian market.

The Commission considers that there is close price competition in the Australian clear float glass market and that the downward movement evident in the FOB export pricing of Indonesian exporters during the inquiry period may influence the pricing of other market participants.

Price undercutting

Price undercutting occurs when imported goods are sold in the Australian market at a price below that of the Australian produced like goods. The Manual highlights that price undercutting analysis is a feature of the Commission's practice in determining whether dumping has caused injury. The Commission will undertake a price undercutting analysis that focuses on data that covers transactions made during the inquiry period. This analysis compares the price of the imported goods with the sales price of the locally produced goods, in the Australian market.

The results of the Commission's price undercutting analysis provides information that aids in assessing the effect of dumped imports on the Australian industry's prices and whether

this has caused, or is likely to cause, injury in the form of price depression and price suppression, amongst other potential injury factors.

The Commission's price undercutting analysis compares the prices at which the Australian industry sold like goods to the actual or likely prices achieved by importers who sourced the goods from exporters subject to the current measures. Due to limitations on available data in respect of into store selling prices for imported goods, the Commission has compared the landed value of exports for the inquiry period on a quarterly basis by thickness against Oceania Glass's sales during the same period at an Ex Works (EXW) level.

The Commission determined a landed value for exports for cooperating exporters as the sum of:

- the verified CIF value of export sales;
- any general duties and dumping duties relevant to each exporter; and
- an estimate of Australian importation costs based on importer data submitted in respect of investigation 582.

As the Commission did not obtain cooperation from Chinese exporters during the inquiry, the landed value for Chinese exporters was estimated using the same approach detailed for cooperating exporters, however with ABF data substituted for verified export data.⁶⁹

In respect of Oceania Glass's sales, the Commission notes that a proportion of Oceania Glass's sales of CFG are to related entities. Although the Commission considers Oceania Glass's sales to these entities to be arms length, as noted in the verification report, the Commission has nonetheless undertaken the price comparison using Oceania Glass's sales to unrelated customers only.⁷⁰

Given the preliminary findings in respect of the likely continuation or recurrence of dumped exports in sections 8.4 and 8.5 above, the Commission considers it beneficial to present the findings of its undercutting analysis by the source of exports.

China

As detailed in Chapter 5 above, exports from China make up a very small volume of the Australian market. While exports were evident across all thicknesses manufactured by Australian industry, Chinese exports were predominantly of 3 mm, 4 mm and 6 mm thicknesses.

The Commission established that Chinese exports only undercut the Australian industry in the first quarter of 2020 in respect of one shipment of 6 mm clear float glass. The Commission established from the ABF data base that the value of this shipment was approximately \$700.

⁶⁹ The landed price is Line General VOTI in ABF data which is the total of the CIF price, plus general and interim dumping duties (if applicable).

⁷⁰ EPR 575, No. 016, p 4.

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The Commission observed that all other exports were priced higher than the Australian industry, including exports to a mutual customer of Australian industry. The price premiums observed for Chinese exports ranged from 6% to 60%.

The Commission considers that based on this analysis any price injury experienced by Australian industry during the inquiry period cannot be attributable to dumped goods from China.

The Commission also notes that the largest exporter of clear float glass from China, Xinyi, is not subject to measures. The Commission has analysed exports from Xinyi since measures were continued. Table 16 below shows index export volumes from 2016 onwards:

Xinyi	2016	2017	2018	2019	2020
Export volumes	100	79	14	4	1

Table 16: Index of export volumes for Xinyi (sqm)

Table 16 indicates that despite the absence of measures, Xinyi's exports have declined dramatically since measure were continued.

The Commission considers that given the falling export volumes since the continuation of measures in 2016 from exporters both subject to measures and exempt from measures, the Australian market is not a priority for Chinese exporters of CFG.

Given the small volume of exports from China, and the prevailing FOB export pricing, the Commission does not consider that in the absence of measures that exports from China will have a material effect on pricing within the Australian market.

Indonesia – PT Muliaglass

The Commission considers that as PT Muliaglass was not found to be exporting CFG at dumped prices during the inquiry period, any price injury experienced by Australian industry during the inquiry period cannot be attributable to dumped goods exported by PT Muliaglass.

