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

R E P O R T

Customs Act 1901 - Part XVB

Statement of Essential Facts No. 159

Dumping investigation

Certain Clear Float Glass

Exported from

The People's Republic of China, Indonesia and Thailand

05 November 2010

Trade Measures Branch

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ABBREVIATIONS

ABS	Australian Bureau of Statistics
the Act	<i>Customs Act 1901</i>
ACDN	Australian Customs Dumping Notice
AGC Asia Pacific	AGC Flat Glass Asia Pacific Pte Ltd
CEO	Chief Executive Officer
CFG	Clear Float Glass
China	The People's Republic of China
CIF	Cost, insurance and freight
CSG	Guangzhou CSG Glass Co., Ltd
CTM	Cost to make
CTMS	Cost To make & sell
Customs and Border Protection	Australian Customs and Border Protection Service
CFG	clear float glass
DCS	Developing Country Status
the delegate	Delegate of the CEO of Customs and Border Protection
DMS	Don Mathieson & Staff Glass Pty Ltd
FIS	Free-into-store
FOB	Free On Board
the goods	the goods the subject of the application
Guardian	Guardian Industries Corp. Ltd
Landson Qingdao	Landson Alliance (Qingdao) Co. Ltd
the Minister	the Attorney-General
NIP	Non-injurious Price
PT Asahimas	PT Asahimas Flat Glass Tbk
Rodamas	PT Rodamas Co. Ltd
SEF	Statement of essential facts
SG&A	Selling, general & administrative costs
Tariff Act	Customs Tariff Act 1995
TCOs	Tariff Concession Orders
USP	Unsuppressed Selling Price
Viridian	CSR Viridian Limited
Xinyi	Xinyi Ultrathin

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1 SUMMARY AND RECOMMENDATIONS

This dumping investigation is in response to an application by CSR Viridian Pty Ltd (Viridian) for the publication of a dumping duty notice in respect of certain clear float glass (CFG) exported to Australia from the People's Republic of China (China), Indonesia and Thailand.

This statement of essential facts (SEF) sets out the facts on which the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) proposes to base a recommendation to the Attorney-General (the Minister) in relation to the application.

1.1 Proposed recommendation

The CEO proposes to recommend to the Minister that a dumping duty notice be published in respect of CFG exported to Australia from China, Indonesia and Thailand except for one Chinese exporter, Xinyi Ultrathin (Xinyi).

1.2 Application of law to facts

1.2.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901* (the Act¹) sets out, among other matters, the procedures to be followed and the matters to be considered by the CEO in conducting investigations in relation to the goods covered by the application for the purpose of making a report to the Minister.

The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection (the delegate).

1.2.2 Application

On 18 February 2010, Viridian lodged an application requesting that the Minister publish a dumping duty notice in respect of certain CFG exported to Australia from China, Indonesia and Thailand.

The delegate was satisfied that the application was made in the prescribed manner by a person entitled to make the application².

1.2.3 Initiation of investigation

After examining the application, the delegate was satisfied that:

- the application was made in the manner required;
- there is an Australian industry producing like goods;
- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application, or for the publication of such notices upon the importation into Australia of such goods³.

¹ A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

² Section 269TB

³ Section 269TC(1)

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The delegate decided not to reject the application and notice of initiation of the investigation was published on 19 April 2010. Consideration Report No. 159 was also published.

1.2.4 The Statement of Essential Facts

The delegate must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows⁴, publish a SEF on which the delegate proposes to base his recommendation in relation to the application.

In formulating the SEF, the delegate must have regard to the application concerned, any submissions concerning publication of the notice that are received within 40 days after the date of initiation of the investigation, and any other matters considered relevant.

For this investigation, the Minister granted a 90 day extension to the date by which the SEF had to be placed on the public record. The SEF is now due on or before 5 November 2010.

1.3 Preliminary findings

The following preliminary findings have been made based on all available information:

1.3.1 Australian industry (Chapter 4)

The like goods were wholly manufactured in Australia by Viridian and there is an Australian industry consisting of persons who produce like goods in Australia in the form of Viridian.

1.3.2 Dumping (Chapter 6)

In relation to CFG exported to Australia from China, Indonesia and Thailand during the investigation period, other than from Xinyi:

- the dumping margins are not negligible; and
- the volume of dumped goods is not negligible.

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 the dumping margin for an exporter is less than 2%, the delegate must terminate the investigation so far as it relates to that exporter⁵.

1.3.3 Injury (Chapter 7)

The Australian industry has suffered injury in the form of:

- lost sales volume;
- lost market share;
- price suppression;
- lost profit and profitability;

⁴ Subsection 269ZHI

⁵ Subsection 269TDA(1)

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- reduced return on investment; and
- reduced sales revenue.

However, in relation to its injury in the form of lost sales volume and lost market share, this was primarily related to its internal transfers to Viridian Downstream, which in turn can be explained by changes in operational arrangements within Viridian.

1.3.4 Causation (Chapter 8)

CFG exported to Australia from China, Indonesia and Thailand at dumped prices has caused material injury to the Australian industry producing like goods.

1.3.5 Will dumping and material injury continue? (Chapter 9)

CFG exported from China, Indonesia and Thailand in the future may be dumped and continued dumping may cause further material injury to the Australian industry.

1.3.6 Non-injurious price (Chapter 10)

The non-injurious price (NIP) can be established by reference to the Australian industry's selling prices at a time unaffected by dumping and indexed to its cost to make and sell.

1.4 Final report

The delegate's final report and recommendation must be provided to the Minister by **20 December 2010**.

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2 BACKGROUND

2.1 Initiation

On 18 February 2010, Viridian lodged an application⁶ for the publication of a dumping duty notice in respect of 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, Customs and Border Protection 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).

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 2010⁷. ACDN No. 2010/26 was issued on 23 July 2010 notifying of the Minister's decision and interested parties were also separately notified.

The investigation period⁸, for the purposes of assessing any dumping margins⁹, is from 1 April 2009 to 31 March 2010. The injury analysis period, for the purpose of determining whether material injury has been caused to the Australian industry¹⁰, will be examined from 1 April 2006.

2.2 Responding to the SEF

This SEF sets out the statement of the facts on which the delegate proposes to base a recommendation to the Minister. This statement is an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the statement. It is important to note that the statement may not represent the findings in the final report to the Minister.

Interested parties are given 20 days to respond to the statement¹¹. These responses will be considered in the final report to the Minister. The report will recommend whether or not a dumping duty notice should be published and the extent of any interim dumping duties that are, or should be, payable. The final report is due to the Minister by 20 December 2010.

Responses to this SEF should be made no later than **Thursday 25 November 2010**.

⁶ Section 269TB

⁷ Section 269ZHI

⁸ Section 269T(1)

⁹ Subsection 269TC(4)(bf)

¹⁰ Section 269(T)(2AD)

¹¹ Subsection 269TEA(3)(a)(iv)

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Submissions should be sent to:

Director Operations 3
Trade Measures Branch
Customs Service and Border Protection
5 Constitution Avenue
CANBERRA ACT 2601
AUSTRALIA

Submissions can also be sent to tmops3@customs.gov.au or fax number +61 2 6275 6990.

The delegate is not obliged to have regard to any submissions made in response to the SEF received after 25 November 2010 if to do so would, in the opinion of the delegate, prevent the timely preparation of the report to the Minister¹².

Interested parties intending to respond to the statement must include a non-confidential version of their submission for placement on the public record. Submissions provided in confidence must be clearly marked "In-Confidence".

As well as non-confidential submissions by interested parties and this SEF, the public record also contains non-confidential versions of Customs and Border Protection visit reports and other publicly available documents, such as the Consideration report, notices, and other information. These documents should be read in conjunction with the SEF.

