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# **ANTI-DUMPING NOTICE NO. 2021/054**

**Public notice under section 269TC(4)**

**of the *Customs Act 1901* (Cth)**

**Clear Float Glass**

**Exported to Australia from Malaysia and  
the United Arab Emirates**

**Initiation of Investigation No. 582 into  
alleged dumping and subsidisation**

*Customs Act 1901 – Part XVB*<sup>1</sup>

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission (the Commissioner), have initiated an investigation following an application lodged by Oceania Glass Pty Ltd (Oceania Glass, the Applicant), a manufacturer of clear float glass (CFG, the goods) in Australia.

The application seeks the publication of a dumping duty notice in respect of the goods exported to Australia from Malaysia and the United Arab Emirates (UAE) and a countervailing duty notice in respect of the goods exported to Australia from Malaysia.

The application alleges that the goods have been exported to Australia at prices less than their normal value and, in the case of Malaysia, were also in receipt of countervailable subsidies and that the dumping and subsidisation has caused material injury to the Australian industry producing like goods through:

- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced return on investment; and
- reduced attractiveness to reinvest.

The non-confidential version of the application, which contains the basis of the alleged dumping, subsidisation and injury, is available on the public record.

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<sup>1</sup> All legislative references in this notice are to the *Customs Act 1901* (Cth) unless otherwise specified.

Particulars of the reasons for my decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 582 (CON 582)*, which is available on the public record.

The date of initiation of this investigation is the date of publication of this notice.

### **Particulars of the Goods**

The goods, being the subject of the application (the goods) are:

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

The following table details the tolerances for each of the thicknesses in the nominated range:

<b>Nominal Thickness (mm)</b>	<b>Acceptable Tolerances (mm)</b>	
	<b>Minimum</b>	<b>Maximum</b>
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 the subject of the application have the following characteristics:

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

Glass with the following characteristics is not the goods the subject of the application:

- coating, colour, tint or opaqueness;
- absorbent, reflective or non-reflective layer;
- wired;
- bent, edge-worked, engraved, drilled, enamelled or otherwise worked;
- framed or fitted with other materials;
- toughened (tempered) or laminated;
- acid etched; or
- low iron.

## **Tariff Classification**

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

- 7005.29.00 (statistical codes 03, 04, 05, 06 and 09).

These tariff classifications and statistical codes may include goods that are both subject and not subject to this investigation. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description set out above. Please refer to the goods description for authoritative detail regarding the particulars of the goods, the subject of this investigation.

## **Investigation Process**

The investigation period is 1 April 2020 to 31 March 2021. I will examine exports to Australia of the goods during this period to determine whether dumping and subsidisation has occurred. I will examine details of the Australian market from 1 April 2017 for the purposes of injury analysis.

Where the Minister for Industry, Science and Technology (the Minister) is satisfied, as to goods of any kind, that:<sup>2</sup>

- (a) the amount of the export price of the goods that have been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Where the Minister is satisfied, as to goods of any kind, that:

- (a) a countervailable subsidy has been received in respect of the goods that have been exported to Australia, and may be received in respect of like goods that may be exported to Australia in the future; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim countervailing duties.<sup>3</sup>

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<sup>2</sup> In accordance with section 269TG.

<sup>3</sup> In accordance with section 269TJ.

Where there are grounds for the Minister to publish a dumping duty notice applying to Malaysia and UAE, and countervailing duty notice applying to Malaysia in respect of the goods, I will examine whether the trade in the dumped or subsidised goods give rise to retrospective notices being published pursuant to section 269TN, and make recommendations to the Minister accordingly.<sup>4</sup>

### **Proposed model control code structure**

The Commission undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.<sup>5</sup>

The table below outlines the Commission’s proposed MCC structure for this investigation.

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

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than 3 June 2021, being the day submissions concerning this investigation are due.

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

### **Public Record**

I must maintain a public record of each investigation. Documents included in the public record are available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

The public record will contain, among other things, a copy of the application, CON 582 and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

<sup>4</sup> In accordance with sections 269TG(1) and TJ(1).

<sup>5</sup> Guidance on the Commission’s approach to model matching is in the Dumping and Subsidy Manual, available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

## **Lodgement of Submissions**

Interested parties, as defined by section 269T(1), are invited to lodge submissions concerning the publication of the dumping and countervailing duty notice sought in the application, no later than 3 June 2021, addressed to:

The Director  
Investigations 3  
GPO Box 2013  
Canberra ACT 2601  
Australia

or by email to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.<sup>6</sup> This is available at: [www.legislation.gov.au](http://www.legislation.gov.au)

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

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

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

Submissions containing confidential information must be clearly marked "OFFICIAL: Sensitive".

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

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<sup>6</sup> Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the Anti-Dumping Commission's General Managers (Anti-Dumping Notice No. 2017/10, available at: [www.adcommission.gov.au](http://www.adcommission.gov.au) refers).

## **Lodgement of Exporter Questionnaires**

Exporters of the goods to Australia are invited to participate in this investigation by completing the exporter questionnaire and the associated spreadsheets by 3 June 2021.

The exporter questionnaire and the associated spreadsheets are available under the case information for ADC 582 (which can be found under 'current cases and their electronic public record' on the Commission website, [www.adcommission.gov.au](http://www.adcommission.gov.au)). Alternatively, exporters can email [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au) upon receipt of this letter and the Commission will forward the exporter questionnaire and spreadsheets for completion.

## **Provisional Measures**

Pursuant to section 269TD, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping and countervailing duty notice or there appears that there will be sufficient grounds for the publication of a dumping and countervailing duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD, the Commonwealth may apply provisional measures, including the taking of securities under section 42, in respect of interim dumping and countervailing duty that may become payable on the goods, where: a PAD has been made; and the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, [www.legislation.gov.au](http://www.legislation.gov.au)

## **Statement of Essential Facts**

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. In accordance with section 269TDAA of the Act, a SEF will be placed on the public record by 16 August 2021<sup>7</sup>, or by such later date as allowed in accordance with section 269ZHI.<sup>8</sup> The SEF will set out the essential facts on which I propose to base my recommendations to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of it being placed on the public record.

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<sup>7</sup> The due date falls on 15 August 2021, which is a Sunday. Therefore, the due date is the next working day, which is Monday 16 August 2021.

<sup>8</sup> On 14 January 2017, certain powers and functions of the Minister under section 269ZHI were delegated to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

Submissions received in response to the SEF within 20 days of that statement being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

### **Report to the Minister**

A recommendation to the Minister will be made in a report on or before 29 September 2021 (or such later date as allowed under section 269ZHI), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Minister must make a declaration within 30 days after receiving the report, or such longer period as the Minister considers appropriate.

### **Anti-Dumping Review Panel**

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB in relation to a decision by me to terminate the investigation or a decision of the Minister to publish or not to publish a dumping duty notice and, in respect of Malaysia, a countervailing duty notice after considering my report.

### **Interested Party List**

Throughout the investigation, the Commission will maintain an internal list of interested parties. Updates on the investigation will be sent to parties on this list. If you would like to be added to the interested party list, please email [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

### **Anti-Dumping Commission Contact**

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

Dr Bradley Armstrong PSM  
Commissioner  
Anti-Dumping Commission

27 April 2021