



CUSTOMS ACT 1901 – PART XVB

REPORT NO. 575

**INQUIRY INTO 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**

8 September 2021

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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</i> (Cth)
the Australian industry, Oceania Glass	Oceania Glass Pty Ltd
CFG, the goods	clear float glass
China	the People's Republic of China
CIF	cost, insurance and freight
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 and sell
DCR	Dumping Commodity Register
the Direction on Material Injury	<i>Ministerial Direction on Material Injury 2012</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i> (Cth)
DXP	dumping export price
EPR	electronic public record
EXW	ex works
FOB	free on board
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
Inquiry 479	<i>Anti-Circumvention Inquiry 479</i>
the inquiry period	1 January 2020 to 31 December 2020
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
the notice	the dumping duty notice detailing the anti-dumping measures
OCOT	ordinary course of trade
original investigation	Investigation 159C
period of analysis	1 January 2017 to 31 December 2020

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PT Asahimas	PT Asahimas Flat Glass Tbk
the Regulation	<i>Customs (International Obligations) Regulation 2015 (Cth)</i>
REP 159C	<i>International Trade Remedies Report No. 159C</i>
REP 335	<i>Anti-Dumping Commission Report No. 335</i>
REP 479	<i>Anti-Dumping Commission Report No. 479</i>
REQ	response to exporter questionnaire
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general, and administration
sqm	square metres
subject countries	the countries currently subject to measures
Thailand	the Kingdom of Thailand
UAE	United Arab Emirates
USP	unsuppressed selling price
Xinyi	Xinyi Ultrathin Glass (Dongguan) Co Ltd

1 SUMMARY AND RECOMMENDATION

1.1 Introduction

The Anti-Dumping Commission (the commission) has prepared this report in relation to the inquiry into whether the anti-dumping measures¹ (the current measures) 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) (collectively the subject countries) should expire or continue.

The current measures are due to expire on 17 October 2021.²

The Commissioner of the Anti-Dumping Commission (the Commissioner) initiated the inquiry on 2 February 2021 following consideration of an application lodged by Oceania Glass Pty Ltd (Oceania Glass, the Australian industry). Oceania Glass is a person specified under section 269ZHB(1)(b)(ii) the *Customs Act 1901* (Cth) (the Act)³ representing the whole of the Australian industry producing like goods to the goods covered by the current measures.

The Commissioner established an inquiry period of 1 January 2020 to 31 December 2020 (the inquiry period) for the inquiry.

This report sets out the findings and conclusions on which the Commissioner has based his recommendations to the Minister for Industry, Science and Technology (the Minister).

In preparing this report, the Commissioner had regard to:

- the application for continuation of the current measures
- submissions relating generally to the continuation of the current measures to which the Commissioner has had regard to for the purpose of formulating statement of essential facts 575 (SEF 575)
- SEF 575
- submissions made in response to SEF 575.

1.2 Legislative framework

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

Section 269ZHE(1) requires the Commissioner to publish a statement of essential facts (SEF) on which the Commissioner proposes to base recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. The Commissioner may also have regard to any other matters they consider relevant.

Under section 269ZHF(4), the Commissioner is not obliged to have regard to any submissions made in response to the SEF that are received after the end of the 20 day

¹ In the form of a dumping duty notice (the notice).

² Under section 269TM, dumping duty notices expire 5 years after the date on which they were published, unless they are revoked earlier.

³ All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise stated.

period referred to in section 269ZHF(3)(a)(iv) if to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice either:

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

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 the Commissioner is 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 the material injury that the anti-dumping measure is intended to prevent.

1.3 Statement of essential facts

The Commissioner published SEF 575 on 5 July 2021.⁴ SEF 575 set out the findings of the Commissioner and the recommendations they proposed to make to the Minister based on the information before them at that time.

1.4 Findings

1.4.1 Should the current measures expire?

For the reasons set out in this report, the Commissioner:

- is not satisfied that the expiration of the current measures in respect of exports of the goods from China, Thailand, and from Indonesia by 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
- is satisfied that the expiration of the current measures in respect of exports of the goods from all 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.

Specifically, the commission has found that:

- Exports from China were at dumped prices during the inquiry period. However the volume of dumped goods is low and is likely to remain low. The low volume of dumped goods did not materially impact the Australian industry's prices or influence prices generally in the Australian market during the inquiry period. Material injury to the Australian industry is unlikely to resume from these dumped goods in low volumes if the current measures expire.
- Exports from Thailand have almost ceased since 2018. The major exporter from Thailand has significantly altered its export strategy to Australia and has minimal production capacity to export the goods to Australia. Although exports from Thailand could resume if the current measures expire, there is insufficient evidence to be satisfied that dumping is likely to resume.

⁴ Electronic Pubic Record (EPR) 575, document number 023. The EPR can be accessed at www.adcommission.gov.au

- PT Muliaglass from Indonesia did not export the goods at dumped prices during the inquiry period and its dumping margin was negligible when last reviewed. The commission did not identify any incentive for PT Muliaglass to lower its prices if the current measures expire. The commission considers that PT Muliaglass is unlikely to resume exporting the goods at dumped prices if the current measures expire.
- PT Asahimas Flat Glass Tbk (PT Asahimas) from Indonesia has exported the goods to Australia at dumped prices since the current measures were imposed. PT Asahimas also exported the goods at dumped prices during the inquiry period and it is likely that dumping will continue. PT Asahimas's exports have undercut the Australian industry's selling prices during the inquiry period by a significant degree. PT Asahimas have previously exported to Australia in larger volumes and has excess production capacity to export larger volumes of the goods. There is likely to be a continuation or a recurrence of material injury to the Australia industry that the current measures are intended to prevent, if the current measures expire.

1.4.2 Variable factors

In order to assess whether dumping may continue or recur, the commission has obtained information relevant to the assessment of dumping for the inquiry period. The commission has assessed the variable factors relevant to the current measures during the inquiry period.⁵

The commission found that PT Asahimas's variable factors have changed. The Commissioner considers that the changed variable factors are a contemporary basis for working out the interim dumping duty (IDD) on exports by PT Asahimas.

1.5 Recommendations

Based on the above findings, the Commissioner recommends 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 on the specified expiry day (being 17 October 2021).

⁵ 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).

2 BACKGROUND

2.1 Initiation

In accordance with section 269ZHB(1), the Commissioner published a notice on 12 November 2020 on the commission's website inviting the following persons to apply for the continuation of the current measures:⁶

- The person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)).
- Persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

On 11 January 2021, the commission received an application for the continuation of the anti-dumping measures from Oceania Glass. A non-confidential version of the application is available on the commission's public record.⁷

As set out in Anti-Dumping Notice (ADN) No. 2021/010, the Commissioner was satisfied that the application complied with section 269ZHC and, in accordance with section 269ZHD(2)(b), there appeared to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.⁸

The Commissioner therefore decided not to reject the application and initiated the inquiry on 2 February 2021.

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).⁹

In order to initiate a continuation inquiry, the Commissioner must be satisfied that there are reasonable grounds to assert that the expiration of the current measures (which apply only to China, Indonesia and Thailand) would lead or be likely to lead to a continuation or recurrence of the material injury that the current measures, are intended to prevent.

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

⁶ ADN No. 2020/126 refers. A copy is available at <https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailing-system/anti-dumping-commission-notices>

⁷ EPR 575, No. 001.

⁸ EPR 575, No. 002.

⁹ EPR 575, No. 007, p 2-3.

The GOI further submitted that as the current measures have been in place for 10 years, the Australian industry has had enough time to be able to recover from injury and thus the current measures are no longer warranted.¹⁰ PT Asahimas also raised this issue in its submission of 30 April 2021.¹¹ The commission has assessed the economic condition of the Australian industry for a contemporary period in Chapter 6 of this report.

PT Asahimas also stated that it was 'unfair and breaching the spirit of the WTO Agreement' for this inquiry to exclude exports from Malaysia and the UAE.¹²

The Commissioner is unable to expand the scope of a continuation inquiry to include exports from countries not subject to the current measures. However, other potential causes of injury to the Australian industry, such as exports from other countries, were considered in the commission's injury analysis in Chapter 8 of this report. The Commissioner also initiated an investigation into alleged dumping of CFG from Malaysia and the UAE on 27 April 2021.¹³

2.2 Current measures

On 17 October 2011 the then Attorney-General declared the current measures by public notice.¹⁴ 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 current 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 at the time.

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 current measures and took steps to secure their continuation for a further 5 years.¹⁵ This followed consideration of the Commissioner's recommendation in *Anti-Dumping Commission Report No. 335* (REP 335) which resulted from *Continuation Inquiry No. 335*.

On 7 March 2019, the Minister for Industry, Science and Technology varied the notice in relation to the current 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.¹⁶ This followed consideration of the Commissioner's recommendation in *Anti-Dumping Commission Report No. 479* (REP 479) as a result of *Anti-Circumvention Inquiry No. 479* (Inquiry 479).

The current measures 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.

¹⁰ EPR 575, No. 007, p 1.

¹¹ EPR 575, No. 013, p 5.

¹² EPR 575, No. 013, p 1.

¹³ ADN No. 2021/054 refers.

¹⁴ Australian Customs Dumping Notice No. 2011/050 refers.

¹⁵ ADN No. 2016/085 refers.

¹⁶ 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	Current measures imposed on exporters from China (except Xinyi), Indonesia and Thailand.
Continuation Inquiry No. 335	2016/085	8 September 2016	China Indonesia Thailand	Current measures continued and variable factors altered for all exporters generally (except Xinyi).
Anti-Circumvention Inquiry No. 479	2019/019	7 March 2019	Thailand	Current measures altered in relation to Thailand.

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

Table 2, below, sets out the current measures that apply.

Country	Exporter	Form of Measures	Fixed rate of IDD	Ascertained Export Price ¹⁷
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 commission's Dumping Commodity Register (DCR) at www.adcommission.gov.au

2.3 Conduct of the inquiry

2.3.1 Inquiry period

The Commissioner established 1 January 2020 to 31 December 2020 as the period of inquiry (inquiry period).

Further, the commission has examined the period 1 January 2017 to 31 December 2020 (period of analysis) for the purposes of examining the performance of the Australian industry and analysing the Australian market.

2.3.2 Public record

The public record contains non-confidential submissions lodged by interested parties as well as other publicly available documents. An EPR is available for interested parties to access the public record for this inquiry.

¹⁷ Relevant to variable interim duty.

The EPR is accessible at www.adcommission.gov.au

2.3.3 Submissions to the inquiry

Interested parties provided the following submissions to the commission prior to the SEF.

EPR item number	Interested Party	Date lodged	Considered in SEF 575?
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 and 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 and AGC Asia Pacific Pte Ltd	30 June 2021	N
022	Guardian Industries Corp Ltd	2 July 2021	N

Table 3: Interested party submissions prior to publication of the SEF

The Commissioner did not have regard to 3 submissions in reaching the conclusions contained in SEF 575 because, in the Commissioner's opinion, to do so would have delayed the timely placement of SEF 575 on the public record.¹⁸ The Commissioner has had regard to these submissions in the preparation of this report.

Interested parties provided the following submissions after the publication of SEF 575.

EPR item number	Interested Party	Date lodged
024	PT Asahimas Flat Glass Tbk AGC Asia Pacific Pte Ltd	5 July 2021
025	Guardian Industries Corp Ltd	23 July 2021
026	Oceania Glass Pty Ltd	26 July 2021
027	PT Asahimas Flat Glass Tbk AGC Asia Pacific Pte Ltd	26 July 2021
028	Government of Indonesia	26 July 2021
029	Guardian Industries Corp Ltd	30 July 2021
030	Oceania Glass Pty Ltd	5 August 2021

Table 4: Interested parties submission subsequent to publication of the SEF

¹⁸ See section 269ZHE(3).

The Commissioner must have regard to any submission made in response to the SEF that interested parties provide within 20 days after placing the SEF on the public record.¹⁹ The Commissioner is not obliged to have regard to any submission in response to the SEF after this period if to do so would, in the Commissioner's opinion, prevent the timely preparation of the final report to the Minister.²⁰ The Commissioner may also disregard information for which a public summary was not provided unless it was demonstrated the information was correct.²¹

The Commissioner has had regard to all of the above submissions in the preparation of this report.

2.3.4 Application, questionnaire responses and verification activities

2.3.4.1 Australian industry

The Commissioner is satisfied that the Australian industry that applied 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 verified the information Oceania Glass provided in its application and published a verification report on the EPR.²²

2.3.4.2 Cooperative exporters

At the outset of the investigation the commission forwarded questionnaires and associated spreadsheets to exporters that had cooperated in *Continuation Inquiry No. 335* as well as exporters identified in the Australian Border Force (ABF) import database that the commission was able to obtain contact information for. The commission placed a copy of the exporter questionnaire and associated spreadsheets on its website for other exporters to complete which the commission did not contact directly.

The commission granted an extension of 14 days to the initial deadline for the receipt of questionnaires by 11 March 2021 for certain parties.²³ The commission received completed responses to the exporter questionnaire (REQ) from the following exporters.