Any party wishing to examine the public record before lodging a submission in response to this statement should contact Trade Measures Office Management on (02) 6275 6547.

Documents placed on the public record are also available on the electronic public record at <http://adpr.customs.gov.au/Customs/>.

All ACDNs are available on the internet at the Customs and Border Protection home page www.customs.gov.au (follow prompts for "Anti-dumping").

2.3 Previous CFG cases

There are currently no anti-dumping measures on CFG.

There have been a number of previous dumping investigations, reviews and continuation inquiries in relation to CFG, as detailed below:

- Trade Measures Report No. 124 of 2007 – Continuation inquiry into CFG exported from the People's Republic of China. Measures were not continued.
- Trade Measures Report No. 109 of 2006 – Review of variable factors for China.
- Trade Measures Report No. 106 of 2006 – Continuation inquiry into CFG exported from Indonesia. Measures were not continued.
- Trade Measures Report No. 60 of 2002 – Continuation inquiry into CFG exported from China, Philippines and Thailand. Measures were continued for

¹² Section 269TEA(4)

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- China (except Luoyang glass). Measures on certain exporters from Philippines and Thailand were not continued.
- Trade Measures Report No. 49 of 2002 – Review of variable factors for China and certain exporters in Indonesia, the Philippines and Thailand.
 - Trade Measures Report No. 23 of 2000 – Review of variable factors for China and certain exporters in the Philippines and Thailand.
 - Trade Measures Report No. 21 of 2000 – Investigation into CFG exported from Indonesia. Measures imposed in June 2001 on one thickness of CFG exported by one exporter.
 - Trade Measures Report No. 6 of 1999 – Review of variable factors for China.
 - ADA 191 of 1998 – Measures on exports from Thailand, other than Bangkok Float Glass not continued.
 - Customs review finding 98/07 of 1998 – Review of variable factors for China.
 - ADA 186 of 1998 – Investigation into exports from Indonesia by PT Muliaglass terminated.
 - ADA .177 of 1997 – Existing measures continued until November 2002 for China, a certain exporter from the Philippines and Bangkok Float Glass of Thailand. Measures for Belgium, Germany and Indonesia not continued.
 - Customs review finding 97/06 of 1997 – Review of variable factors for China.
 - Customs review finding 96/12 of 1996 – Review of variable factors for PT Asahimas of Indonesia.
 - Customs review finding 95/03 of 1995 – Review of variable factors and normal values for Belgium, China, Germany, Indonesia, the Philippines and Thailand.
 - Customs 94/03, ADA 128 and 134 of 1994 – Measures imposed on exports from Singapore with country of origin China, Indonesia, Malaysia, the Philippines or Thailand. Negative finding for exports by PT Muliaglass from Indonesia.
 - Customs 93/08, ADA 109 of 1993 – Measures for Thailand extended to cover an additional exporter.
 - Customs preliminary finding 93/06, ADA 104 of 1993 – Negative findings on exports from Korea and Malaysia.
 - Customs preliminary finding 92/08, ADA 78 and 81 of 1992 – Measures imposed against all exporters from China and certain exporters from Belgium, Germany, Indonesia, the Philippines and Thailand. Negative finding for exports from France and Malaysia.

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3 THE GOODS AND LIKE GOODS

3.1 Preliminary findings

CFG manufactured by Viridian are like goods to the goods.

3.2 Introduction

If there is a person or there are persons who produce like goods¹³ in Australia, then there is an Australian industry in respect of those like goods¹⁴.

3.3 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

¹³ As defined by section 269T

¹⁴ Subsection 269T(4)

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- low iron.

3.3.1 Tariff classification

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.

3.3.2 Tariff Concession Orders

There are three Tariff Concession Orders (TCOs) linked to tariff classification 7005.29.00 as detailed below.

TCO	Description
TC 9209312	Float Glass, clear, iron content equal to or less than 0.02 per cent in sheets, non-wired, without an absorbent or reflecting layer, not being cast, rolled, drawn or blown glass.
TC 9322713	Glass, pyrolitically coated with transparent electrically conducting layer
TC 98533852	Glass, having a thickness of not less than 13.5mm

Glass subject to the TCOs above are not the goods as glass applicable to TC 9209312 is a low iron glass, TC 9322713 has a coating, and TC 98533852 has a nominal thickness of more than 12mm.

3.4 Like goods

Viridian is the sole manufacturer of CFG in Australia.

CFG manufactured at Viridian's Dandenong and Ingleburn plants closely resembles the goods exported to Australia from China, Indonesia and Thailand.

CFG sold in Australia (both Australian made and imported) is of international quality – sometimes referred to as western quality - which is characterised by the amount of distortions and imperfections in the glass. International quality CFG can also be separated into different grades. Some customers and end-users require a higher quality of glass beyond the 'normal' international quality, such as CFG for laminating.

3.4.1 Physical likeness

CFG produced by Viridian has a physical likeness to the goods exported to Australia from China, Indonesia and Thailand.

Viridian manufactures CFG in thicknesses of between 3mm to 12mm.

The quality of the goods can be described as 'international quality', which is the same quality as the CFG manufactured by Viridian.

3.4.2 Commercial likeness

CFG produced by Viridian has a commercial likeness to the goods exported to Australia from China, Indonesia and Thailand.

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Viridian competes directly with overseas manufacturers of the goods and its customers are able to easily switch suppliers of CFG.

The CFG market is highly price sensitive and CFG is a homogenous product.

3.4.3 Functional likeness

CFG produced by Viridian has a functional likeness to the goods exported to Australia from China, Indonesia and Thailand.

Both the CFG Viridian manufactures and the goods can be further processed to be laminated, double glazed, soft coated, or toughened, and can be used for the same end-uses, such as for windows or door panels.

3.4.4 Production likeness

CFG produced by Viridian has a production likeness to the goods exported to Australia from China, Indonesia and Thailand.

The manufacture of CFG uses a float process, which was first invented by Pilkington in 1952.

The float process of manufacturing CFG that Viridian uses is essentially the same as the production process of the goods exported from China, Indonesia and Thailand.

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4 AUSTRALIAN INDUSTRY

4.1 Preliminary findings

The like goods were wholly manufactured in Australia by Viridian and there is an Australian industry consisting of persons who produce like goods in Australia in the form of Viridian.

4.2 Introduction

For goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia¹⁵. In order for goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of those goods must be carried out in Australia¹⁶.

4.3 Manufacturing process

Viridian's manufacturing process of CFG is as follows:

- raw materials of CFG (sand, dolomite, limestone, salt cake, soda ash and carbon) are delivered to Viridian's facility, and are stored in silos for feeding into the production process;
- the raw materials are blended in specific proportions and mixed with 'cullet' (crushed glass made from scraps) into the raw material mixture (known as 'batches', which generally consist of 30% cullet and 70% of the combined other raw materials);
- the batch is then transported on a conveyer belt to the float line;
- the batch is fed into a furnace already containing molten glass, which is heated at 1,500°C;
- the batch melts and is incorporated into the molten glass;
- the molten glass mixture from the furnace then gradually flows onto a bath of molten tin, forming a continuous ribbon;
- the ribbon floats along the molten tin bath, and the temperature of the molten glass is reduced to 600°C where it begins to solidify;
- the glass ribbon is lifted off the tin onto rollers and gripped at the side edges by additional rollers;
- the rollers convey the glass along the production line, with the speed of the rollers controlled to create various desired thicknesses of glass;
- the glass is then released from the edge rollers and undertakes an annealing process where the ribbon is gradually cooled in a lehr to prevent stresses in the glass;

¹⁵ Subsection 269T(2)

¹⁶ Subsection 269T(3)

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- the glass is then inspected by a computerised system to detect faults before the edges (which are perforated from where the edge rollers gripped the glass) are cut off and the glass cut to the desired size;
- the finished glass is then automatically lifted off the line and stacked onto frames for packing and dispatch.