In terms of price undercutting by product specification by PT Muliaglass, the Commission observed that for:

- 3 mm, 4 mm and 5 mm thicknesses PT Muliaglass undercut Australian industry selling prices in three of the four quarters with the level of undercutting ranging up to 12%;
- 6 mm, 8 mm and 12 mm thicknesses PT Muliaglass undercut Australian industry selling prices in all four quarters with the level of undercutting ranging up to 23%; and
- 10 mm thickness PT Muliaglass undercut Australian industry selling prices in two of the four quarters with the level of undercutting ranging up to 10%.

In addition the Commission was able to identify sales made to common customers of both Australian industry and PT Muliaglass during the inquiry period. The Commission compared quarterly pricing to these common customers by thickness. The Commission

observed that there was no clear pricing trend, with prices generally clustered within 5% of each other. The Commission notes that the total value of these sales represented less than half of one percent of Australian industry's total sales.

Given that exports during the inquiry period by PT Muliaglass were not at dumped prices, and that at an aggregate level PT Muliaglass enjoys a pricing advantage relative to the Australian industry on the majority of sales, the Commission would not expect PT Muliaglass to reduce its export prices as a result of the measures expiring. Therefore there would be no impact on the Australian industry as a result of the measures expiring in relation to PT Muliaglass.

Indonesia – PT Asahimas

The Commission considers that as PT Asahimas was found to be exporting CFG at dumped prices during the inquiry period, price injury experienced by Australian industry during the inquiry period may be attributable to dumped goods from PT Asahimas.

In terms of price undercutting the Commission observed that for all product specifications over the course of the inquiry period PT Asahimas moved from selling at prices above Australian industry to undercutting in the range of 17% to 30% by the fourth quarter of the inquiry period. The Commission further notes that during the fourth quarter of 2020 PT Asahimas was the lowest priced participant in the Australian market in respect of each product specification exported.

In addition the Commission was able to identify that all of PT Asahimas's sales were made to common customers of Australian industry during the inquiry period. The Commission compared quarterly pricing to these common customers by thickness. The Commission observed that in respect of one customer, in all quarters for all thicknesses PT Asahimas were undercutting, with rates up to 32%, while for a second customer PT Asahimas were undercutting on 3 thicknesses in all quarters, and for a fourth thickness in one quarter, with undercutting rates up to 33%. The Commission notes that should measures not be continued the price undercutting experienced by Australian industry would be exacerbated.

The Commission notes that while the total value of these sales represented less than half of one percent of Australian industry's total sales during the inquiry period, PT Asahimas:

- has been a participant in the Australian clear float glass market since the inception of measures and maintains distribution links;
- has previously exported significantly larger volumes of clear float glass than was evident in the inquiry period;
- maintains excess production capacity; and
- as at the close of the inquiry period was the lowest priced participant in the Australian market for all product specifications exported.

On this basis the Commission considers it likely that in the absence of measures dumped exports from PT Asahimas will continue to undercut Australian industry's selling prices, as well as other participants in the market, causing price depression and price suppression.

The Commission's analysis of price effects and price undercutting is at **Confidential Attachment 18**.

8.6.2 Likely effects on volumes

The Commission has established at section 8.6.1 above that during the inquiry period export pricing from Indonesia reduced and that price undercutting was evident in relation to exports from both PT Muliaglass and PT Asahimas when considered on the basis of product specification and common customers.

The Commission notes that PT Muliaglass was not found to be dumping during the inquiry period and as such any injury experienced by Australian industry cannot be attributed to dumped exports from PT Muliaglass.

The Commission established that PT Asahimas exported CFG at dumped prices during the inquiry period, and that by the fourth quarter of the inquiry period was the lowest priced participant in the Australian market.

While the volumes exported by PT Asahimas during the inquiry period only represented less than 1% of the Australian industry's sales, the Commission considers that the ongoing presence of dumped imports in a price sensitive market at prices which significantly undercut Australian industry's prices, as well as the prices of other participants in the market, is likely to lead to further price depression and price suppression as the Australian industry endeavours to compete with those price offerings, or alternatively, if unable to compete with those price offerings will lead to lost sales volumes and reduced market share, and consequent deterioration in profit and profitability.

