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Australian Government
**Australian Customs and
Border Protection Service**

R E P O R T

Customs Act 1901 - Part XVB

Termination Report No. 159A

Termination of part of the dumping investigation

Certain Clear Float Glass

Exported from

The People's Republic of China, Indonesia and Thailand

Xinyi Ultrathin

30 November 2010

Trade Measures Branch

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ABBREVIATIONS

the Act	<i>Customs Act 1901</i>
ACDN	Australian Customs Dumping Notice
CEO	Chief Executive Officer
CFG	Clear Float Glass
China	The People's Republic of China
Customs and Border Protection	Australian Customs and Border Protection Service
DCS	Developing Country Status
the delegate	Delegate of the CEO of Customs and Border Protection
FIS	Free-into-store
FOB	Free On Board
the goods	the goods the subject of the application
the Minister	the Attorney-General
NIP	Non-injurious Price
SEF	Statement of essential facts
SG&A	Selling, general & administrative costs
Tariff Act	Customs Tariff Act 1995
TCOs	Tariff Concession Orders
Viridian	CSR Viridian Limited
Xinyi	Xinyi Ultrathin Glass (Donguan) Co., Ltd.

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1 BACKGROUND

1.1 Initiation

On 18 February 2010, CSR Viridian Limited (Viridian) lodged an application¹ for the publication of a dumping duty notice in respect of certain clear float glass (CFG) exported to Australia from China, Indonesia and Thailand. Additional information was received on 10 March 2010 and 26 March 2010.

The application alleges that CFG exported from China, Indonesia and Thailand has been exported to Australia at prices less than its normal value and that this dumping has caused material injury to the Australian industry.

Following consideration of the application, the delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) (the delegate) decided not to reject the application. Public notification of initiation of the investigation was made on 19 April 2010 (refer to Australian Customs Dumping Notice (ACDN) 2010/14).

1.2 Statement of essential facts

The initiation notice advised that the statement of essential facts (SEF) for the investigation would be placed on the public record by 7 August 2010. However, the delegate was satisfied that the prescribed 110 days to place the SEF on the public record for the investigation was likely to be insufficient and requested an extension of the deadline for the publication of the SEF.

The Minister extended the deadline for the publication of the SEF to 5 November 2010². ACDN No. 2010/26 was issued on 23 July 2010 notifying of the Minister's decision and interested parties were also separately notified.

The SEF was published on 5 November 2010 and is available on the internet at www.customs.gov.au.

The SEF reported Customs and Border Protection's preliminary finding that the dumping margin established for CFG exported to Australia from China by Xinyi Ultrathin Glass (Donguan) Co., Ltd. (Xinyi) during the investigation period was -2.8%.

¹ Section 269TB

² Section 269ZHI

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2 THE GOODS

The goods subject to the application (the goods) are clear float glass in nominal thicknesses of 3mm-12mm.

The acceptable tolerances to these thicknesses are shown below.

Nominal thicknesses (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 tariff classification is important in understanding the description of the goods. Glass imported into Australia that does not fall under tariff classification 7005.29.00 is not the goods. Therefore, the goods must have the following characteristics to be considered as the goods:

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

Furthermore, glass with the following characteristics is not the goods:

- 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.

The tariff classification of the goods is 7005.29.00, statistical codes 2 through to 6, in Schedule 3 of the *Customs Tariff Act 1995*. The general rate of duty is 5 percent and the Developing Country Status (DCS) is 4 percent. China and Indonesia are subject to the DCS rate and imports from Thailand are free of duty.

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3 DUMPING INVESTIGATION

3.1 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The dumping margin³ is the difference between the export price⁴ and normal value⁵.

The investigation period, for the purpose of assessing any dumping margins, is from 1 April 2009 to 31 March 2010.

The investigation must be terminated so far as it relates to a particular exporter if there has been no dumping by the exporter of any of the goods or if the dumping margin is less than 2%⁶.

3.2 Exporter questionnaire

Exporter questionnaires were sent to all suppliers of CFG from China that were identified in the Customs and Border Protection import database as having supplied CFG to Australia during the investigation period.