¹⁹ Section 269ZHF(3)(a)(iv).

²⁰ Section 269ZHF(4).

²¹ See sections 269ZJ(5) and (6).

²² EPR 575, No. 016.

²³ EPR 575, No. 005.

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 5: Responding exporters

The commission verified the information in each of the REQs. The commission published information relating to the verifications on the EPR.²⁴

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

2.3.4.3 Uncooperative exporters

The Commissioner considers that all other exporters not listed in Table 5 from the subject countries (with the exception of Xinyi who are not subject to the current measures) are uncooperative exporters for this inquiry. The Commissioner is satisfied that these exporters have not provided information that the Commissioner considers to be relevant to the inquiry (i.e. a completed REQ and associated spreadsheets) within a period the Commissioner considers reasonable, in accordance with section 269T(1) and the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (Cth).

2.3.4.4 Importers

The commission identified several importers from 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 any other importer to complete. 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 of Cooling Brothers.

2.3.5 Information obtained from other parties or sources

As part of this inquiry, the commission also obtained information from sources other than the interested parties. Where the commission considered another information source, the relevant section of this report references the information source.

2.3.6 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an inquiry, or such longer period as is allowed under section 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister in relation to the application.

²⁴ EPR 575, Nos. 019 and 021.

The initiation notice advised that the commission would place the SEF on the public record by 24 May 2021. However, as advised in ADN No. 2021/070,²⁵ the Commissioner approved an extension of time for the publication of the SEF until 5 July 2021.

The commission placed SEF 575 on the public record on 5 July 2021.²⁶

2.3.7 Report

The Commissioner must, within 155 days after the initiation of an inquiry, or such longer period as is allowed under section 269ZHI(3), give the Minister a report recommending that the relevant notice either:

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

The initiation notice advised that the Commissioner would provide the report to the Minister on 7 July 2021. However, as advised in ADN No. 2021/070 and ADN No. 2021/105, the Commissioner extended the period for providing the report, initially until 18 August 2021 and subsequently until 8 September 2021.²⁷

The Commissioner provided this report to the Minister on 8 September 2021.

²⁵ EPR 575, No. 015.

²⁶ EPR 575, No. 023.

²⁷ EPR 575, Nos. 015 and 031.

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner is satisfied that the CFG produced locally is 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 of, or recurrence of, dumping or subsidisation, the Commissioner firstly determines whether the goods the Australian industry produces 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.

The definition of like goods is relevant in the context of this inquiry in determining the normal value of goods exported to Australia, the non-injurious price (NIP) and the persons making up the Australian industry. Chapter 2 of the *Dumping and Subsidy Manual* (November 2018) (the Manual) outlines the commission's framework for assessing like goods.²⁸

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:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The Commissioner must also consider whether the Australian industry in fact produces the like goods in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), 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. The following therefore establishes the scope of the commission's inquiry.

3.3 The goods

3.3.1 The goods description

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 nominal thicknesses are set out in the following table.

²⁸ Available on the commission's website at www.industry.gov.au/data-and-publications/dumping-and-subsidy-manual

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
- rectangular or square in shape.

With respect to exports from Thailand only, 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.²⁹

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

- 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
- 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*.³⁰

²⁹ ADN No. 2019/019 refers.

³⁰ These tariff classifications and statistical codes may include goods that are both subject and not subject to the current 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 current measures.

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
7006.00.00 ³¹	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 6: 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.³²

As detailed in the initiation notice, the commission proposed the following MCC structure at the initiation of this inquiry.³³

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 7: MCC structure

The commission did not receive any submissions about this structure from interested parties and therefore applied the MCC structure outlined in Table 7 in this inquiry.

³¹ Applicable to goods exported to Australia from Thailand only.

³² 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

³³ ADN No. 2019/086 refers.

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 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.

3.5.1 Physical likeness

The commission considers that the CFG the Australian industry produces for sale into the Australian market are 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 mm to 12 mm.

3.5.2 Commercial likeness

The commission considers the CFG the Australian industry produces for sale in the Australian market are commercially like to the goods. They are sold into the same market sectors, are interchangeable and use similar distribution channels.

3.5.3 Functional likeness

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

3.5.4 Production likeness

The commission considers the CFG the Australian industry uses the same or similar raw material inputs and manufacturing processes domestically that exporters use to produce the goods.

3.5.5 Conclusion – Like goods

Based on the above findings the commission considers that the CFG the Australian industry manufactures, 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
- the goods and locally produced goods consist of the same raw materials and are manufactured in a similar manner.

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

4 THE AUSTRALIAN INDUSTRY

4.1 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 observed Oceania Glass's production process.

No further Australian industry manufacturers of the goods identified themselves to the commission following the initiation of the inquiry, nor did the commission identify any further Australian industry manufacturers 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 confirmed that the following float processes occur at Oceania Glass's manufacturing facilities in Australia:

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

4.5 Conclusion

The commission is satisfied that CFG is wholly manufactured in Australia by Oceania Glass and therefore Oceania Glass represents the whole of the Australian industry producing like goods.

5 THE AUSTRALIAN MARKET

5.1 Finding

The commission has found that, during the inquiry period, the Australian industry, imports from China, Indonesia and Thailand, and imports from other countries not subject to the current measures supplied the Australian market.

5.2 Market structure

The market structure for CFG in Australia consists of:

- Oceania Glass
- importers of CFG
- downstream domestic glass processors
- downstream domestic glass fabricators
- importers of processed or fabricated glass.

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

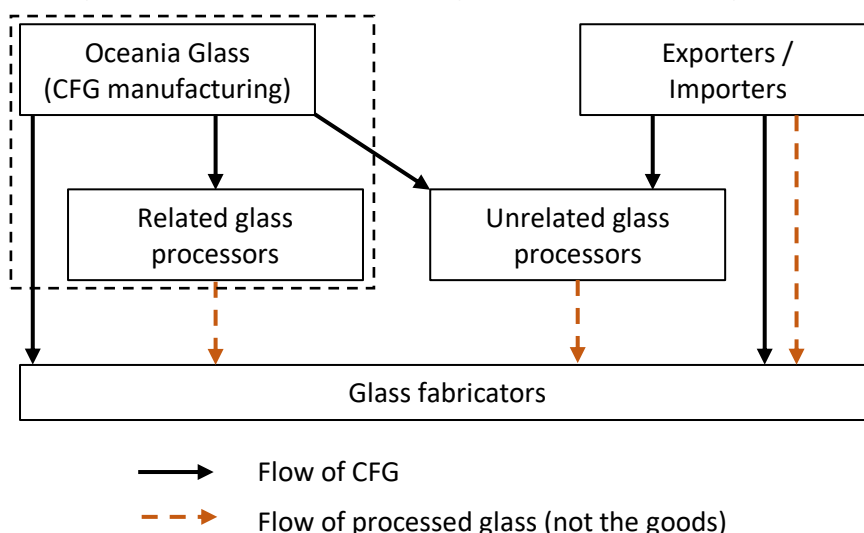


Figure 1: Australian market structure for CFG

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)

- 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 activity in the residential (e.g. housing) and commercial (e.g. retail and offices) building construction sectors drove demand for CFG. 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.

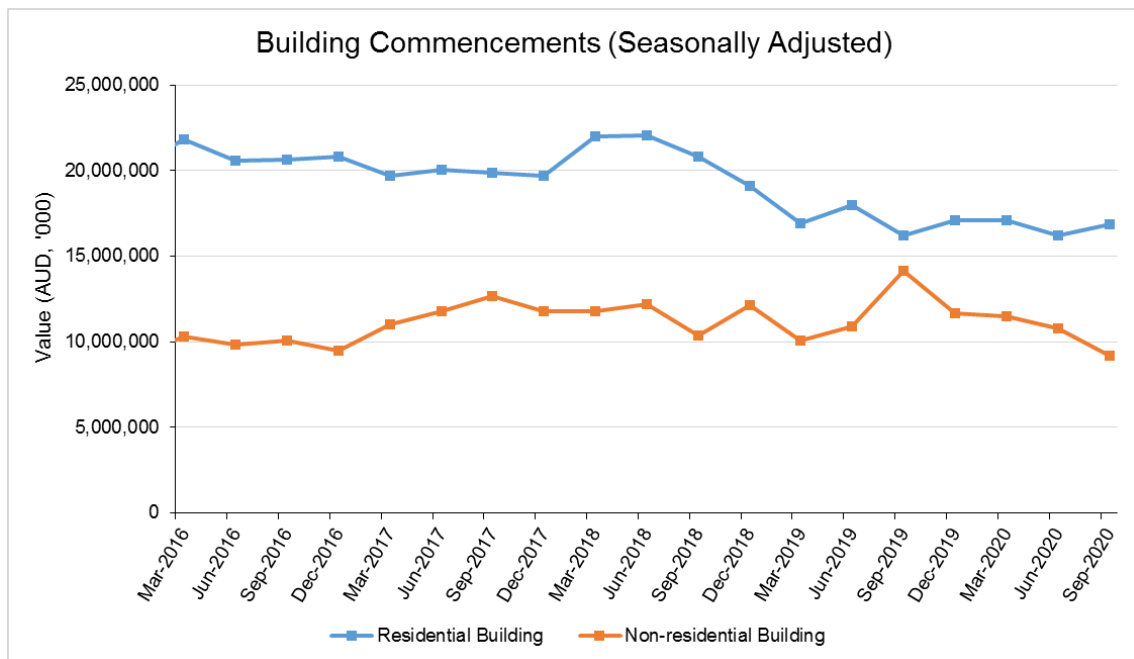


Figure 2: Australian building commencements

The dwelling approvals data shown in Figure 3 indicate a potential recovery in the residential building sector. Dwelling approvals initially fell before recovering in mid-2020, although there is a dip in Jan-2021. The commission considers that demand for CFG may increase in the future if the residential building sector recovers.



Figure 3: Australian dwelling approvals

5.3 Market size

The commission has estimated the size of the Australian market for CFG using Oceania Glass's domestic sales data and data from the ABF import database. The commission sourced the information from the ABF import database using the relevant tariff codes for CFG, 7005.29.00 and 7006.00.00, and applied additional filtering to remove imports that are not the goods.³⁴

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. Calculating the unit value in AUD per square metre (sqm) for goods imported from Thailand under tariff code 7005.29.00 for each year.
2. Dividing the value in AUD for goods imported from Thailand under tariff code 7006.00.00 for each year by the unit value for tariff code 7005.29.00, to arrive at an estimated import volume in sqm.

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.

³⁴ 7006.00.00 relates to imports from Thailand only.

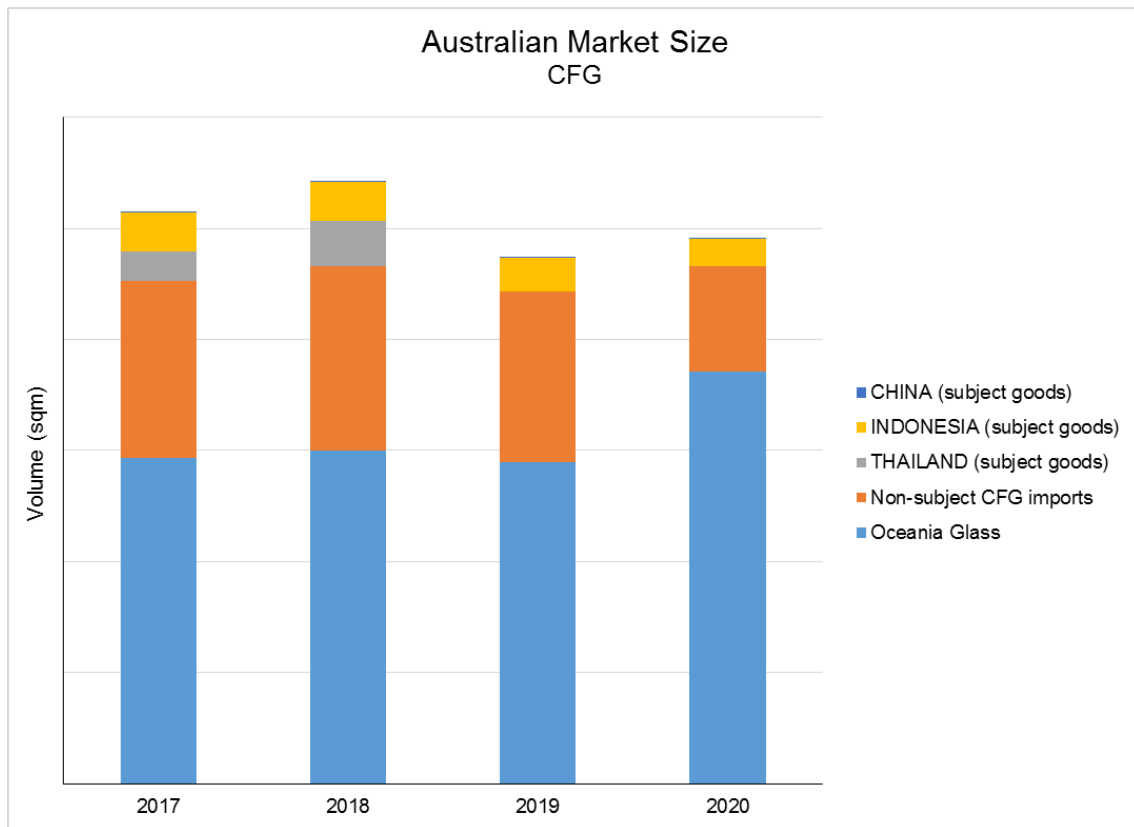


Figure 4: Australian market size³⁵

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.