This constitutes at least one substantial process in the manufacture of CFG being carried out in Australia.

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5 AUSTRALIAN MARKET

5.1 Structure of the Australian industry

Viridian comprises two main business divisions, Viridian Upstream and Viridian Downstream.

Viridian Upstream manufactures CFG in Dandenong (VIC) and Ingleburn (NSW). Viridian Upstream also undertakes some further processing of glass. Viridian Upstream only sells glass in bulk, selling at least 20 tonnes in each transaction.

Viridian Downstream is the distribution arm of Viridian, which primarily uses CFG manufactured by Viridian Upstream for further processing.

CFG produced by Viridian Upstream is:

- sold to external customers that are unrelated parties;
- transferred to Viridian Downstream for further processing or for sale to unrelated parties without further processing; or
- transferred within Viridian Upstream for further processing.

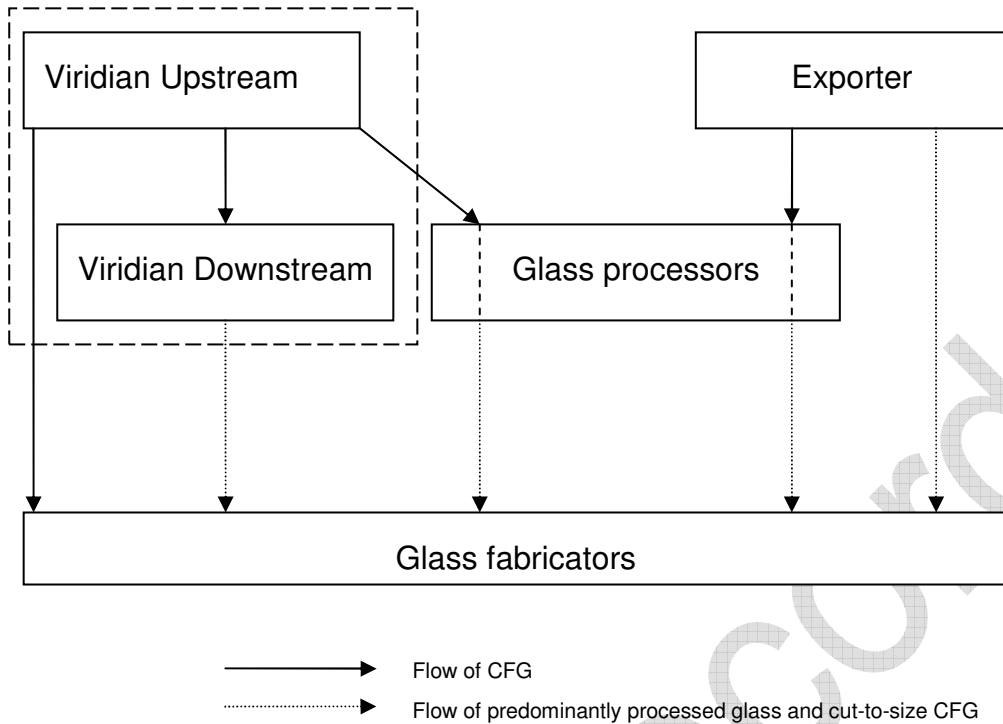
The treatment of external sales and internal transfers to Viridian Downstream for the purposes of an injury assessment is discussed in Section 7.3.2.

Internal transfers are regarded as transfers of CFG, as an intermediate product with a dedicated purpose of manufacturing further processed products, within Viridian Upstream's manufacturing plants. Data pertaining to these transfers is not considered a relevant measure of the economic performance of the Australian industry producing CFG.

5.2 Market structure

The following diagram illustrates the market structure of CFG in Australia.

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Viridian Upstream supplies CFG to Viridian Downstream, and to external customers, which are mostly glass processors. Glass processors can also be supplied by exporters of CFG. Therefore, Viridian Upstream faces direct competition with exporters in supplying CFG to glass processors.

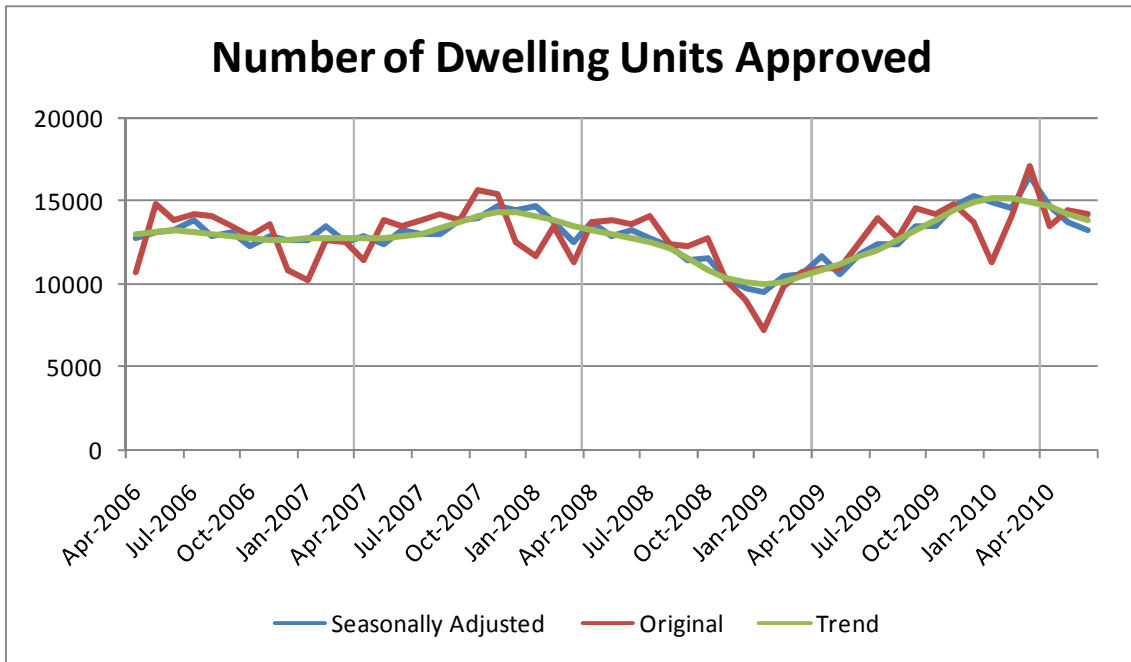
Some of Viridian Upstream's customers of CFG are also large glass fabricators. However, glass fabricators are generally supplied by Viridian Downstream and glass processors using either Australian manufactured CFG or imported CFG. Glass fabricators are also supplied CFG directly by exporters.