The Commission notes that PT Asahimas has exported significant volumes to Australia in periods prior to the inquiry period, maintains distribution links into the Australian market and has excess production capacity. The Commission considers that in the absence of measures PT Asahimas will have an even greater competitive advantage over Australian industry and will likely increase its export volumes to the detriment of Australian industry's sales volume and market share.

8.6.3 Is injury from dumping likely to be material?

Notwithstanding the acknowledgement that other factors are likely to influence the economic condition of the Australian industry if measures are removed, the *Ministerial Direction on Material Injury* (the Direction on Material Injury), dated 27 April 2012, provides that injury from dumping or subsidisation need not be the sole cause of injury to the industry, where injury caused by dumping or subsidisation is material in degree.

The Direction on Material Injury further provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

The Commission's analysis of the economic condition of the Australian industry in the inquiry period and in the period since measures were last continued, found that while the Australian industry experienced an increase in sales volume and market share:

- per unit CTM increased;
- per unit selling prices declined; and
- profit and profitability deteriorated.

Based on this finding, the Commission considers that the Australian industry remains susceptible to injury from dumping.

The Commission considers that if measures were to expire in relation to exports from Indonesia by exporters other than PT Muliaglass, the continuation or recurrence of dumped exports would put downward pressure on prices in the Australian market such that the Australian industry would experience continued price depression and suppression with the prospect of an erosion in the improvements made in relation to sales volumes and market share.

Based on the information outlined above, the Commission considers the volumes of goods exported to Australia at injurious dumped prices by exporters from Indonesia other than PT Muliaglass would be likely to be significant enough to worsen the injury suffered by Australian industry so that injury is material.

Accordingly, the Commission considers that the expiration of the anti-dumping measures as they relate to exporters from Indonesia other than PT Muliaglass would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent.

8.6.4 Submissions in relation to the continuation or recurrence of material injury

Injury caused by factors other than dumping

Multiple interested parties have submitted that the injury experienced by the Australian industry is not caused by exports of the goods to Australia at dumped prices, and is instead caused by other factors including rising energy prices and operational inefficiencies.

- Guardian submitted that the material injury experienced by the Australian industry is due to factors other than dumping, including that Oceania Glass is unable to supply the whole of the Australian market;⁷¹
- The GOI submitted that any finding of material injury should be made with having regard to the economic inefficiencies of Oceania Glass (then CSR Viridian Glass);⁷² and
- PT Muliaglass submitted that the change in ownership of the Australian industry should have led to an improvement of its economic condition.⁷³

⁷¹ EPR 575, No. 004, p 3.

⁷² EPR 575, No. 007, p 1-2.

⁷³ EPR 575, No. 014, p 1.

The Commission notes that no evidence was provided by the GOI or PT Muliaglass to support that contention that the injury experienced by Oceania Glass may be the result of its own operational inefficiencies or business management.

Guardian provided references to annual reports from the previous owner of the Australian industry, CSR Limited, which references multiple reasons for the company's decline in EBIT.

In assessing the economic condition of the Australian industry in Chapter 6, the Commission has examined the injury factors relative to the Australian industry's sale of like goods only. Relevant costs have been included in the Commission's calculation of the CTMS. As can be seen in sections 6.5 and 6.6, Oceania Glass has been unable to raise its prices in response to increasing CTMS, leading to a reduction in profit and profitability.

Effect of imports from countries not subject to measures

Several interested parties have submitted that the injury experienced by the Australian industry is not caused by exports of the goods from the subject countries, and instead caused by the rising exports of CFG to Australia from Malaysia and the UAE.

- PT Muliaglass submitted that any injury experienced by the Australian industry from dumped exports of the goods from China or Thailand cannot have been material due to the small volume of exports from these countries compared to those from Malaysia and the UAE;⁷⁴
- Guardian claimed that Oceania Glass was importing CFG from Malaysia in order to supplement domestic production;⁷⁵
- The GOI highlighted the increasing volume of exports of CFG from Malaysia and the UAE and questioned the impact of this increase on the Australian industry;⁷⁶ and
- PT Asahimas also highlighted the increased volume of exports of CFG from Malaysia and the UAE, and claims that the injury experienced by the Australian industry is not caused by exports of the goods from Indonesia.⁷⁷

The Commission notes that this inquiry is only focused on the continuation or recurrence of dumping and material injury caused by exports of the goods from China, Indonesia and Thailand, and has separated out the effects of the exports from these countries from other exports of CFG into Australia as detailed in section 8.6.1. The Commission is separately investigating Oceania Glass's allegations that exports of CFG from Malaysia and the UAE to Australia are at dumped prices and are causing injury to the Australian industry.⁷⁸ The results of this investigation will be published in due course.