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

³⁵ The volume of non-subject CFG imports in Figure 4 includes imports from the exempt Chinese exporter, Xinyi.

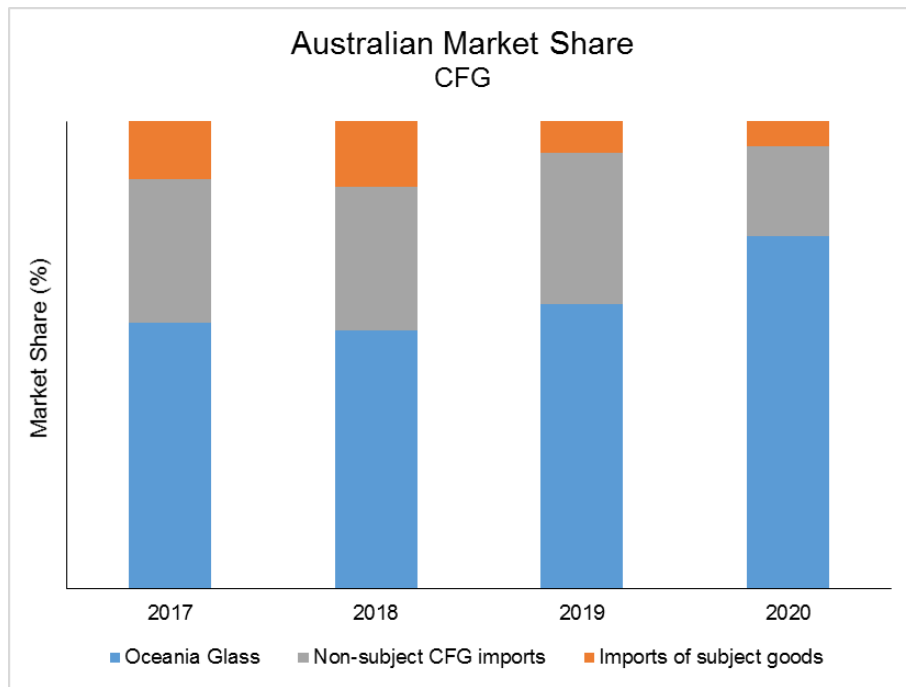


Figure 5: Australian market share

Confidential Attachment 1 contains the commission's assessment of the size of the Australian market.

5.4 Submissions to SEF 575 regarding the Australian market

In its submissions of 31 March 2021 and 26 July 2021, the GOI highlighted the decrease in export volume from the subject countries over a 4-year period, 2017 to 2020.³⁶ The commission has discussed the decrease in volumes from the subject countries as part of its assessment under section 8.5 of this report.

³⁶ EPR 575, No. 007, p 2 and No. 028, p 2.

6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

6.1 Finding

The commission 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
- 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).

This commission based the analysis in this chapter on verified financial information Oceania Glass submitted 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 current 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 Findings in prior 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:³⁷

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

³⁷ 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 current 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.

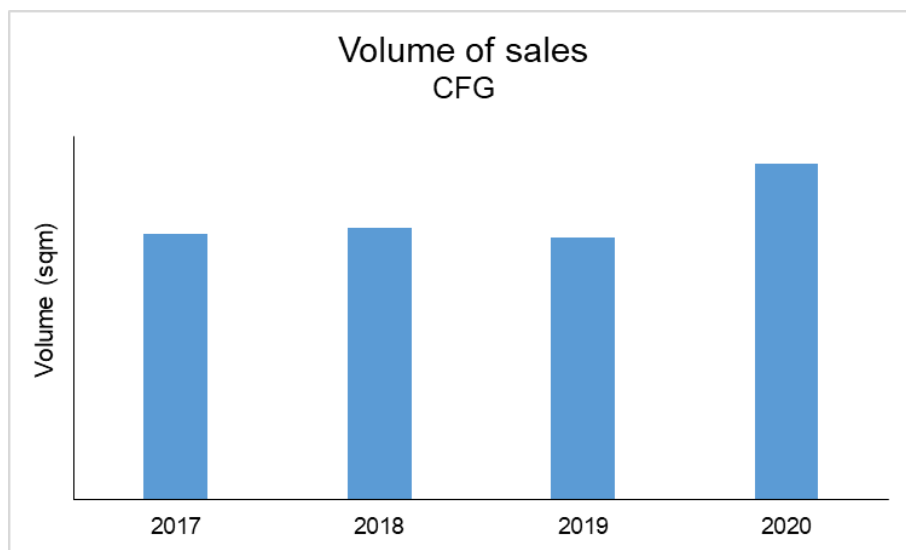


Figure 6: Sales volume

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

6.4.2 Market share

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

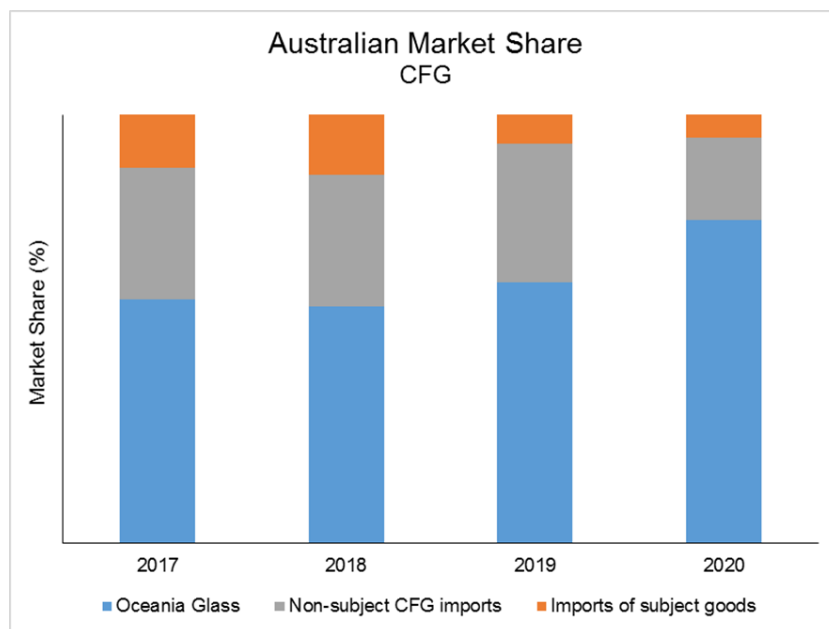


Figure 7: Market share³⁸

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

³⁸ Imports of subject goods includes circumvention goods from Thailand exported under tariff code 7006.00.00.

- Oceania Glass maintained a relatively stable market share until 2019, with an increase in market share in 2020
- imports of the goods have experienced an overall reduction in market share throughout the period of analysis
- non-subject CFG imports (e.g. imports from countries other than the subject countries) 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 the Australian market requires imports of CFG as Oceania Glass is unable to supply the whole of the Australian market, and in some cases, that it has imported CFG itself.³⁹

The commission notes that it is not a requirement of the Act for the Australian industry to be able to supply the whole of the Australian market. The current measures are intended only to remove the injurious effects of dumping. This is further examined in section 8.7.4.

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 unit selling price across the period of analysis.



Figure 8: Unit selling price

³⁹ EPR 575, Nos. 003, 006, 013, 014, 022, 024, 027 and 028.

The chart indicates that Oceania Glass experienced reducing 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 unit selling price and unit CTMS. This relationship is presented in Figure 9 below.

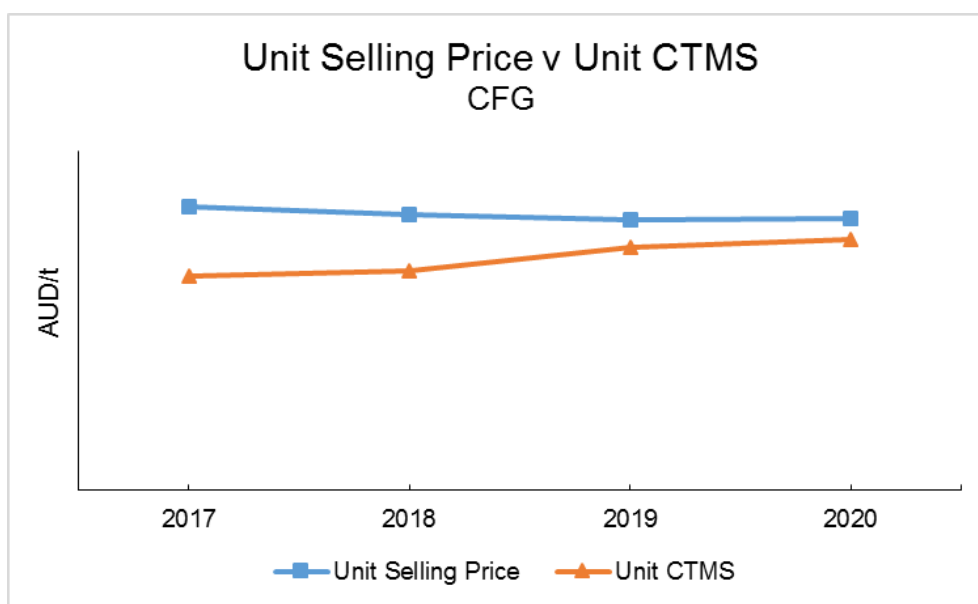


Figure 9: Unit price and unit CTMS

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.
- 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.

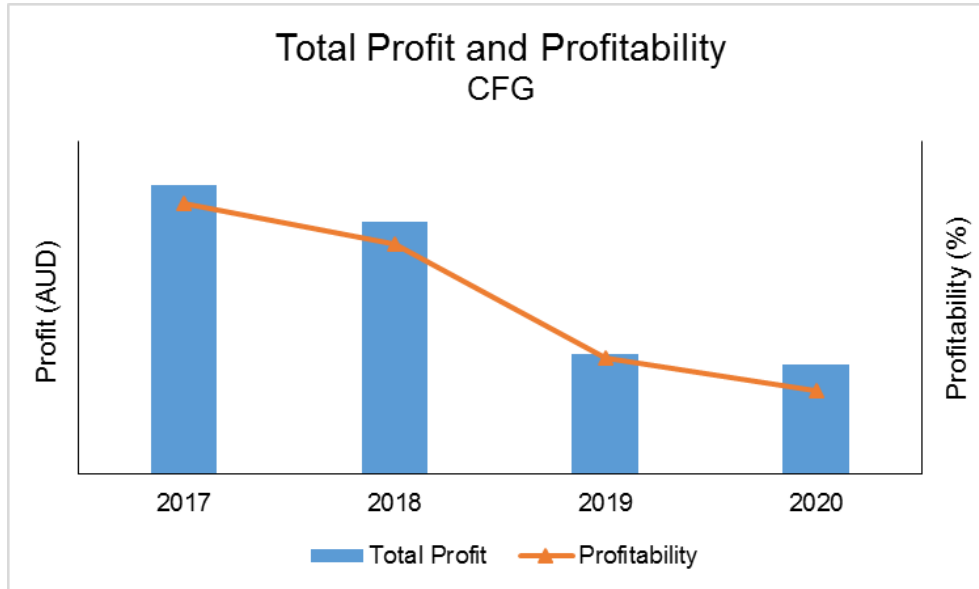


Figure 10: Profit and profitability

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

6.6.2 Conclusion – price 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.

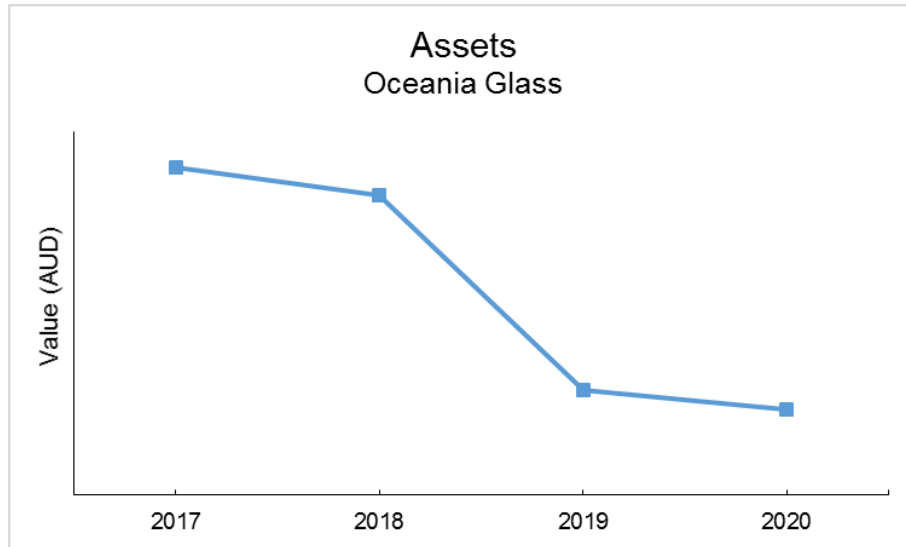


Figure 11: Assets

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. Oceania Glass purchased the assets at a reduced book value to that which CSR Viridian Limited previously carried.