5.3 Market condition

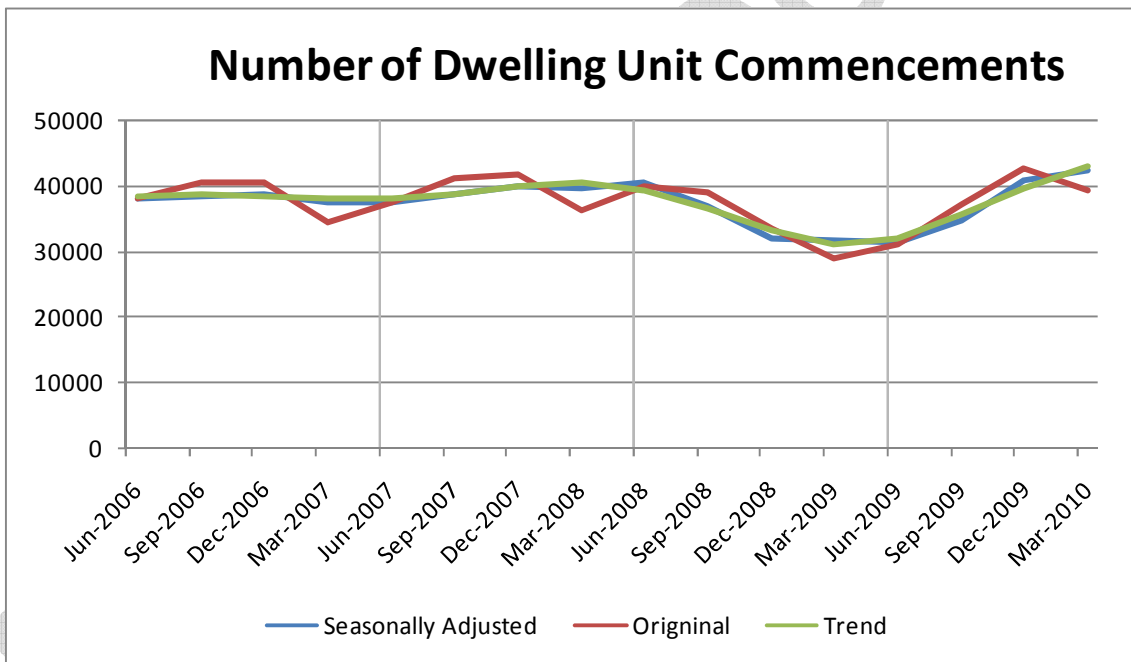
A key driver for demand for CFG is building construction. The following graphs show Australian Bureau of Statistics (ABS) data of building approvals – number of dwelling units approved; and building activity – number of dwelling unit commencements, which is also referred to as building starts in submissions received.

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Source: ABS Cat No. 8731.0 Building Approvals, Australia; Table 06 Number of Dwelling Units Approved, by Sector, all series – All Series – Australia; Number of Dwelling Units, Total building, Total (Sector of ownership).



Source: ABS Cat No. 8752.0 Building Activity, Australia; Table 33 Number of Dwelling Unit Commencements by Sector, Australia; Number of dwelling units Commenced during quarter; Total (Sector of Ownership); Total building; Total (Type of Work).

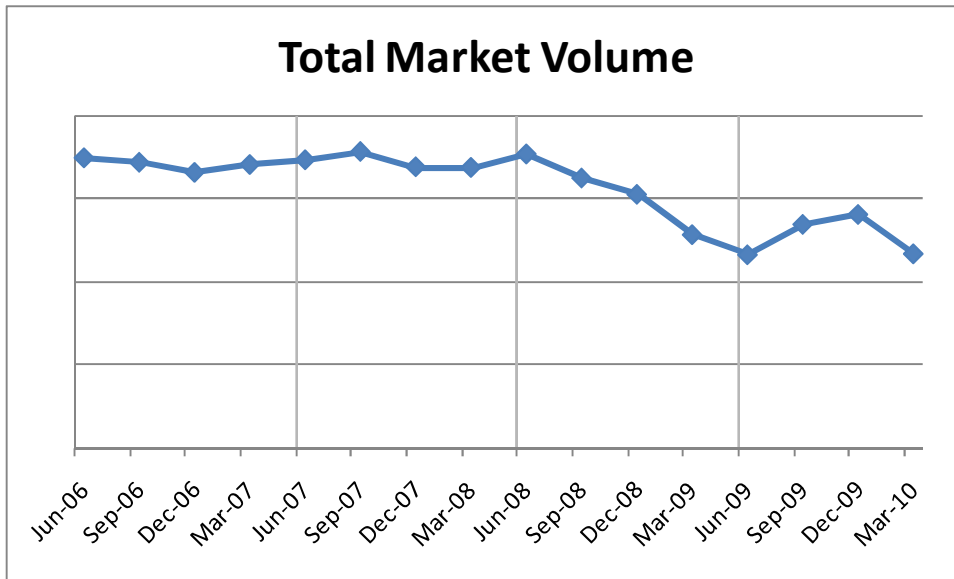
As shown on the graphs above, the market condition of the building industry during the first half of the injury analysis period was relatively stable. During 2008, building activity weakened before steadily recovering by the end of the 2009 and into early 2010.

5.4 Market size

The following graph shows the quarterly total market volume in square metres (metric tonnes is unavailable – see section 7.3.1 below) including the sum of the total imports from all countries and Australian industry sales (including internal transfers) of CFG.

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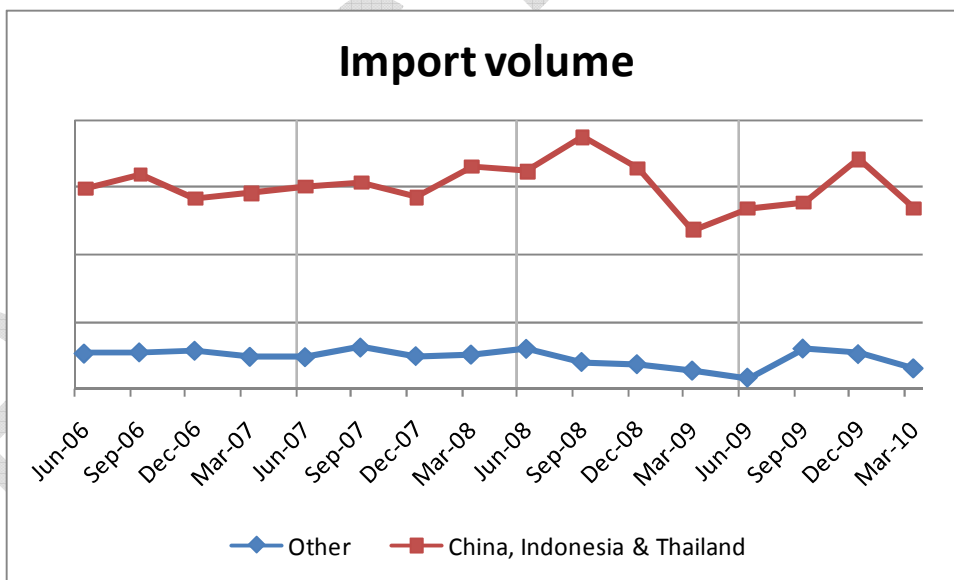
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The graph above shows that the total market volume of CFG in Australia followed similar trends to the market condition graphs shown in section 5.3 above. However, the year-ending-March 2009 has been affected by changes in Viridian’s operational arrangements (see section 7.4.1 below), distorting the market volume data.

5.5 Import volume

The following graph shows the quarterly import volume in square metres (metric tonnes is unavailable – see section 7.3.1 below) from China, Indonesia and Thailand, and all other countries over the injury analysis period. The data excludes imports by the Australian industry.



The graph above shows that imports of CFG from China, Indonesia and Thailand followed similar trends to the market condition graphs shown in section 5.3 above. However, it seems that there is a lagged response to the fall in building construction during 2008, contributing to the fall in imports in the March 2009 quarter. In the December 2009 quarter, import volumes picked up with increasing building construction, although it seems that this was a temporary spike.

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During the investigation period, imports of CFG from China, Indonesia and Thailand represented approximately 90% of all CFG imports into Australia.

5.6 Change in AS1288

On 16 January 2006, Standards Australia released AS1288-2006 (Australian Standard Glass in buildings – Selection and installation) to supersede AS1288-2004. The new standards, among others, resulted in the use of 3mm glass being limited to a maximum area of 0.85m². The building industry was given 12 months to comply with this change.

The change in AS1288 resulted in lower demand for 3mm CFG in the market as the construction industry moved away from 3mm CFG to other thicknesses or types of glass.