A completed exporter questionnaire response was received from Xinyi and a visit to Xinyi's premises was undertaken to verify the information contained in the exporter questionnaire response.

Non-confidential versions of the completed exporter questionnaire response and Xinyi's verification visit report are available on the public record.

3.3 Export Price

Xinyi manufactured and exported CFG to Australia during the investigation period. The goods were imported by a number of Australian importers.

It was found that:

- the goods have been exported to Australia otherwise than by the importers and have been purchased by the importers from the exporter; and
- the purchases of the goods by the importers was an arms length transaction.

Export prices have been calculated under s269TAB(1)(a), being the price paid or payable by the importer less, as appropriate, expenses that represent a charge for any matter arising after exportation.

Viridian questioned the validity of Xinyi's claim that its grade of CFG exported to Australia is only suitable for construction purposes and not recommended for processing. It submitted that most glass exported to Australia from China is of processing quality and it is not aware of demand in Australia for glass that can only be used in limited situations.

³ Section 269TACB

⁴ Section 269TAB

⁵ Section 269TAC

⁶ Subsection 269TDA(1)

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In response to the SEF, Viridian stated that it remained sceptical of the claims made by Xinyi regarding the quality of glass exported to Australia.

There is no evidence to suggest that the information gathered during the verification visit to Xinyi on the quality of CFG exported by Xinyi to Australia is unreliable. The grade of CFG exported to Australia by Xinyi was first brought to the attention of the case management team on 26 May 2010. Consequently, the verification of Xinyi's exporter questionnaire response paid particular attention to the grade of the CFG exported to Australia to ensure that proper product matching was made for the dumping margin calculation. The evidence available, particularly the information supplied and tested during the onsite verification visit, indicates that the appropriate approach to model matching was conducted in comparing the export prices and normal values for Xinyi.

3.4 Normal Value

Xinyi sold like goods on the domestic market during the investigation period. There was sufficient volume of goods sold in the ordinary course of trade for home consumption in sales that were arms-length transactions. Accordingly, the normal value has been established under subsection 269TAC(1) using sales between Xinyi and its domestic customers.

The normal value incorporated adjustments⁷ for inland transport, port costs, export commission, bank charges, telex fees, packaging, credit terms and value added taxes to ensure it was fairly comparable to export prices.

Viridian submitted that the correct method of allocating the selling, general and administrative costs (SG&A) should be by volume rather than on a dollar basis.

In response to the SEF, Viridian stated that the allocation method of Xinyi's SG&A expenses is not consistent with other exporter visit reports. It argued that this method of allocating SG&A may affect ordinary course of trade conclusions.

Depending on the circumstances, it may be reasonable for the SG&A to be allocated based on volume or revenue. In any case, even if the suggested method was adopted for Xinyi, the change in the percentage of domestic sales that were found to be unprofitable would not have affected the ordinary course of trade conclusions.

Xinyi noted in a submission in response to the SEF that a domestic credit term adjustment was not applied to the calculation of the margin applicable to its exports. It argues that such an adjustment would have increased the negative dumping margin finding.

3.5 Dumping Margin

A dumping margin for the investigation period has been calculated by comparing the quarterly weighted average export prices with the corresponding quarterly weighted average normal values in accordance with subsection 269TACB(2)(a).

Due regard has been provided to the appropriate model and period matching. The product dumping margin indicates that CFG exported by Xinyi from China to Australia during the investigation period was less than 2%, with a dumping margin of -2.8%.

⁷ Subsection 269TAC(8)

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4 CONCLUSION

The dumping margin established for CFG exported to Australia from China by Xinyi during the investigation period was -2.8%.

Where the delegate is satisfied that there has been dumping by the exporter of some or all of the goods, but the dumping margin for the exporter, when expressed as a percentage of the weighted average export price, is less than 2%, the delegate must terminate the investigation so far as it relates to that exporter⁸.

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⁸ Subsection 269TDA(1)

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