6.7.2 Capital investment

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

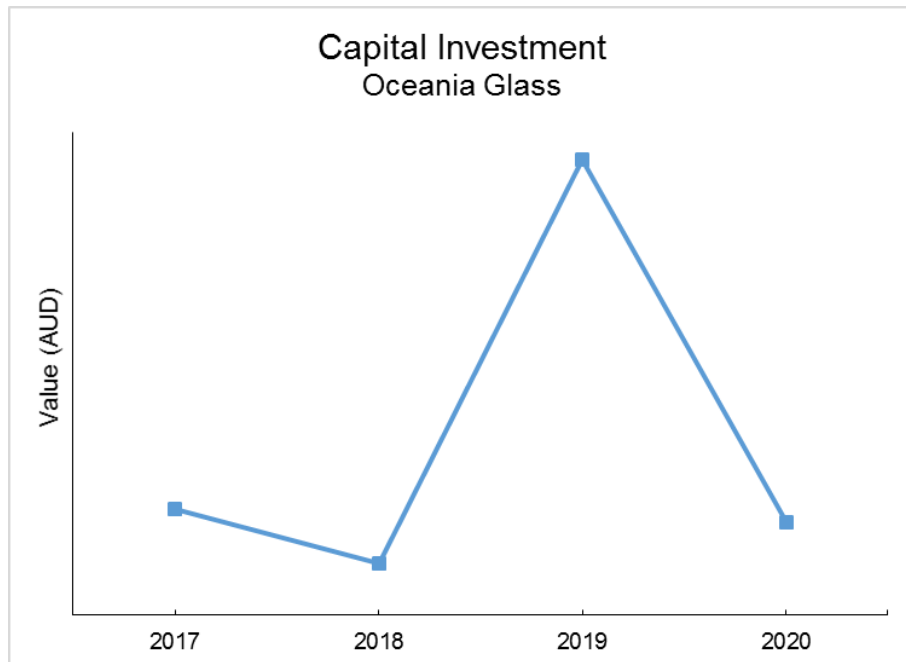


Figure 12: Capital investment

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.

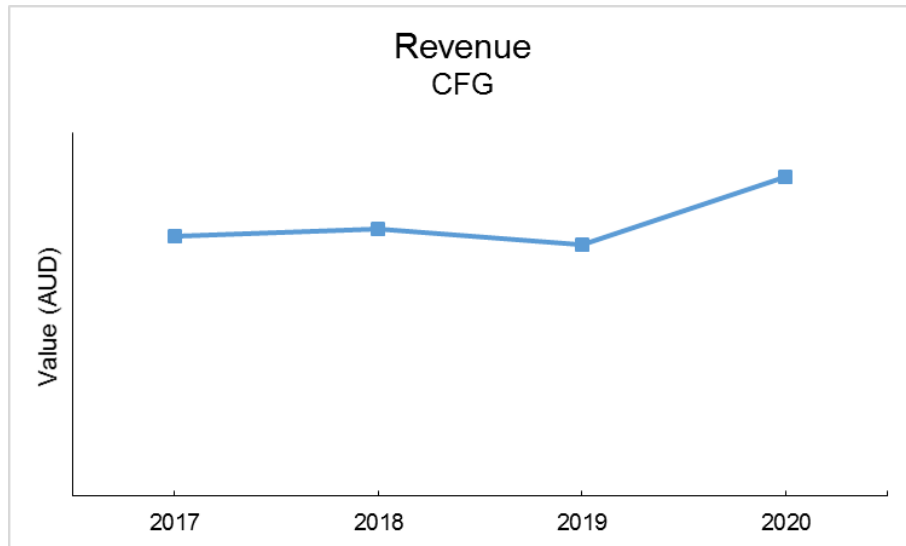


Figure 13: Revenue

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.

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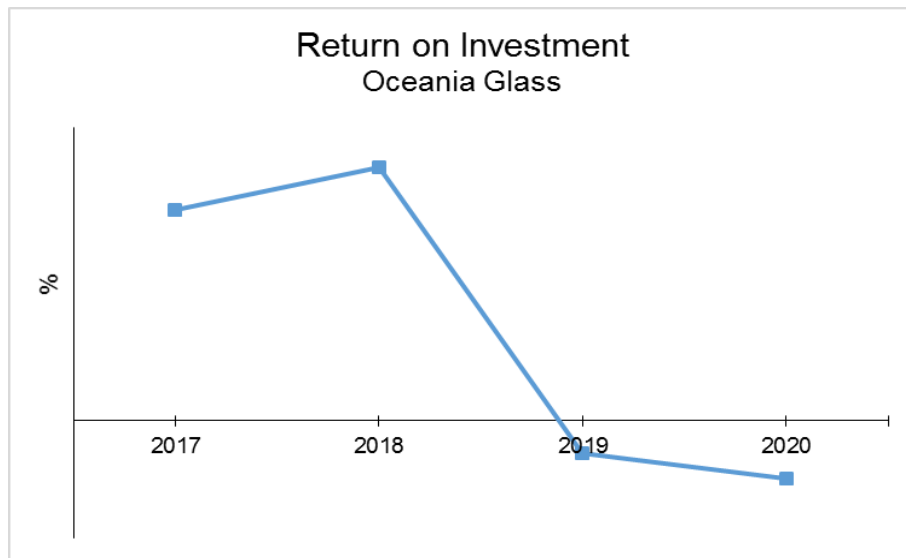


Figure 14: Return on investment

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 the 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.

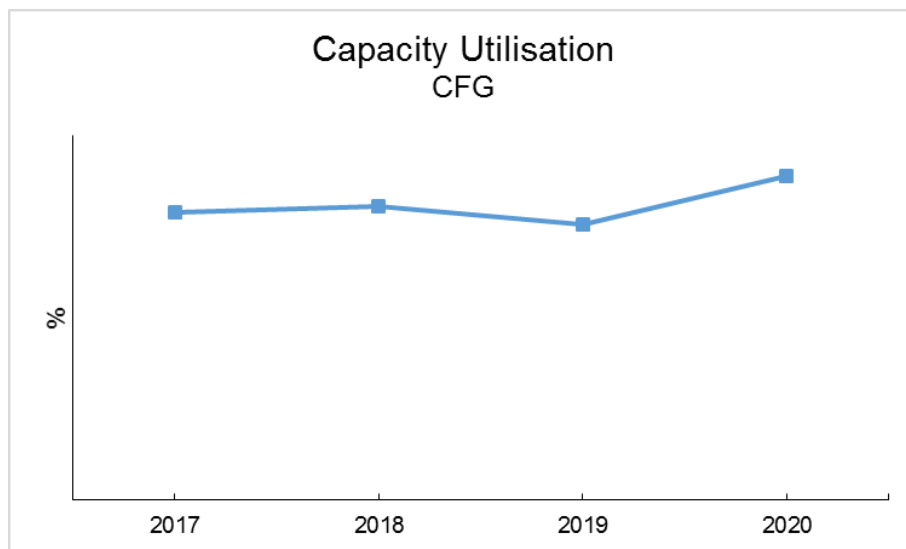


Figure 15: Capacity utilisation

This chart indicates a consistently high level of capacity utilisation, with capacity utilisation rising in 2020. The commission notes 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.

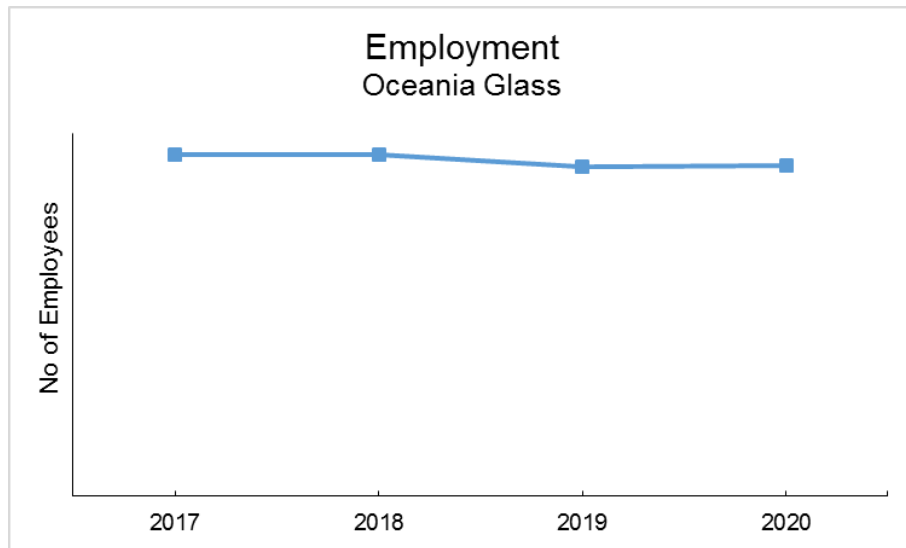


Figure 16: Employment

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.

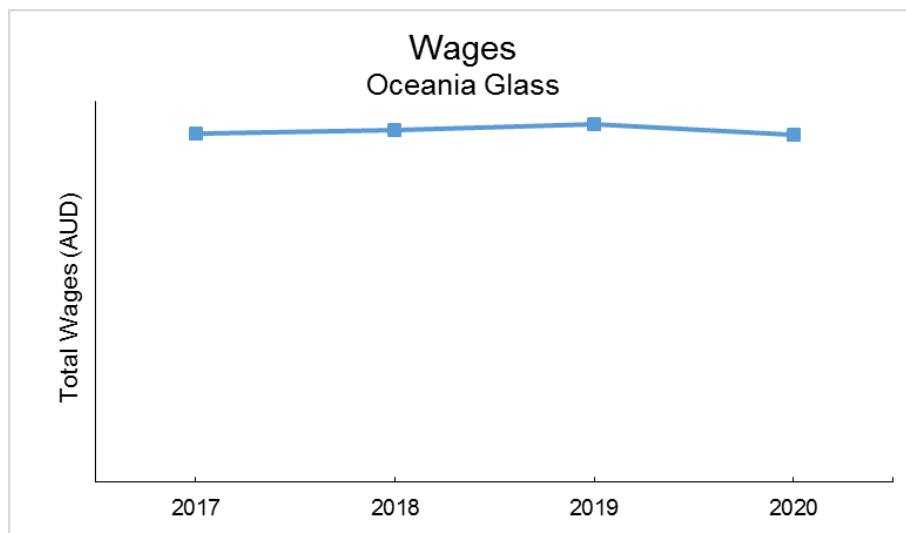


Figure 17: Wages

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.

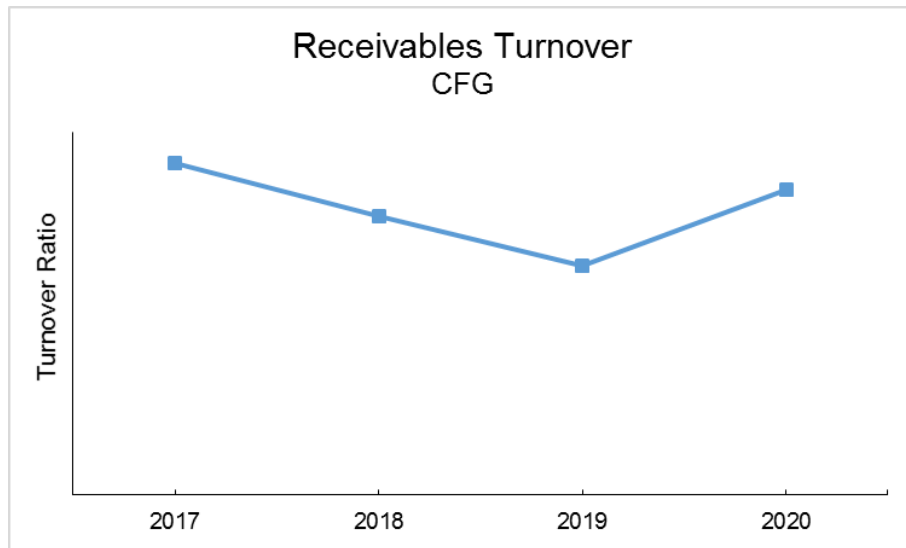


Figure 18: Receivables turnover

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

6.8 Submissions regarding the Australian industry's economic condition

Oceania Glass submitted that the injury factors identified above have placed it in a vulnerable position and affect its ability to successfully raise the capital required for a rebuild of its manufacturing facilities.⁴⁰ As detailed in this chapter, the commission considers that Oceania Glass has experienced a deterioration in its economic condition. The commission has examined whether this deterioration is caused by exports of the goods to Australia at dumped prices. This examination has been completed in Chapter 8 of this report.

⁴⁰ EPR 575, No. 018.

6.9 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
- increased receivables turnover.