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6 DUMPING INVESTIGATION

6.1 Preliminary findings

In relation to CFG exported to Australia from China, Indonesia and Thailand during the investigation period, other than from Xinyi:

- the dumping margins are not negligible; and
- the volume of dumped goods is not negligible.

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 the dumping margin for an exporter is less than 2%, the delegate must terminate the investigation so far as it relates to that exporter¹⁷.

6.2 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The dumping margin¹⁸ is the difference between the export price¹⁹ and normal value²⁰.

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 the dumping margin is less than 2%²¹.

The investigation must be terminated so far as it relates to a particular country if the volume of dumped goods from that country is negligible²². The volume of dumped goods is negligible if this figure is less than 3% of the total Australian import volume²³.

6.3 Importers

Prior to the visit to exporters, a number of visits to importers of CFG were conducted seeking information relating to the importation of CFG during the investigation period. The public record contains visit reports in relation to the following importers:

- City Glass;
- JELD-WEN Glass Australia;
- Landson Alliance Australia;
- Modern Glass;
- National Glass; and
- Walshs Glass.

¹⁷ Subsection 269TDA(1)

¹⁸ Section 269TACB

¹⁹ Section 269TAB

²⁰ Section 269TAC

²¹ Subsection 269TDA(1)

²² Subsection 269TDA(3)

²³ Subsection 269TDA(4).

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6.4 Chinese Exporters

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.

Completed exporter questionnaires were received from Xinyi, Guangzhou CSG Glass Co., Ltd (CSG), and Landson Alliance (Qingdao) Co. Ltd (Landson Qingdao). A verification visit was conducted at Xinyi and a desk audit was conducted for CSG. Landson Qingdao decided to limit its involvement in the investigation and its exporter questionnaire was not verified.

Non-confidential versions of the completed exporter questionnaire responses and Xinyi's verification visit report are available on the public record. CSG's desk audit report will be available on the public record shortly.

6.4.1 Xinyi Ultrathin

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.

However, 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.

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.

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The normal value incorporated adjustments²⁴ 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.

It is common practice for SG&A expenses to be allocated based on revenue, rather than volume. The approach to allocation of SG&A expenses in the case of Xinyi is consistent with the approaches reflected in other exporter reports in this investigation.

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 not exported at dumped prices, with a dumping margin of -2.8%.

6.4.2 China Southern Glass

Export Price

CSG manufactured and exported CFG to Australia during the investigation period. The goods were imported by China Southern Glass Australia Pty Ltd.

It was found that:

- the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer 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.

Normal Value

CSG 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 CSG and its domestic customers.

The normal value incorporated adjustments²⁵ for inland transport, handling costs, packaging and quality to ensure it was fairly comparable to export prices.

Dumping Margin

²⁴ Subsection 269TAC(8)

²⁵ Subsection 269TAC(8)

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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 CSG from China to Australia during the investigation period was exported at dumped prices, with a dumping margin of 24.0%.

6.4.3 Other exporters

The volume of CFG exported to Australia from Chinese exporters that did not cooperate in this investigation represents approximately 90% of the total volume of CFG exported to Australia from China during the investigation period.

Export Price

Sufficient information has not been furnished or is unavailable to enable the export price of CFG exported from China by other exporters to be ascertained under subsection 269TAB(1). Therefore, the export price for other exporters from China has been determined under subsection 269TAB(3), having regard to all relevant information.

The export price for other exporters of CFG from China has been calculated by reference to the lowest verified weighted average export price of the goods exported to Australia from China over the investigation period.

Normal Value

Sufficient information has not been furnished or is unavailable to enable the normal value of CFG exported from China by other exporters to be established under subsections 269TAC(1) or 269TAC(2). Therefore, the normal values for other exporters from China have been determined under subsection 269TAC(6), having regard to all relevant information.

The normal value for CFG for other exporters from China has been calculated by reference to the highest verified weighted average normal value in China over the investigation period for like goods without any favourable adjustments. It is appropriate to not make any favourable adjustments to this selling price because there is no basis for presuming any favourable adjustments apply to other exporters.

Dumping Margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The product dumping margin indicates that CFG exported by other exporters from China to Australia during the investigation period was exported at dumped prices, with a dumping margin of 37.2%.

6.5 Indonesian Exporters

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

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Completed exporter questionnaires were received from PT Asahimas Flat Glass Tbk (PT Asahimas) and PT Muliaglass. Verification visits were conducted at PT Asahimas and PT Muliaglass. Non-confidential versions of the completed exporter questionnaire responses and verification visit reports are available on the public record.

6.5.1 Pt Asahimas Flat Glass Tbk

Export Price

PT Asahimas manufactured and exported CFG to Australia during the investigation period. The goods were imported by a number of Australian importers through AGC Flat Glass Asia Pacific Pte Ltd (AGC Asia Pacific).

It was found that:

- the goods have been exported to Australia otherwise than by the importers; and
- the purchases of the goods by the importers were arms length transactions.

However, the goods have not been purchased by the importer from the exporter.

Therefore, the export prices have been established under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation, being the price paid or payable by the importer to AGC Asia Pacific less, as appropriate, expenses that represent a charge for any matter arising after exportation.

Normal Value

PT Asahimas sold like goods on the domestic market during the investigation period through a related company, PT Rodamas Co. Ltd (Rodamas). There was a sufficient volume of goods sold by Rodamas 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 Rodamas and its customers, except for 4mm CFG in the June 2009 quarter where normal value was constructed under section 269TAC(2)(c) using the sum of its cost of production and an amount for the SG&A and profit.

The normal value incorporated adjustments²⁶ for domestic selling expenses, inland transport, fumigation and credit terms to ensure it was fairly comparable to export prices.

Viridian submitted that the adjustment for domestic selling expense should not include expenses that are, according to the Dumping and Subsidy Manual, "general sales and administration expenses that relate more to the general cost of doing business and are spread across all sales of the company."

PT Asahimas submitted that the adjustment made for domestic selling expenses was for expenses specific to domestic sales of the goods.

Applying an adjustment for the difference between the domestic and export marketing expenses is a reasonable adjustment. PT Asahimas' records and allocation methodology for quantification of such expenses separately for domestic and export sales were a reasonable basis for calculating any unit cost differences. Therefore, the expenses have not been considered a general cost of doing business.

²⁶ Subsection 269TAC(8)

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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 PT Asahimas from Indonesia to Australia during the investigation period was exported at dumped prices, with a dumping margin of 3.3%.

6.5.2 PT Muliaglass

Export Price

PT Muliaglass 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.

Normal Value

PT Muliaglass sold like goods on the domestic market during the investigation period. There was a 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 PT Muliaglass and its domestic customers.

The normal value incorporated adjustments²⁷ for credit terms, packaging, inland freight, FOB charges, commission and Muliaglass Australia Representative Office expenses to ensure it was fairly comparable to export prices.

Viridian questioned whether a warehousing cost adjustment is related to the price and asserted that it should not be allowed as it is a general cost of doing business. It also questioned PT Muliaglass' claim that exports of CFG are manufactured 'just-in time', and a reduced production capacity of CFG during the investigation period suggests that the stocking of CFG for domestic and export sales are similar.

While warehousing costs are not necessarily regarded as a general cost of doing business, a review of the evidence indicates that the PT Muliaglass adjustment claim for warehousing costs is based only on the warehousing cost for domestic sales. In isolation, this is not a reasonable basis for such an adjustment. It is reasonable to expect that if domestic and export prices were affected by differences in warehousing costs, then the measure of such a price effect could be based on the cost *difference*, not simply an amount for domestic sales warehousing costs. Although PT Muliaglass

²⁷ Subsection 269TAC(8)

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arranges export sales on a just-in-time basis, it is not likely that the export warehousing costs would be zero.