⁷⁴ EPR 575, No. 003, p 1-2.

⁷⁵ EPR 575, No. 004, p 3.

⁷⁶ EPR 575, No. 007, p 2-3.

⁷⁷ EPR 575, No. 013, p 1.

⁷⁸ ADN No. 2021/054.

The Commission has not found any evidence that Oceania Glass has imported CFG from Malaysia in the inquiry period.

Injury to downstream industry in Australia

Both PT Muliaglass and PT Asahimas submitted that there will be detrimental effects on the downstream industry in Australia which utilises CFG, if the measures are allowed to continue.⁷⁹

The Commission notes the concerns regarding the effects of the current measures on the downstream glass industry in Australia. However, the current continuation inquiry is limited to assessing whether the material injury caused to the Australian industry producing clear float glass by the export of the goods to Australia at dumped prices is likely to continue or recur.

Australian industry is not experiencing injury

In its submission of 30 April 2021, PT Asahimas submitted that the Australian industry's large market share and a recent increase in its prices indicate that the Australian industry is not experiencing injury. PT Asahimas also highlighted the alleged importations of CFG by the Australian industry from Malaysia, and classified this as a form of 'self-injury'.⁸⁰ As detailed above in Chapter 6, although the Australian industry has been able to increase its market share over the injury analysis period, it has still experienced injury in form of other factors including price suppression and depression, and reduced profit and profitability. As discussed above, the Commission has also not found any evidence of imports of CFG from Malaysia by the Australian industry in the inquiry period.

8.7 Conclusion

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that exports of CFG from China, Indonesia and Thailand are likely to continue, and in the absence of anti-dumping measures, may increase.

The Commissioner is satisfied that exports of CFG from China, Indonesia by exporters other than PT Muliaglass, and Thailand were dumped in the inquiry period.

The Commissioner is satisfied that, in relation to exporters from Indonesia other than PT Muliaglass:

- exports of CFG at dumped prices are likely to continue or recur; and
- material injury to the Australian industry is likely to be caused by future exports at dumped prices in the absence of the measures.

As a result, the Commissioner is satisfied that the expiration of the measures as they relate to exporters from Indonesia other than PT Muliaglass would lead, or would be likely

⁷⁹ EPR 575, No. 006, p 1 and No. 013, p 5.

⁸⁰ EPR 575, No. 013, p 2-3.

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to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

The Commissioner is not satisfied, in relation to PT Muliaglass, and exporters from China and Thailand, that there is sufficient evidence to support a finding that exports of CFG at dumped prices are likely to continue or recur.

The Commissioner accepts that, should the measures be allowed to expire, it is possible that CFG may be exported to Australia by PT Muliaglass and exporters from China and Thailand at dumped prices and materially injure the Australian industry. However, the Commissioner is not satisfied on the evidence before him that this is *likely*.

As a result, the Commissioner is not satisfied that the expiration of the measures as they relate to PT Muliaglass and exporters from China and Thailand, would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

9 PROPOSED MEASURES

9.1 Preliminary recommendations

The Commissioner proposes to recommend to the Minister that the dumping duty notice in respect of the goods exported to Australia from China, Indonesia (PT Muliaglass only) and Thailand be allowed to expire on 18 October 2021. Accordingly, for these affected exporters, the Commissioner does not propose to recommend a change to the variable factors.

The Commissioner proposes to recommend to the Minister that the dumping duty notice in respect of PT Asahimas and all other exporters from Indonesia (excluding PT Muliaglass), continue after 18 October 2021.

The Commission has found that, in relation to the goods exported to Australia from PT Asahimas, the variable factors of export price, normal value and NIP have changed. The Commissioner proposes to recommend that the Minister change the variable factors relating to PT Asahimas consistent with the findings outlined in Chapters 7 and 10.