7 DUMPING IN THE INQUIRY PERIOD

7.1 Finding

For the purpose of assessing whether dumping is likely to continue or recur, the commission has examined whether exports to Australia from the subject countries were at dumped prices during the inquiry period. This information was also used to determine whether the variable factors in relation to exporters have changed.

The commission has calculated dumping margins for the inquiry period as summarised in Table 8.⁴¹

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 8: Summary of 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, amongst other things, 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 goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Section 269TACB sets out the methods for working out dumping margins. For all dumping margins calculated for the purposes of this inquiry, the commission compared the weighted average export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).

7.3 Dumping assessment – China

As outlined at section 2.3.4, for this inquiry, there were no cooperating exporters from China.

⁴¹ The commission did not examine dumping in relation to all other exporters from Indonesia and Thailand in this chapter, as it did not identify any exports in relation to such exporters during the inquiry period.

The Commissioner 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 free on board (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.⁴²

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 determined a normal value for uncooperative Chinese exporters as follows:

- The commission calculated manufacturing and selling costs based on the verified costs of the Australian industry (adjusted for labour in the country of export to be representative of a cost in China).⁴³
- The commission added an amount for profit based on information provided by the Australian industry in its application.
- The commission added the highest inland transport and export handling costs based on verified data for third country exporters of the goods.⁴⁴

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**.

⁴² 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.

⁴³ 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.

⁴⁴ 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 verified PT Muliaglass's REQ.

The commission is satisfied that the information PT Muliaglass provided is accurate and reliable for the purpose of determining whether it exported the goods during the inquiry period at dumped prices.

The commission published a verification report on the public record.⁴⁵

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
- pay for all the importation charges (excluding ocean freight and marine insurance)
- arrange 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
- is named on the commercial invoice as the supplier
- is 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
- 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.⁴⁶

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
- 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

⁴⁵ EPR 575, No. 021.

⁴⁶ 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 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.⁴⁷

The commission is therefore satisfied that all of PT Muliaglass's export sales 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 its related customer, PT Mulia Industrindo Tbk 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.

However, the commission found evidence that the buyer was directly reimbursed for part of the price.⁴⁸ 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:

- 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 PT Muliaglass paid to PT Mulia Industrindo Tbk reflects an established trading practice, that is, reimbursement for the use of PT Mulia Industrindo Tbk's sales staff. The commission found this practice 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 the domestic sales PT Muliaglass made to PT Mulia Industrindo Tbk during the period were 'arms length' transactions, subject to section 269TAA(1A).

⁴⁷ Section 269TAA refers.

⁴⁸ See section 269TAA(1)(c).

Section 269TAAD states that domestic sales of like goods are not in the ordinary course of trade (OCOT) if 'arms length' transactions are:

- unprofitable in substantial quantities over an extended period and
- unlikely to be recoverable within a reasonable period.⁴⁹

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 it can make a proper comparison at the MCC level. The commission also assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic 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.

⁴⁹ In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

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	The commission found domestic packaging to be different to export packaging.	Deduct an amount for domestic packaging
Export packaging	The commission found export packaging 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 9: 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 TbkVerification

The commission conducted a verification of the REQ that PT Asahimas and AGC Asia Pacific Pte Ltd (AAP) provided. The verification involved targeted verification procedures informed by risk and consistent with ADN No. 2016/30 to satisfy the commission of the accuracy, relevance and completeness of the REQ.

The commission conducted a combined verification for these entities, as AAP is the entity which facilitates the Australian sales of the goods manufactured by PT Asahimas.

The commission published a file note regarding the verification on the public record.⁵⁰

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.

⁵⁰ EPR 575, No. 019.

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.
- 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' 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 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.⁵¹

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 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.⁵²

⁵¹ Section 269TAA refers.

⁵² Section 269TAA refers.

The commission therefore considers that all sales made by PT Asahimas 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.⁵³

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 Asahimas' exported models are 5% or more of the volume exported, the commission considers it can make a proper comparison at the MCC level. The commission also assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic 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.

⁵³ In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

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 10: 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**.

Submission in response to the calculation of PT Asahimas's dumping margin

In its submission of 30 June 2021, PT Asahimas requested that the commission calculate its dumping margin using a yearly method of calculation, as opposed to a quarterly method of calculation.⁵⁴ It also requested that its normal value be calculated at the ex works (EXW) level. PT Asahimas did not provide any basis for why the calculations should have been performed in this manner, other than that the dumping margin may have been lower.

The commission first notes that it has calculated the normal value in accordance with section 269TAC(1) and 269TAC(8). That is, the commission has used PT Asahimas's domestic sales that are sold in the ordinary course of trade in 'arms length' transactions, which have then been adjusted such that the differences between those domestic sales and PT Asahimas's export sales would not affect their comparison. The commission has calculated PT Asahimas's export price at the FOB level and has accordingly adjusted the normal value such that it is at the same level.

As noted above in section 7.2, the commission has calculated the dumping margin for PT Asahimas using the method outlined in section 269TACB(2)(a), comparing the weighted average export prices over the whole of the inquiry period with the weighted average corresponding normal values of the whole of the inquiry period. In doing so, the commission has followed its stated practice as outlined in section 21.3 of the Manual:

A weighted average dumping margin is calculated by comparing the total normal value for the investigation period to the total export value for the investigation period. The total normal value for the investigation period is calculated either by summing the quarterly weighted average unit normal value multiplied by the corresponding quarterly export volume, or

⁵⁴ EPR 575, No. 020.

summing the quarterly weighted average unit normal value multiplied by the export volume for each export transaction in the corresponding quarter.

The commission considers that this method produces a more accurate dumping margin by comparing the most contemporary normal value to the corresponding export price.

7.5 Dumping assessment – Thailand

7.5.1 Guardian Industries Corp Ltd

Verification

The commission verified the REQ that Guardian Industries Corp Ltd (Guardian) provided. The verification involved targeted verification procedures informed by risk and consistent with ADN No. 2016/30 to satisfy the commission of the accuracy, relevance and completeness of the REQ.

The commission published a file note regarding the verification on the public record.⁵⁵

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 Guardian mistakenly accepting an order from a customer which normally places one order of 2 mm CFG (not the goods subject to measures) with Guardian per year.⁵⁶

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
- is named as the seller on the commercial invoice
- arranged transportation of the goods to the port of export to Australia
- is named as the shipper on the bill of lading
- 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 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.⁵⁷

⁵⁵ EPR 575, No. 019.

⁵⁶ EPR 575, No. 008, p 16.

⁵⁷ Section 269TAA refers.

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 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.⁵⁸

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.⁵⁹

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).

⁵⁸ Section 269TAA refers.

⁵⁹ In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

As the volume of domestic sales of each of Guardian's exported model is 5% or more of the volume exported, the commission considers it can make proper comparison at the MCC level. The commission also assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic 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	The commission found domestic packaging 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	The commission found exported packaging 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 11: Summary of adjustments - Guardian

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 Finding

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

- in relation to all exporters from Indonesia subject to measures 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
- in relation to PT Muliaglass and all exporters from China and Thailand subject to measures, 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. The Anti-Dumping Review Panel has supported this view, noting 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 must nevertheless base their conclusions and recommendation on facts.⁶⁰

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'.⁶¹ 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 The commission's approach

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant as outlined in the Manual.⁶² The commission's view is that the relevance of each factor varies depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

⁶⁰ [ADRP Report No. 44](#) (Clear Float Glass) refers.

⁶¹ EPR 575, No. 004, p 1-2.

⁶² p 175-176.

8.4 Australian industry claims

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

- exports from China, Indonesia and Thailand would again increase
- exporters in China, Indonesia and Thailand 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 may supply increased volumes into the Australian market due to its increased supply capacity
- 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
- 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
- exporters from China and Indonesia would resume exporting at dumped prices as they seek to match lower prices in Australia from alternate sources of supply.

In support of the above, Oceania Glass provided evidence it claimed shows that:

- 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.

8.5 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.

8.5.1 Import volumes

Subject country imports

Table 12 shows an index table of CFG (subject to measures) imported into Australia from each country since 1 January 2016:

PUBLIC RECORD

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 12: Index of change in imports since 1 January 2016

Table 12 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
- 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 commission amended the notice 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 7006 to the value of imports covered by tariff subheading 7005.⁶³

Table 12 indicates that the value of imports from Thailand increased following the imposition of measures. The value of imports reduced almost entirely following REP 479. The ABF database recorded only one import shipment in 2020, from Guardian. There were no other exporters of CFG from Thailand. The reduction Guardian's exports of the goods is broadly consistent with claims it made to Inquiry 479, namely that Guardian would:

- end the export of arris-edged CFG to Australia from Thailand by the end of 2018
- increase its focus on value-added products.⁶⁴

In its application Oceania Glass contend that if measures were allowed to expire, 'Guardian would be incentivised 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.'⁶⁵ Oceania Glass further contended that the anti-circumvention activities of Guardian detailed in REP 479 confirm that Australia remains an attractive market to Guardian.

⁶³ 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.

⁶⁴ EPR 479, No. 007.

⁶⁵ EPR 575, No. 001, Attachment A, p 6.

Guardian indicated in its REQ that the order shipped in the inquiry period was mistakenly accepted by the plant.⁶⁶ 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 is not aligned with its strategic objectives' which are focused on 'value added products including mirror, picture frame glass and laminated products.'⁶⁷

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
- 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
- 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.

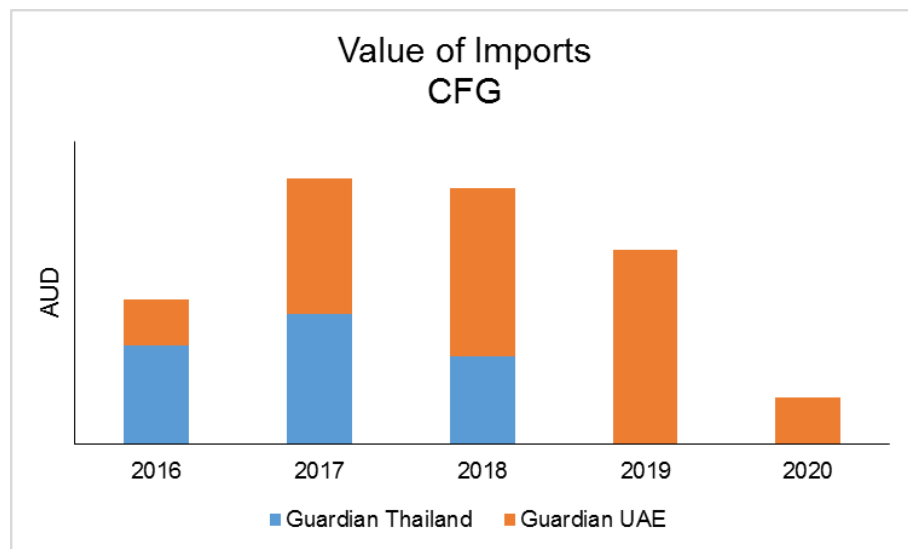


Figure 19: Value of imports from Guardian companies

Figure 19 above indicates the following:

- In 2016, Guardian Thailand was 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).

⁶⁶ EPR 575, No. 008, p 16.

⁶⁷ EPR 575, No. 004, p 2-3.

- 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 its 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 commission assesses the likelihood of this 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. 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, supports this. 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. However, 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.⁶⁸

The commission identified that both entities supplied 8 countries over the period from 1 January 2020 to 31 March 2021. Using a shipping distance estimation calculator 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.⁶⁹ The commission was then able to identify the total volume of the goods supplied from Thailand and the UAE with the shortest shipping times. The commission established that the facility with the shortest shipping time supplied 97% of the total volumes exported to these 8 common countries.

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

⁶⁸ Guardian supplied data in relation to its UAE facility for the purposes of *Investigation No. 582*.

⁶⁹ The calculator used can be found at <https://www.marinevesseltraffic.com/2013/07/distance-calculator.html>

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

In its submission of 26 July 2021, Oceania Glass submitted that the shorter shipping time to Australia from Thailand compared to the UAE indicates that there is a strong likelihood that Guardian will increase exports to Australia from Thailand if the measures are allowed to expire.⁷⁰ In its submission of 5 August 2021 Oceania Glass again reiterated that this indicates that Guardian is likely to export to Australia at dumped prices if measures are allowed to expire.⁷¹ The commission notes that Oceania Glass did not provide evidence that Guardian's exports would be at dumped prices.

The commission's analysis indicates that Guardian generally seeks to supply from the facility with the shortest shipping time and shipping cost. Whilst shipping time and shipping cost is not the only consideration contributing to Guardian's commercial decisions regarding export markets, in the absence of the current measures, these types of considerations may provide Guardian some incentive to supply the goods to Australia 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 focused on the Australian market as a strategic objective, it nevertheless:

- maintains the production capability to meet the product specifications required by Australian customers

⁷⁰ EPR 575, No. 026.

⁷¹ EPR 575, No. 030.

- 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
- 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 expire, 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.

In the SEF the commission outlined that its consideration of whether exports of the goods from Thailand would likely resume if the anti-dumping measures expired is finely balanced. The commission indicated that it may reach a different view if interested parties submitted additional evidence.