The normal values and dumping margins have been revised accordingly.

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 PT Muliaglass from Indonesia to Australia during the investigation period was exported at dumped prices, with a dumping margin of 8.1%.

6.5.3 Other exporters

The volume of CFG exported to Australia from Indonesian exporters that did not cooperate in this investigation represents less than 5% of the total volume of CFG exported to Australia from Indonesia during the investigation period.

Export Price

Sufficient information has not been furnished or is unavailable to enable the export price of CFG exported from Indonesia by other exporters to be ascertained under subsection 269TAB(1). Therefore, the export price for other exporters from Indonesia has been determined under subsection 269TAB(3), having regard to all relevant information.

The export price for other exporters of CFG from Indonesia has been calculated by reference to the lowest verified weighted average export price of the goods exported to Australia from Indonesia over the investigation period.

Normal Value

Sufficient information has not been furnished or is unavailable to enable the normal value of CFG exported from Indonesia by other exporters to be established under subsections 269TAC(1) or 269TAC(2). Therefore, the normal values for other exporters from Indonesia have been determined under subsection 269TAC(6), having regard to all relevant information.

The normal value for CFG for other exporters from Indonesia has been calculated by reference to the highest verified weighted average normal value in Indonesia over the investigation period for like goods without any favourable adjustments. It is appropriate to not make any favourable adjustments to this selling price because there is no basis for presuming any favourable adjustments apply to other exporters.

Dumping Margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The product dumping margin indicates that CFG exported by other exporters from Indonesia to Australia during the investigation period was exported at dumped prices, with a dumping margin of 30.3%.

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6.6 Thai Exporters

Exporter questionnaires were sent to all suppliers of CFG from Thailand 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 was received from Guardian Industries Corp. Ltd (Guardian). A verification visit was conducted at Guardian. The non-confidential versions of the completed exporter questionnaire response and verification visit report are available on the public record.

6.6.1 Guardian Industries Corp. Ltd

Export Price

Guardian 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 purchase 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.

Normal Value

Guardian 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, normal values have been established under subsection 269TAC(1) using sales between Guardian and its domestic customers.

The normal value incorporated adjustments²⁸ for credit terms, packaging, inland freight, marketing expenses, export expenses, export commission and export tax credits to ensure it was fairly comparable to export prices.

Viridian agreed with the upwards export commission adjustment to the normal value but submits that the difference between the domestic and export marketing expenses should not be adjusted, or be limited to direct costs of salesmen's salaries which are comparable to export sales commissions.

Applying an adjustment for the difference between the domestic and export marketing expenses is a reasonable adjustment. Guardian's records enabled identification and quantification of such expenses readily, and separately for domestic and export sales. This provided a reasonable basis for calculating any unit cost differences. Given the manner of recording such costs directly in connection with export and domestic sales marketing activities, the expenses were not considered a general cost of doing business.

²⁸ Subsection 269TAC(8)

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In addition, Viridian disagreed that the warehousing cost is a reasonable adjustment, for the same reasons that an adjustment was not made to Guardian's claim for an inventory carrying cost adjustment.

The documents provided by Guardian to support the warehousing adjustment have been reviewed. It is evident that the difference between domestic and warehousing expenses per unit is a function of the allocation methodology. Upon review, the allocation methodology has been regarded as an unreliable measure of any price difference arising from differences in warehousing costs. It is not determined with reference to direct expensing of warehousing costs between export and domestic goods. As such, the warehousing costs are regarded as relating more to the general cost of doing business and are not a reasonable basis for adjusting the normal values.

The normal values and dumping margins have been revised accordingly.

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 Guardian from Thailand to Australia during the investigation period was exported at dumped prices, with a dumping margin of 3.8%.

6.6.2 Other Exporters

The volume of CFG exported to Australia from Thai exporters that did not cooperate in this investigation represents a small (confidential) proportion of the total volume of CFG exported to Australia from Thailand during the investigation period.

Export Price

Sufficient information has not been furnished or is unavailable to enable the export price of CFG exported from Thailand by other exporters to be ascertained under subsection 269TAB(1). Therefore, the export prices for other exporters from Thailand have been determined under subsection 269TAB(3), having regard to all relevant information.

The export price for other exporters of CFG from Thailand has been calculated by reference to the lowest verified weighted average export price of the goods exported to Australia from Thailand over the investigation period.

Normal Value

Sufficient information has not been furnished or is unavailable to enable the normal value of CFG exported from Thailand by other exporters to be established under subsections 269TAC(1) or 269TAC(2). Therefore, the normal values for other exporters from Thailand have been determined under subsection 269TAC(6), having regard to all relevant information.

The normal value for CFG for other exporters from Thailand has been calculated by reference to the highest verified weighted average normal value in Thailand over the investigation period for like goods without any favourable adjustments. It is appropriate to not make any favourable adjustments to this selling price because there is no basis for presuming any favourable adjustments apply to other exporters.

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Dumping Margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The product dumping margin indicates that CFG exported by other exporters from Thailand to Australia during the investigation period was exported at dumped prices, with a dumping margin of 11.8%.

6.7 Summary

In summary, the dumping margins for exports of CFG from China, Indonesia and Thailand are as follows:

Chinese exporters	Dumping Margin
Xinyi	-2.8%
CSG	24.0%
Other Chinese exporters	37.2%

The volume of CFG exported to Australia from China at dumped prices during the investigation period was greater than 3% of the total Australian CFG import volume.

Indonesian exporters	Dumping Margin
PT Asahimas	3.3%
PT Muliaglass	8.1%
Other Indonesian exporters	30.3%

The volume of CFG exported to Australia from Indonesia at dumped prices during the investigation period was greater than 3% of the total Australian CFG import volume.

Thai exporters	Dumping Margin
Guardian	3.8%
Other Thai exporters	11.8%

The volume of CFG exported to Australia from Thailand at dumped prices during the investigation period was greater than 3% of the total Australian CFG import volume.

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7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Preliminary findings

The Australian industry has suffered injury in the form of:

- lost sales volume;
- lost market share;
- price suppression;
- lost profit and profitability;
- reduced return on investment; and
- reduced sales revenue.

However, in relation to its injury in the form of lost sales volume and lost market share, this injury was primarily related to its internal transfers to Viridian Downstream, which in turn can be explained by changes in operational arrangements within Viridian.

7.2 Introduction

The period from 1 April 2006 has been used for the purposes of determining whether material injury has been caused to the Australian industry²⁹.

7.3 General approach to injury analysis

7.3.1 Metric tonnes versus square metres

Numerous submissions have been received from interested parties regarding whether it is more appropriate to use metric tonnes or square metres to analyse injury.

When analysing individual thicknesses of CFG, either in terms of volume or price, the use of metric tonnes or square metres gives identical results.

In analysing volume data across thicknesses, both metric tonnes and square metres have been used where possible. However, the ability to use either measure is limited to the availability of data. The Customs and Border Protection import database only requires import shipments of CFG to be declared in square metres.

Statistical codes do allow some separation of thicknesses as described in the table below.

Statistical Code	Thickness
2	3mm
3	4mm
4	5mm & 6mm
5	8mm & 10mm
6	12mm+

When analysing import volume and market share, conversion from square metres to metric tonnes can easily be undertaken for 3mm and 4mm CFG. However, for the other thicknesses, the thickness of the CFG in each statistical code cannot be easily

²⁹ Section 269(T)(2AD)

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determined where the thickness has not been included in the product description. Therefore, in terms of the market share analysis in section 7.4.2 below, metric tonne data was unavailable so the analysis has relied on square metres.

In analysing prices across thicknesses, only values per metric tonne are used. Calculating a weighted average price per square metre across all thicknesses is not meaningful.