As the Commission did not identify any exporters from Indonesia other than PT Asahimas and PT Muliaglass, the Commissioner proposes to recommend that the Minister does not change the variable factors applying to all other exporters from Indonesia.

The Commission has also considered the appropriate form of measures which should apply to the goods exported to Australia from PT Asahimas and all other exporters from Indonesia (excluding PT Muliaglass) below.

9.2 Current measures

The IDD applying to all exporters from Indonesia is currently in the form of an *ad valorem* rate. The total IDD liability is calculated by multiplying the dumping export price (DXP) by the applicable IDD *ad valorem* duty rate.

9.3 Forms of dumping duty available

The forms of dumping duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).⁸¹

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit

⁸¹ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013 (the Guidelines)* and relevant factors in the market for the goods.⁸²

9.4 Conclusion

The Commission considers that the current *ad valorem* measures applying to PT Asahimas and all other Indonesian exporters (excluding PT Muliaglass) remain the appropriate form of measures. The Commission considers that the same conditions currently apply as in REP 335; there are many models or types of models, and there is significant price variation between models.

A summary of the proposed recommendations and effective rates of IDD is shown in Table 17.

Country	Exporter	Proposed duty method	Effective IDD rate
Indonesia	PT Muliaglass	Exempt	Exempt
	PT Asahimas Flat Glass Tbk	<i>ad valorem</i>	15.3%
	All other exporters	<i>ad valorem</i>	28.3%

Table 17: Summary of effective interim dumping duty

⁸² Available on the Commission's website here: [Guidelines on Forms of Dumping Duties](#)

10 NON-INJURIOUS PRICE

10.1 Preliminary assessment of NIP

The Commission has determined that the NIP has changed in relation to PT Asahimas.

10.2 Applicable legislation

The NIP is defined in section 269TACA as “the minimum price necessary to prevent the injury, or a recurrence of the injury” caused by the dumped goods, the subject of a dumping duty notice.

10.3 Calculation of the non-injurious price

The method of calculating a NIP is not prescribed in the legislation, however there are several methods outlined in the Manual.⁸³

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission’s preferred approach to establishing the USP is set out in the Manual and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates the NIP by deducting the costs incurred in transitioning the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

As there are no available Australian industry selling prices at a time unaffected by dumping, the Commission considers that the second method, establishing the USP using the Australian industry CTMS plus profit, is the preferable method in this instance.

For the purpose of this inquiry, a weighted average USP has been determined based on a weighted average of verified Australian CTMS data covering the inquiry period, plus an amount of profit achieved by the Australian industry.

At section 6.7.4 the Commission found that the Australian industry experienced positive levels of ROI during 2017 and 2018. The profit achieved by the Australian industry during this time was also found to be higher than in 2019 and 2020, in which the Australian industry experienced a negative ROI. For this reason, the Commission considers that the

⁸³ The Manual, p 138.

average profit for the period 2017 to 2018 is reasonable to use in the calculation of the USP.

As the Commission did not receive any responses to its importer questionnaires as part of this inquiry, it does not have verified post-exportation costs to use a deduction to the USP in calculating the NIP. The Manual states that in this case ‘the Commission would normally on post-exportation costs that are available from other sources, for example, data from the application or data from other relevant inquiries.’⁸⁴

Accordingly, the Commission has adopted the same approach as used in REP 335, and has made the following deductions from the USP to calculate the NIP:

- verified Australian importation expenses from REP 335; and
- verified ocean freight and insurance from cooperating exporters in this inquiry.

10.4 Commission’s assessment

The Commission has found that the NIP for PT Asahimas has changed.

The Commissioner is proposing to recommend to the Minister that all variable factors relevant to the dumping duty notice, including the NIP, in relation to PT Asahimas be changed.

Details of the USP and NIP calculations for PT Asahimas are at **Confidential Attachment 19**.

⁸⁴ The Manual, p 140.

11 APPENDICES AND ATTACHMENTS

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Confidential Attachment 2	Economic condition of Australian industry
Confidential Attachment 3	Uncooperative Chinese exporters dumping margin
Confidential Attachment 4	PT Muliaglass export price
Confidential Attachment 5	PT Muliaglass CTMS
Confidential Attachment 6	PT Muliaglass normal value
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Confidential Attachment 8	PT Asahimas export price
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