The commission did not receive additional evidence following the SEF to counter its preliminary conclusion that exports from Thailand would likely resume if the anti-dumping measures expired.

Based on the analysis detailed above the commission considers it likely that exports from Thailand would continue from Guardian, and resume from other exporters, if anti-dumping measures expired.

8.5.2 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:

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- 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
- Thailand, one exporter supplied a small volume of exports to an importer that the commission did not identify 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.

8.5.3 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 4% 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 8.5.2 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 addition to providing a REQ, PT Asahimas made submissions to the inquiry on 30 April 2021 and 26 July 2021.⁷² In those submissions, PT Asahimas claimed that it dedicates its production capacity to supplying CFG to the Indonesian market and exports of value-added products for the building and automobile sectors. PT Asahimas claimed that its decreasing volume of exports of CFG to Australia compared to its increase in production for the domestic market and exported value-added products, and that it did not have excess capacity as alleged in the application.⁷³ PT Asahimas asserted that the commission's finding that it has excess capacity in respect of CFG is 'baseless'.

The commission relied on PT Asahimas's REQ to form its view that PT Asahimas has excess capacity. PT Asahimas provided a breakdown of its CFG production capacity in its REQ. The commission compared PT Asahimas's REQ for this inquiry with the REQ it provided as part of *Continuation Inquiry No. 335*. The commission notes that, consistent with PT Asahimas's submission, the REQ shows that from 2015 to 2020:

- PT Asahimas has increased its production capacity for CFG
- actual production volume of CFG has slightly decreased, resulting in considerable excess production capacity.

⁷² EPR 575, Nos. 013 and 027.

⁷³ EPR 575, No. 013 and No. 027, p 6.

While the commission accepts that PT Asahimas may have a business strategy focused on its domestic market and value-added products for the export market, PT Asahimas provided information that nonetheless indicates it:

- has excess production capacity for CFG
- sells considerable quantities of CFG into other export markets via its affiliated entity AGC Asia Pacific Pte Ltd
- has a history of supplying the Australian market at dumped prices for over a decade.

The commission considers that PT Asahimas could direct its excess capacity for CFG to supplying the Australian market if the current measures expired.

8.5.4 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
- exporters have maintained distribution links to the Australian market.

The commission's analysis is at **Confidential Attachment 16**.

8.6 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).⁷⁴

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.⁷⁵ 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, the subject countries will export CFG to Australia at dumped prices.

8.6.1 Analysis of dumping within inquiry period

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

⁷⁴ The Manual, p 176.

⁷⁵ Ibid.

PUBLIC RECORD

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 13: Summary of dumping margins

The commission has determined that all exporters subject to measures from China, Indonesia (excluding PT Muliaglass) and Thailand exported the goods to Australia at dumped prices during 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 China and Indonesia (excluding PT Muliaglass) by all exporters subject to measures 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
- these exporters were first found to be dumping during the original investigation, and in subsequent matters where variable factors have been ascertained.

In its submission in response to the SEF, PT Asahimas explained the circumstances of its exports to Australia during the inquiry period.⁷⁶ PT Asahimas indicated that its business strategy is not to supply CFG to the Australian market, however it has done so where customers purchasing value added products were unable to source CFG locally.

The commission notes that PT Asahimas has not challenged the commission's determination that it exported the goods at dumped prices during the inquiry period, nor has it provided an explanation as to why, given the circumstances of the transactions, it was necessary to export at dumped prices. The commission considers that, in the absence of competition from the Australian industry, PT Asahimas could have sold the goods to its Australian customers at undumped prices. The commission considers the circumstances of the exportation by PT Asahimas, including the pricing, indicates that PT Asahimas is likely to continue to export at dumped prices.

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 its only export of the goods to Australia in the inquiry period which the commission corroborated by reviewing the 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.

⁷⁶ EPR 575, No. 004, p 1.

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, the commission considers that Guardian's export during the inquiry period provides limited probative value for assessing whether dumping would be likely to continue should the Minister allow the anti-dumping measures 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, the commission should not examine its variable factors further.⁷⁷ 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 exporters from Thailand would sell the goods at dumped prices should the measures expire.

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 14 shows the changes in dumping margins determined for Guardian since measures were originally imposed.

Guardian	REP 159C	REP 335	REP 479	REP 575
Dumping margin	3.5%	8.8%	25.8% ⁷⁸	47.8%

Table 14: 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 dumping 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 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

⁷⁷ EPR 575, No. 004, p 2.

⁷⁸ The commission notes that it did not ascertain the variable factors for Guardian in REP 479, and instead it applied the all other exporter rate applicable to exports from Thailand from REP 335 to Guardian.

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.

In the SEF the commission noted that its consideration as to whether Guardian is likely to resume exporting the goods at dumped prices is finely balanced. The commission indicated that it may come to a different view if interested parties submitted additional evidence.

In response to the SEF, Oceania Glass submitted that on balance it considers it is likely that Guardian would resume exports to Australia at dumped prices in the absence of measures.⁷⁹ In support of its view, Oceania Glass provided:

- an article published in Glass Worldwide which quoted the general manager of Guardian's Asia Pacific region
- an analysis of export data for CFG exported from Thailand to Australia and New Zealand.

The Glass Worldwide article detailed Guardian's capital investment in its glass manufacturing facilities over the last 5 years, including an upgrade to existing equipment as well as the installation of a state of the art laminated glass line. In addition, the article references Guardian's potential in the Asia Pacific region, including Australia. Oceania Glass submitted that the comments of the general manager of Guardian's Asia Pacific region attest to Guardian's excess capacity to supply and that it has Australia within its sights as a target export market.

Oceania Glass provided an analysis of CFG exported to Australia and New Zealand from Thailand during 2020 based on information sourced from Thai Customs. Oceania Glass submitted that the Thai export data confirms that exports were greater to New Zealand than Australia during the 2020 investigation period and were exported at much lower FOB export prices. Oceania Glass asserted that the volume and price levels into the smaller New Zealand market suggest that the current measures have had the desired effect.

Incorporating this additional information, Oceania Glass summarised its argument in respect of Guardian:

Guardian is more likely than not to review its strategy of not exporting the subject goods to Australia in the absence of measures as:

- *Guardian's general manager Asia Pacific has identified Australia as a key export market for its CFG exports;*
- *the recent \$100 million upgrade of its glass making (including CFG) facilities positioning it to export to Asian markets including Australia;*
- *the activities of Guardian to circumvent the 2016 continued measures with the Minister's decision confirming circumvention by Guardian in March 2019 (Investigation 481 [sic] [479]);*
- *the commission's shipping distance estimation calculator confirmed that Guardian exports from its closest production facility to the intended export market; and*
- *recognition that the anti-dumping measures have had the desired impact of limiting dumping (and material injury) from Thai CFG exports as evidenced in the higher volumes*

⁷⁹ EPR 575, No. 026.

at significantly reduced prices into the New Zealand market (when compared with exports to Australia).

Oceania Glass considers that the available information supports a finding that should the anti-dumping measures on Guardian expire it is likely that exports of Guardian's CFG from Thailand to Australia would resume at dumped prices in order for it to compete with imports from other sources of supply.

The commission notes that Oceania Glass did not provide any additional information in its submission in respect of other exporters of CFG from Thailand. The commission has assessed the additional information provided by Oceania Glass in respect of Guardian.

The commission considers that the statements made by Guardian's general manager of the Asia Pacific Region in the Glass Worldwide article, although general, are supportive of the commission's conclusions in section 8.5 above that exports to Australia by Guardian are likely to resume in the future. The statements however are not specific to the goods and to some extent support Guardian's submissions that its Thailand facility is focussed on value-added products. For example, the article outlines that Guardian has invested capital in a state of the art laminating line. Laminated glass is not subject to the current measures. The commission does not consider that these statements provide any evidence that future exports by Guardian of the goods are likely to be at dumped prices.

The commission notes that Oceania Glass undertook its analysis of Thai Customs data for exports to Australia and New Zealand at a tariff classifications level. As detailed in section 3.3.2, the relevant tariff classifications capture a greater range of products than the goods subject to the current measures.

During the inquiry the commission filtered the ABF database to separate imports of the goods from the broader categories of products contained with the tariff classifications. The commission also verified and relied on Guardian's REQ which relates to the inquiry period. The information available to the commission establishes that there was a negligible volume of exports of the goods from Thailand during the inquiry period. On this basis, the commission considers that Oceania Glass conducted its evaluation of the Thai Customs data, which identifies significant volumes of exports from Thailand to Australia, on a broader range of glass products than those subject to the current measures. Guardian also raised this issue in its submission of 30 July 2021.⁸⁰

Guardian elaborated that its export sales of 2 mm and 15 mm CFG were captured in the tariff classifications used by Oceania Glass in its analysis. The commission accepts this is the case. Guardian further states that the 2 mm and 15 mm CFG products were sold at a premium due to the higher cost of production. The commission does not have information available to it to verify the prices and costs in relation to Guardian's sales of 2 mm and 15 mm CFG. Accordingly, the commission has not made any findings based on those specific claims.

The commission acknowledges that Oceania Glass is only able to provide the best available information in support of its claims and in some cases this information is limited. In this inquiry the commission considers that the information available to it in relation to Thailand exports is more detailed and relevant than that available to Oceania Glass. The commission does not consider that the export data available to it supports a finding that future exports from Thailand are likely to be at dumped prices.

⁸⁰ EPR 575, No. 029.

The commission acknowledges Oceania Glass's broader argument that the current measures on CFG exported from Thailand may have been effective to the extent that export volumes effectively ceased in recent years. However, for the commission to be satisfied that Guardian will resume dumping the goods, Guardian as a group would have to significantly change its export strategies. This would include the Guardian group shifting its export of CFG from UAE to Thailand and then potential lowering the price. While this is possible, the commission must base its findings on facts. After consideration of the information provided by Oceania Glass in its submission, the commission considers that certain assumptions based on remote possibilities are required in order to be satisfied that dumping of the goods is likely to recur. The additional information Oceania Glass provided only satisfies the commission that Guardian's future exports of the goods may resume at dumped prices (i.e. that it is possible). It does not satisfy the commission that Guardian will likely (greater than 50% chance) resume exporting the goods at dumped prices.

As such, the Commissioner remains satisfied that while Guardian (and other exporters from Thailand) *may* resume exporting the goods at dumped prices, there is insufficient evidence to conclude that it is *likely*.

PT Muliaglass

The commission found that PT Muliaglass did not export the goods at dumped prices 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 15 shows the changes in dumping margins determined for PT Muliaglass since measures were originally imposed.

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

Table 15: PT Muliaglass changes in dumping margins

Table 16 shows index export volumes and FOB export pricing for PT Muliaglass for the years ending 31 December.

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

Table 16: 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
- 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

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PT Muliaglass's broader domestic and export performance during the inquiry period. In Figure 20 the commission has compared PT Muliaglass's cost, insurance and freight (CIF) export pricing to Australia in Indonesia Rupiah per tonne against its export CTM during the inquiry period, as well as domestic delivered selling prices against domestic CTM.

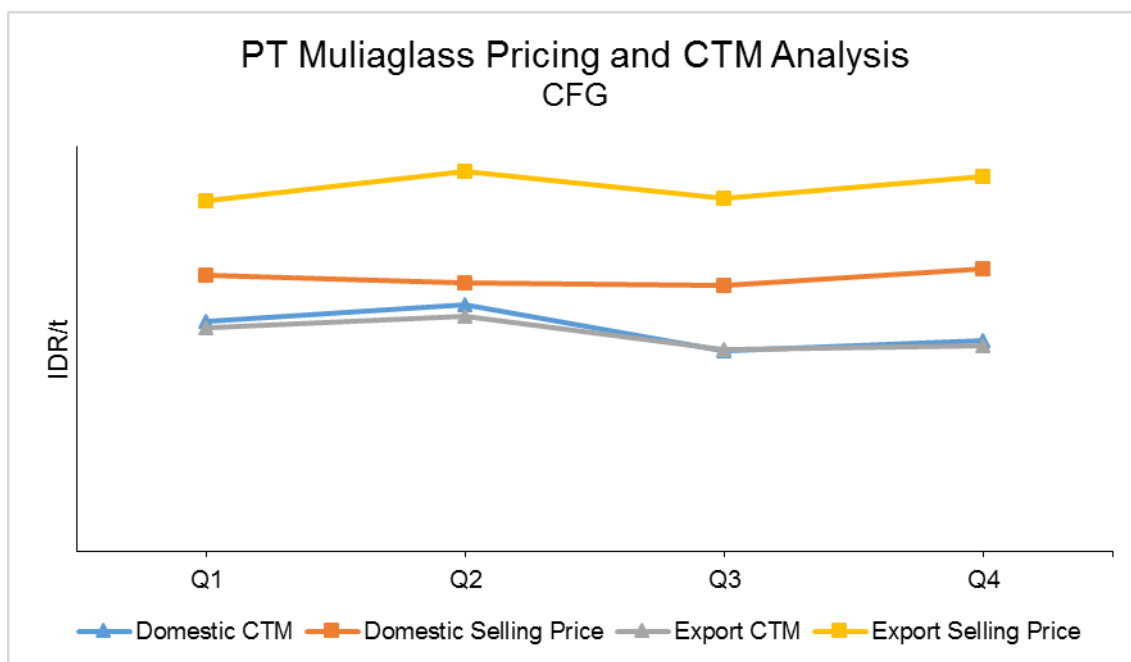


Figure 20: PT Muliaglass unit pricing and unit CTM comparison

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 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.⁸¹

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

⁸¹ 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.

showing that it had passed on the additional costs of ocean freight 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, it generates its CFG revenue predominantly 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 EXW selling price for sales to each third country (including Australian sales) against the weighted average EXW selling price of domestic sales. The commission established that EXW selling prices between Australian and domestic sales are almost identical, however sales are generally made to other third countries at a lower EXW 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 8.7.1 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 8.5, 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
- 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
- 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.