7.3.2 Internal transfers versus external sales

Numerous submissions have been received from interested parties regarding the appropriateness of using Viridian's internal transfers in determining whether injury has been suffered by Viridian.

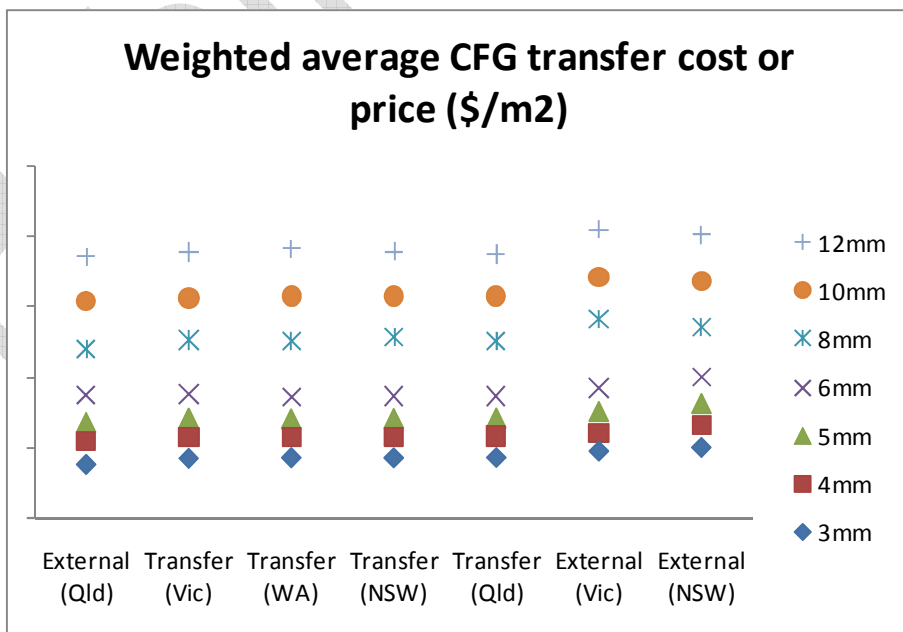
Section 269TAE identifies the matters that the Minister may have regard to in determining whether dumping has caused material injury to the Australian industry. Specific references to 'sales' and goods being 'sold' in this section are references to 'sales' in the legal sense and would therefore exclude references to internal transfers. This interpretation similarly applies to 'prices'.

However, section 269TAE provides a non-exhaustive list of matters the Minister may have regard to in assessing material injury. This provision does not preclude Customs and Border Protection or the Minister having regard to internal transfers in a comprehensive and practical assessment of material injury.

Values of internal transfers

To assess the reasonableness of the values of Viridian Upstream's internal transfers, these internal transfers were compared to its external sales to customers of a similar size taking into account geographic location. This analysis found that the unit values of internal transfers by Viridian Upstream to Viridian Downstream were comparable to similar-sized external customers by volume (taking into account their location).

This information for Viridian Upstream's top 7 customers (by volume) is summarised in the chart below.



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As is evident from the chart above, weighted average unit values for internal transfers to certain Viridian Downstream locations were not dissimilar to the weighted average unit values for prices in sales to certain external customers.

JELD-WEN submitted that “the method which Viridian has chosen to select its internal transfer value is flawed” because it understands that the market price used by Viridian to determine the internal transfer value is based on Viridian’s largest external purchaser of CFG with which Viridian has a strategic partnership.

Viridian’s methodologies for determining the selling price to its external customers and its transfer value to Viridian Downstream are commercially sensitive and confidential. However, it is reasonable to expect that the transfer value to Viridian Downstream, if it were to be reasonably reflective of selling prices to unrelated entities, would be similar to prices offered to its largest external customers, even if it has a strategic partnership with such entities. There is no evidence of profit shifting or cost distortion arising from Viridian Upstream transfers to Viridian Downstream.

Treatment of the internal transfers for injury assessment

As the transfers of CFG from Viridian Upstream to Viridian Downstream are reasonably representative of market prices, the data related to internal transfers, including values and volumes, are reliable for the purposes of injury assessment to Viridian Upstream.

The data collected during the investigation allows for Viridian’s performance indicators to be separated between its external sales and internal transfers. Therefore, the performance of Viridian Upstream’s external sales and internal transfers have also been analysed separately to gain a better understanding of the injury suffered by Viridian Upstream.

7.3.3 Acquisition of Don Mathieson & Staff Glass Pty Ltd

Viridian acquired Don Mathieson & Staff Glass Pty Ltd (DMS) during the Dec 2007 quarter. Therefore, sales of CFG to DMS were recorded as sales to an external customer prior to the acquisition, then after the acquisition, were treated as internal transfers.

The period affected by the acquisition, and the shift in the volume of CFG external sales to internal transfers due to this acquisition, is represented by the dotted lines in the graphs in section 7.4 below.

7.3.4 Period unaffected by dumping

The 2007 continuation inquiry into CFG exported from China (Trade Measures Report No. 124) found that CFG was not exported to Australia from China at dumped prices between January 2006 and June 2007.

In addition, the 2006 continuation inquiry into CFG exported from Indonesia by PT Muliaglass (Trade Measures Report No. 106) did not find that the expiration of measures would lead, or would be likely to lead, to a continuation of, or recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

Therefore the injury analysis that follows will consider Viridian’s performance in the investigation period in comparison to the year-ending-March 2007, being a year where the Australian Market was unaffected by dumping, as well as taking account of that

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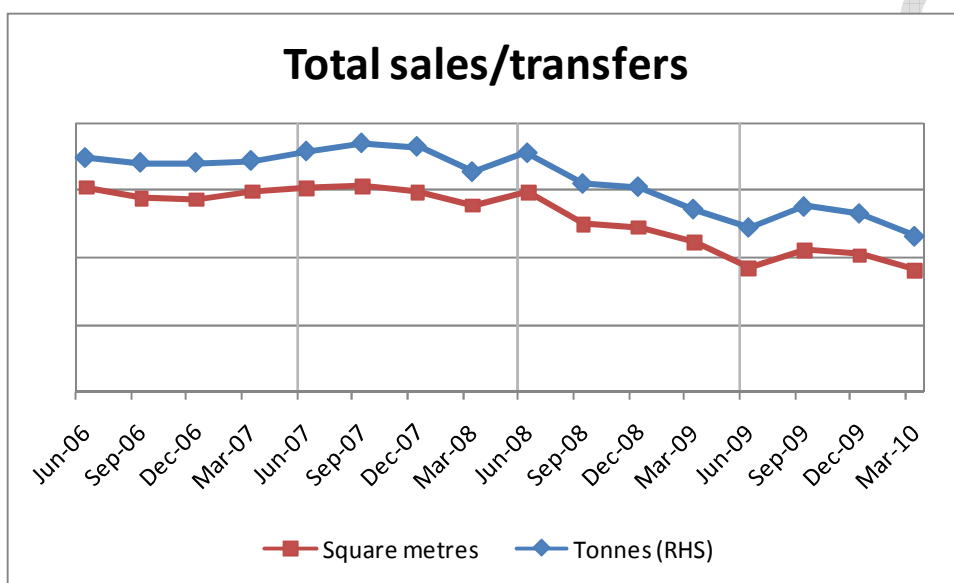
performance in the context of the trends and events over the entire injury analysis period.

7.4 Volume effects

7.4.1 Lost sales volume

Total external sales and internal transfers

The following graph shows the sum of Viridian's quarterly external sales and internal transfer volumes (including imports), in both square metres and metric tonnes, of CFG over the injury analysis period. Note that the square metre and metric tonne values are on separate axes.