8.6.2 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 8.5.1 above, exports from China have declined since the continuation of the current measures in 2016. As such the

commission does not consider that anti-dumping measures applying to China in other jurisdictions have diverted exports to Australia.

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

PT Muliaglass

In its submission of 10 March 2021, PT Muliaglass submits that the commission should attribute any finding of dumping in relation to it to the increase in the cost of ocean freight.⁸² 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 8.6.1, the commission did not find that PT Muliaglass exported the goods to Australia at dumped prices, 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:⁸³

- 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.
- 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.
- 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 commission did not use the dumping margins calculated in the application 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 8.6.1 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.⁸⁴

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

⁸² EPR 575, No. 003, p 2.

⁸³ EPR 575, No. 014.

⁸⁴ EPR 575, No. 004.

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.

8.6.4 Summary

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

- exporters from China and Indonesia (excluding PT Muliaglass) exported the goods to Australia at dumped prices during the inquiry period
- exporters from China and Indonesia have maintained distribution links into the Australian market.

As a result, the Commissioner considers that, if the current measures expire, 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.

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**.

8.7 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 Ministers allows the current measures to expire then exporters from the subject countries 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.

8.7.1 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.

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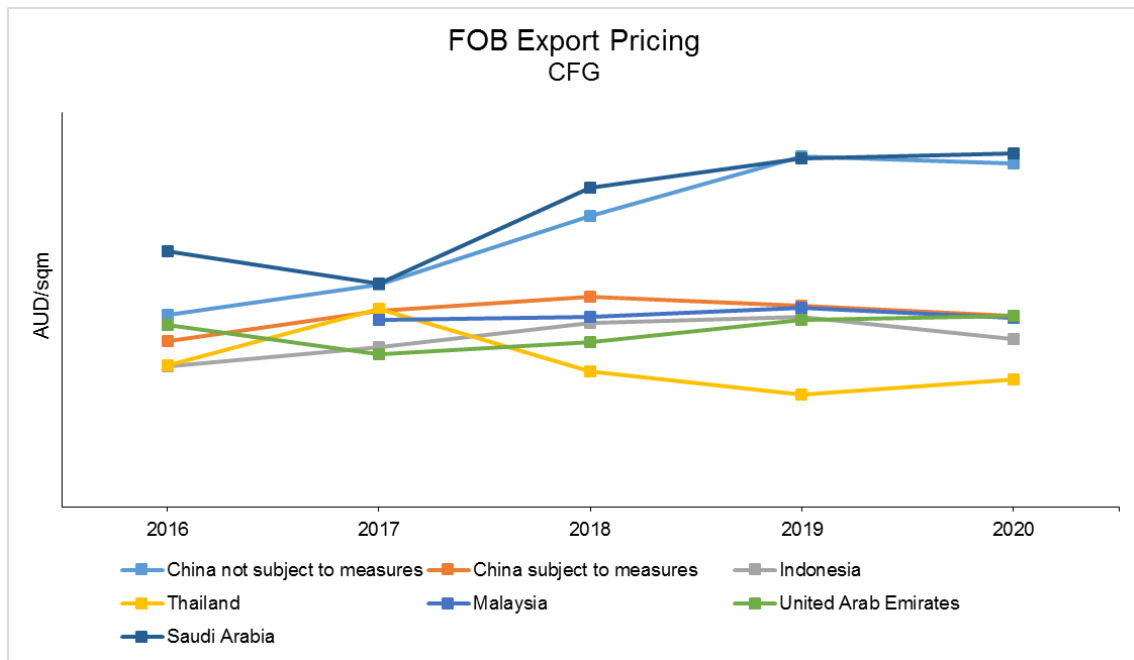


Figure 21: FOB export pricing

Figure 21 indicates that:

- exports from Chinese exporters that are not subject to the current 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 the current 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
- 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 CFG 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 exporters sell the goods 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 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 nominal thickness against Oceania Glass's sales during the same period at an 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
- 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, it estimated the landed value for Chinese exporters using the same approach detailed for cooperating exporters, however with ABF data substituted for verified export data.⁸⁵

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.⁸⁶

Given the findings in respect of the likely continuation or recurrence of dumped exports in sections 8.5 and 8.6 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 nominal thicknesses manufactured by Australian industry, Chinese exports were predominantly of 3 mm, 4 mm and 6 mm nominal 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 nominal thickness CFG. The commission established from the ABF data base that the value of this shipment was approximately A\$700.

The commission observed that all other exports were higher-priced than the Australian industry, including exports to a mutual customer of Australian industry. The price premiums 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 CFG from China, Xinyi, is not subject to the current measures. The commission has analysed exports from Xinyi since the

⁸⁵ The landed price is Line General VOTI in ABF data which is the total of the CIF price, plus general and IDD (if applicable).

⁸⁶ EPR 575, No. 016, p 4.

current measures were continued in 2016. Table 17 below shows index export volumes from 2016 onwards.

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

Table 17: Index of export volumes for Xinyi (sqm)

Table 17 indicates that despite the absence of measures, Xinyi's exports have declined dramatically since 2016.

The commission considers that given the falling export volumes since the continuation of measures in 2016 from exporters both subject to and exempt from the current 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 considers that if the current measures expired for China, it will not have a material effect on pricing within the Australian market.

Indonesia – PT Muliaglass

The commission considers that because it did not find PT Muliaglass to be exporting CFG at dumped prices during the inquiry period, any price injury experienced by the 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 nominal thicknesses of CFG PT Muliaglass undercut Australian industry selling prices in 3 of the 4 quarters with the level of undercutting ranging up to 12%
- 6 mm, 8 mm and 12 mm nominal thicknesses of CFG PT Muliaglass undercut Australian industry selling prices in all 4 quarters with the level of undercutting ranging up to 23%
- 10 mm nominal thickness PT Muliaglass of CFG undercut Australian industry selling prices in 2 of the 4 quarters with the level of undercutting ranging up to 10%.

In addition the commission identified 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 nominal 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 1% 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 current 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 it found PT Asahimas to be exporting CFG to Australia 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 (nominal thickness) exported.

In addition the commission identified that PT Asahimas made all of its sales to common customers of Australian industry during the inquiry period. The commission compared quarterly pricing to these common customers by nominal thickness. The commission observed that in respect of one customer, PT Asahimas was undercutting in all quarters for all nominal thicknesses with rates up to 32%, while for a second customer PT Asahimas was undercutting on 3 nominal thicknesses in all quarters and for a fourth nominal thickness in one quarter with undercutting rates up to 33%. The commission notes that should the Minister allow the current measures to expire, this would exacerbate the price undercutting the Australian industry has experienced.

The commission notes that the while the total value of these sales represented less than half of 1% of Australian industry's total sales during the inquiry period, PT Asahimas:

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

On this basis the commission considered it likely in the SEF that if the current measures were to expire dumped exports from PT Asahimas would continue to undercut Australian industry's selling prices, as well as other participants in the market, causing price depression and price suppression.

In response to the SEF, PT Asahimas submitted that:

- the volume of its exports during the inquiry period were small and could not have caused injury to Australian industry⁸⁷
- the commission should apply the same approach to PT Asahimas as was applied to exporters from China and Thailand who exported similarly low volumes during the inquiry period⁸⁸

⁸⁷ EPR 575, No. 027, p 2.

⁸⁸ EPR 575, No. 027, p 2-4.

- the commission does not have positive evidence to conclude that PT Asahimas caused or would be likely to cause material injury to the Australian industry based on the volume of exports⁸⁹
- its business focus is the Indonesian market and value-added products and it has no excess capacity to export CFG to Australia⁹⁰
- in recommending the continuation of measures the commission is in breach of the Anti-Dumping Agreement.⁹¹

The commission also received a submission from the GOI which questioned what it describes as the commission applying different treatment to exports from China and Thailand as opposed to those by PT Asahimas.⁹²

As detailed in section 8.3, in assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors may be relevant. No one factor, such as the volume of exports, can necessarily provide decisive guidance. The commission considered a range of factors in its consideration of whether PT Asahimas was likely to cause material injury to the Australian injury should the current measures be allowed to expire.

The commission notes that both PT Asahimas and the GOI draw comparisons between the commission's findings in respect of China and Thailand and those of PT Asahimas. Both note that, given the small volume of exports from each source, the commission should have also concluded that PT Asahimas was unlikely to cause material injury to the Australian industry.

In terms of export volumes during the inquiry period, the commission notes that Thailand exported less than 1% of the volume of PT Asahimas's exports, while all 17 exporters from China currently subject to measures combined exported less than 25% of the volume exported by PT Asahimas.

As such, the commission considers that PT Asahimas is a significantly larger participant in the Australian market than exporters from China and Thailand (whether as individuals or collectively).

In addition, in respect of Thailand, the commission determined that there is insufficient evidence to conclude that it is *likely* that exporters will sell the goods at dumped prices in the future, and therefore could not recommend that measures expire in respect of Thailand. This contrasts with the commission's determination that PT Aashimas was dumping during the inquiry period and is likely to continue to do so.

The commission found that exports from China came from multiple, small volume suppliers and determined that, other than in respect of one shipment valued at A\$700, Chinese exporters had not undercut Australian industry selling prices over the analysis period.⁹³ The commission was satisfied that given the number of small exporters and the pricing of these exports, exports from China were not likely to materially affect pricing in the Australian market. This contrasts with exports from PT Asahimas which undercut Australian industry

⁸⁹ EPR 575, No. 027, p 4.

⁹⁰ EPR 575, No. 027, p 6-7.

⁹¹ EPR 575, No. 027, p 3-4.

⁹² EPR 575, No. 028, p 1.

⁹³ Based on ABF data the average export volume of exports from China by exporters subject to measures was approximately 825 sqm.

by up to 33% during the inquiry period, and based on a comparison of ABF export data were the lowest priced in the market as at the conclusion of the inquiry period.

PT Asahimas asserts that the volume of its exports could not have caused injury to Australian industry. The commission notes that the consideration of whether the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measure are intended to prevent requires a forward looking assessment.

In making its assessment, the commission has relied upon the following facts. PT Asahimas:

- has supplied the Australian market prior to the inception of the current measures and throughout the period of time the current measures have been operative
- has been found to be dumping in each previous matter in which variable factors have been ascertained
- exported the goods to Australia at dumped prices during the inquiry period to common customers of Australian industry who together amount to 7% of Australian industry's sales volume
- undercut Australian industry's prices to those customers by up to 33% during the inquiry period
- exported at the lowest FOB export prices of all suppliers during the inquiry period
- has exported, in prior years, significantly larger volumes of CFG than was evident in the inquiry period
- maintains excess production capacity.

After consideration of the above facts, the commission considers it likely that in the absence of measures PT Asahimas would 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**.

8.7.2 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 it did not find PT Muliaglass to be dumping during the inquiry period and as such it cannot attribute any injury the Australian industry experienced to dumped exports from PT Muliaglass.

The commission established that PT Asahimas exported CFG to Australia 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.

8.7.3 Is injury from dumping likely to be material?

Despite 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 2012* (the Direction on Material Injury) 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, its:

- unit CTM increased
- unit selling prices declined
- 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 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 such that the 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.

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

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. The GOI also made a submission to the effect that an objective examination of the relevant economic parameters shows that the Australian industry has not suffered material injury in the past 4 years.⁹⁴

As detailed above in Chapter 6, although the Australian industry has been able to increase its market share and sales volumes over the period of analysis, it has also experienced injury in the form of other factors including price suppression and depression, and reduced profit and profitability. The commission considers that in this particular case, the price suppression and price depression injury outweigh other economic improvements of the Australian industry.

Furthermore, it is necessary for the Commissioner to undertake a forward looking assessment of the Australian's industry's economic performance in making recommendations to the Minister. On this basis, the Australian industry's current economic indicators serve an additional purpose of informing the Commissioner's forward looking assessment, which extends beyond the 4 year period referred to in the GOI's submission.

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.⁹⁵
- 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).⁹⁶
- PT Muliaglass submitted that the change in ownership of the Australian industry should have led to an improvement of its economic condition.⁹⁷

The commission notes that the GOI and PT Muliaglass provided no evidence to support the contention that Oceania Glass's injury claims specific to CFG may be the result of its own operational inefficiencies or poor business management.

Guardian referenced annual reports from the previous owner of the Australian industry, CSR Limited, which cites certain reasons for the overall company's decline in earnings before interest and tax (EBIT). For example, Guardian refers to:

- 'impacts from WA and NZ operations' as the source of Viridian's decline in EBIT in the annual report for 2017
- 'operational issues' at Viridian's factory and 'increasing energy costs' as the cause of its decline in EBIT in the annual report for 2018

⁹⁴ EPR 575, No. 028, p 2.

⁹⁵ EPR 575, No. 004, p 3.

⁹⁶ EPR 575, No. 007, p 1-2.

⁹⁷ EPR 575, No. 014, p 1.

- CSR Limited selling the Viridian business (for reasons including that Viridian is exposed to high energy intensity) in a bid for Viridian ‘to align its footprint and cost structure to operate more effectively’ in the annual report for 2019.

The annual reports relate to all products and are not specific to CFG. The examples cited by Guardian from annual reports are also broad in nature. The commission has examined the annual reports and is unable to identify any specific references to operational inefficiencies or poor decision making that are linked directly to CFG.

In assessing the economic condition of the Australian industry in Chapter 6, the commission has examined the economic injury factors relative to the Australian industry’s CFG sales only. Relevant costs have been included in the commission’s calculation of the CTMS. A large proportion of the costs are variable costs including raw materials. 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. It is not clear how the submissions link the claimed operational inefficiencies and poor business management decisions to the economic performance of Oceania Glass’s sales of CFG to any measurable degree. The commission has not drawn any conclusions on these claims as it would be speculative to do so.

Effect of imports from countries not subject to measures

Several interested parties have submitted that the exports of the goods from the subject countries did not cause the injury the Australian industry experienced, but rather, the rising exports of CFG to Australia from Malaysia and the UAE caused that injury:

- PT Muliaglass submitted that any injury the Australian industry experienced 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.⁹⁸
- Guardian claimed that Oceania Glass was importing CFG from Malaysia in order to supplement domestic production.⁹⁹
- 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.¹⁰⁰
- PT Asahimas, and the GOI, highlighted the alleged importations of CFG by the Australian industry from Malaysia, and classified this as a form of ‘self-injury’.¹⁰¹
- PT Asahimas also highlighted the increased volume of exports of CFG from Malaysia and the UAE, and claims that exports of the goods from Indonesia did not cause the injury the Australian industry experienced.¹⁰²

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 8.7.1. The commission is separately investigating Oceania Glass’s allegations that exports of CFG from Malaysia and the UAE

⁹⁸ EPR 575, No. 003, p 1-2.

⁹⁹ EPR 575, No. 004, p 3.

¹⁰⁰ EPR 575, No. 007, p 2-3 and No. 028, p 2.

¹⁰¹ EPR 575, No. 013, p 2-3, No. 027, p 5 and No. 028, p 3.

¹⁰² EPR 575, No. 013, p 1.

to Australia are at dumped prices and are causing injury to the Australian industry.¹⁰³ The results of this investigation will be published in due course.

The commission has not found any evidence that Oceania Glass imported CFG from Malaysia during the inquiry period. The commission notes from ABF data that Australian industry has imported CFG subsequent to the inquiry period.

The commission does not consider that the Australian industry importing the goods, or being unable to fully supply the Australian market from its own production, precludes the prospect of dumped exports materially injuring Australian industry. The commission notes that the Australian industry has experienced an improvement in certain economic factors such as volume of sales and market share during the period of analysis, however price depression and suppression and reduced profit and profitability outweighed these improvements.

For the reasons previously discussed, the commission considers it likely that if the current measures expired PT Asahimas would continue to undercut Australian industry's selling prices, as well as other participants in the market, causing price depression and price suppression. The commission considers that in the absence of measures PT Asahimas will have an even greater competitive advantage over the Australian industry and will likely increase its export volumes to the detriment of the Australian industry's sales volume and market share.

Independent of the Australian industry's capacity to supply the entire market or its decision to import the goods to supplement its own production, these factors would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent.

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 Minister allows the measures to continue.¹⁰⁴

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

8.8 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.

The Commissioner is satisfied that exporters from China, Indonesia (other than PT Muliaglass) and Thailand, exported the goods to Australia at dumped prices during the inquiry period.

¹⁰³ ADN No. 2021/054 refers.

¹⁰⁴ EPR 575, No. 006, p 1 and No. 013, p 5.

PUBLIC RECORD

The Commissioner is not satisfied, in relation to PT Muliaglass, and exporters from 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 is not satisfied, in relation to exports from China, that, while those exports are likely to continue at dumped prices, they would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent.

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

- exports of CFG at dumped prices are likely to continue or recur
- future exports at dumped prices are likely to cause material injury to the Australian industry 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 to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

The Commissioner accepts that, should the Minister allow the measures to expire, it is possible that PT Muliaglass and exporters from China and Thailand may export CFG to Australia 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 current 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 current measures are intended to prevent.

9 NON-INJURIOUS PRICE

9.1 Finding

The Commissioner has found that the NIP has changed in relation to PT Asahimas.

9.2 Legislative framework

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.

9.3 Calculation of the non-injurious price

The legislation does not prescribe the method of calculating a NIP, however there are several methods outlined in the Manual.¹⁰⁵

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:

1. Industry selling prices at a time unaffected by dumping
2. Constructed industry prices – industry cost to make and sell plus profit
3. 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 a reasonable amount of profit achieved by the Australian industry.

As there is no recent period unaffected by dumping and the commission does not have the profit rate of the Australian industry’s similar category of goods, the commission has determined a reasonable amount of profit having regard to ROI. At section 6.7.4 the commission found that the Australian industry experienced positive levels of ROI during 2017 and 2018. The commission also found the profit the Australian industry achieved during this time was higher than in 2019 and 2020, in which the Australian industry experienced a negative ROI. The commission considers that the average profit for the period 2017 to 2018 is reasonable to use in the calculation of the USP because it represents a contemporary period in which the Australian industry appears to have operated profitably.

¹⁰⁵ The Manual, p 138.

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 rely on post-exportation costs that are available from other sources, for example, data from the application or data from other relevant inquiries.'¹⁰⁶

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.
- Verified ocean freight and insurance from cooperating exporters in this inquiry.

9.4 Conclusion

The Commissioner recommends that the Minister ascertain the NIP for PT Asahimas to be the amount set out in **Confidential Attachment 19** to this report. This is a change from the NIP currently ascertained for PT Asahimas.

The USP and NIP calculations for PT Asahimas are at **Confidential Attachment 19**.

¹⁰⁶ The Manual, p 140.

10 FORM OF MEASURES TO CONTINUE

10.1 Summary

The Commissioner is recommending that the Minister allow the dumping duty notice in respect of the goods exported to Australia from China, PT Muliaglass, and Thailand to expire on 17 October 2021. Accordingly, for these affected exporters, the Commissioner does not recommend a change to the form of measures or variable factors.

The Commissioner is recommending to the Minister that the dumping duty notice in respect of PT Asahimas and all other exporters from Indonesia (excluding PT Muliaglass), continue after 17 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 is recommending that the Minister change the variable factors relating to PT Asahimas consistent with the findings outlined in Chapters 7 and 9.

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

The Commissioner has considered the appropriate dumping duty method which should apply to the goods exported to Australia from PT Asahimas and all other exporters from Indonesia (excluding PT Muliaglass). The Commissioner considers that the *ad valorem* duty method should continue to apply.

10.2 Current dumping duty method

IDD is currently worked out for all exporters from Indonesia using the *ad valorem* duty method. The IDD liability is calculated by multiplying the dumping export price (DXP) by the applicable *ad valorem* duty rate.

10.3 Forms of dumping duty methods available

The methods available to the Minister for working out IDD are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include the:

- fixed duty method (i.e. \$X per tonne)
- floor price duty method
- combination duty method
- *ad valorem* duty method (i.e. a percentage of the export price).¹⁰⁷

The various dumping duty methods all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain duty methods will better suit 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.¹⁰⁸

¹⁰⁷ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

¹⁰⁸ Available on the commission's website here: [Guidelines on Forms of Dumping Duties](#)

10.4 Conclusion

The commission did not receive any submissions in relation to the form of measures.

The commission considers that the current ad valorem duty method applicable to PT Asahimas and all other Indonesian exporters (excluding PT Muliaglass) is appropriate. The commission considers that the same circumstances that are suited to the ad valorem duty method apply to this report as they did in REP 335. Specifically:

- There are many models or types of models of the goods.
- There is significant price variation between the models.
- Prices vary significantly over time.

Table 18 shows a summary of the recommendations and effective rates of IDD and duty method.

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

Table 18: Summary of effective interim dumping duty and duty method

11 RECOMMENDATIONS

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the current measures applicable to CFG exported to Australia from Indonesia (excluding PT Muliaglass) would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the current measures are intended to prevent.

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is not satisfied that the expiration of the current measures applying to CFG exported to Australia from China, Thailand, and from Indonesia by PT Muliaglass would lead, or 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.

The Commissioner recommends that the Minister declare:

- pursuant to section 269ZHG(1)(a), that he has decided not to secure the continuation of the anti-dumping measures relating to the goods exported to Australia from **China** and **Thailand** with effect from 18 October 2021 and
- pursuant to section 269ZHG(1)(b), that he has decided to secure the continuation of the anti-dumping measures relating to the goods exported to Australia from all exporters from **Indonesia** with effect from 18 October 2021.

The Commissioner recommends that the Minister determine:

- pursuant to section 269ZHG(4)(a)(ii) and (iii) that:
 - the dumping duty notice continue in force after 17 October 2021 but that, after 17 October 2021, the notice cease to apply in relation to **PT Muliaglass** from Indonesia and
 - the dumping duty notice continue in force after 17 October 2021 but that, after 17 October 2021, the notice has effect in relation to exports from Indonesia by **PT Asahimas** as if different variable factors, as set out in **Confidential Attachments 8, 10 and 19** and section 7.4.2 and Chapter 9 of this report, had been fixed relevant to the determination of duty.
- pursuant to section 269TAB(1)(c), having regard to all circumstances of the exportation, the export price of the goods exported to Australia from Indonesia by **PT Asahimas** during the inquiry period, as set out in **Confidential Attachment 8** and section 7.4.2 of this report.
- pursuant to section 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Indonesia in sales that are 'arms length' transactions by **PT Asahimas**, the normal value of CFG exported to Australia from **PT Asahimas** is the price paid or payable for like goods, as set out in **Confidential Attachment 10** and section 7.4.2 of this report.

PUBLIC RECORD

- having applied section 269TACB(2)(a) and in accordance with section 269TACB(1) and (4), that the goods exported to Australia from Indonesia by **PT Asahimas** are taken to have been dumped, and the dumping margin in respect of those goods is the difference between the weighted average export prices of the goods over the whole of the inquiry period and the weighted average of corresponding normal values over the whole of that period, as set out in **Confidential Attachment 11** and section 7.4.2 of this report.

The Commissioner recommends that the Minister direct that:

- pursuant to section 269TAC(8), adjustments be made to the price paid or payable for like goods, where the normal value has been calculated under section 269TAC(1) for **PT Asahimas**, so that the differences between that price and the export price would not affect its comparison, as set out in Table 10 of this report.

12 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Australian market
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
Confidential Attachment 7	PT Muliaglass dumping margin
Confidential Attachment 8	PT Asahimas export price
Confidential Attachment 9	PT Asahimas CTMS
Confidential Attachment 10	PT Asahimas normal value
Confidential Attachment 11	PT Asahimas dumping margin
Confidential Attachment 12	Guardian export price
Confidential Attachment 13	Guardian CTMS
Confidential Attachment 14	Guardian normal value
Confidential Attachment 15	Guardian dumping margin
Confidential Attachment 16	Continuation of exports analysis
Confidential Attachment 17	Continuation of dumping analysis
Confidential Attachment 18	Price effects and undercutting analysis
Confidential Attachment 19	USP and NIP calculation

APPENDIX A — LIST OF SUBMISSIONS

Date placed on EPR	Interested party	EPR document number
12 Mar 2021	PT Muliaglass	3
12 Mar 2021	Guardian Industries Corp Ltd	4
31 Mar 2021	PT Muliaglass	6
1 Apr 2021	Government of Indonesia	7
30 Apr 2021	PT Asahimas Flat Glass Tbk	13
10 May 2021	PT Muliaglass	14
28 May 2021	Oceania Glass Pty Ltd	17
24 Jun 2021	Oceania Glass Pty Ltd	18
1 Jul 2021	PT Asahimas Flat Glass Tbk	20
5 Jul 2021	Guardian Industries Corp Ltd	22
6 Jul 2021	PT Asahimas Flat Glass Tbk	24
26 Jul 2021	Guardian Industries Corp Ltd	25
26 Jul 2021	Oceania Glass Pty Ltd	26
27 Jul 2021	PT Asahimas Flat Glass Tbk	27
28 Jul 2021	Government of Indonesia	28
2 Aug 2021	Guardian Industries Corp Ltd	29
9 Aug 2021	Oceania Glass Pty Ltd	30