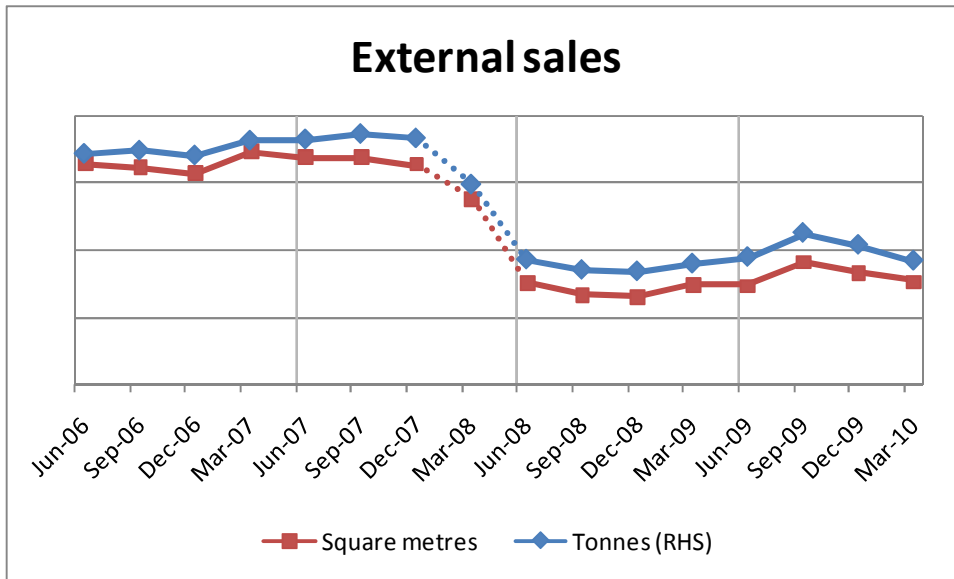
The graph shows that Viridian Upstream's total sales and transfer volumes peaked in the September 2007 quarter then trended downwards to the March 2010 quarter, the lowest sales volume in the injury analysis period.

External sales

The following graph shows the quarterly sales volume, in both square metres and metric tonnes, of CFG from Viridian Upstream to its external customers over the injury analysis period. Note that the square metre and metric tonne values are on separate axes.

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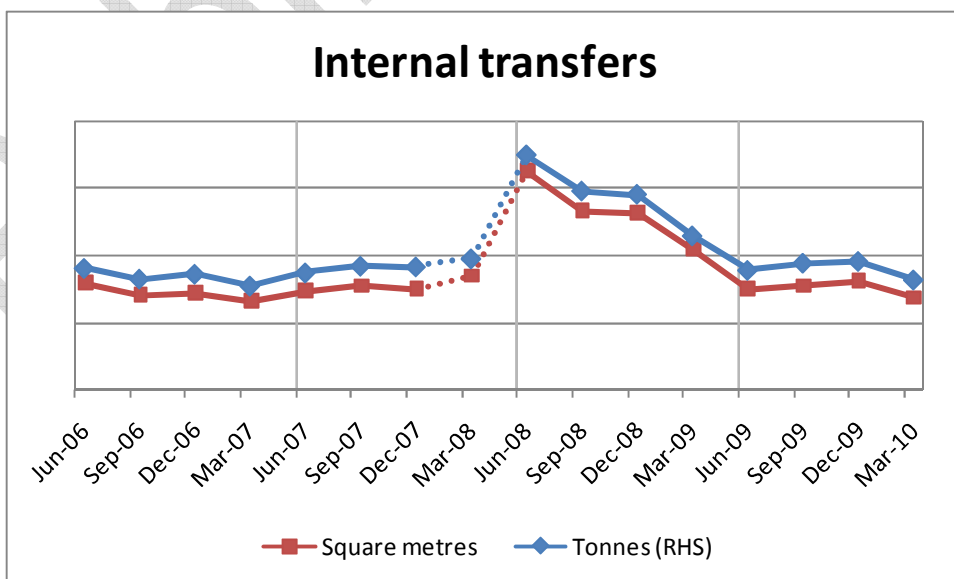


The graph above shows that external sales of CFG were reasonably stable from the June 2006 quarter to the December 2007 quarter. External sales then decreased during the period of the DMS acquisition. For the remainder of the injury analysis period, external sales were relatively stable at the lower level. This coincided with a contracting market (see section 5.3 above).

Viridian claimed that sales volumes to certain external customers were lost or reduced over the injury analysis period. However, the graph indicates that once the acquisition of DMS was taken into account, and despite the loss of sales to specific customers, the quarterly average sales volume was reasonably stable during the injury analysis period.

Internal transfers

The following graph shows the quarterly transfer volume, in both square metres and metric tonnes, of CFG from Viridian Upstream to Viridian Downstream over the injury analysis period. Note that the square metre and metric tonne values are on separate axes.



The graph above shows that internal transfers of CFG were reasonably stable from the June 2006 quarter until the DMS acquisition, at which time there was a significant

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increase in internal transfers. However, after peaking in the June 2008 quarter, internal transfers declined for four successive quarters. In the June 2009 quarter, internal transfer volumes returned to similar levels to that observed prior to the DMS acquisition, and this remained reasonably stable until March 2010.

The decline in internal transfer volume from June 2008 to June 2009 is explained by the progressive transfer of laminating activities from a Viridian Downstream plant (formerly the DMS operations) to Viridian Upstream at Clayton. This had the effect of progressively transferring volume out of internal transfers into volume of CFG transferred between Viridian Upstream plants. The latter information category is not captured in the injury analysis.

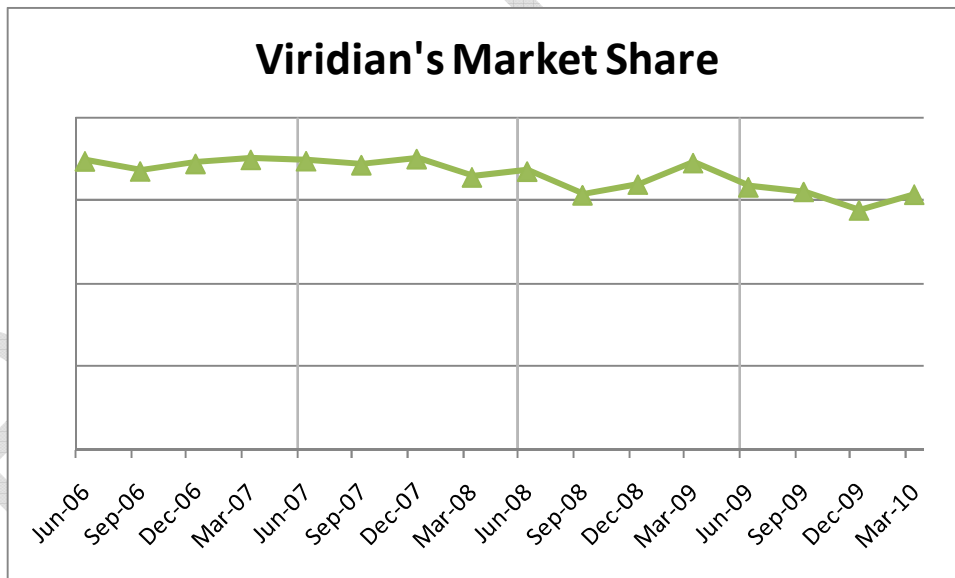
Therefore, the overall loss of total sales and internal transfers experienced by Viridian was predominantly due to the decrease in its internal transfers, which in turn can be explained by changes in operational arrangements within Viridian.

Summary – Lost sales volume

Viridian has experienced injury in the form of a loss in total sales and internal transfer volume. It also lost sales to specific customers but did not experience injury in the form of lost sales volume to its overall external sales volume. Viridian's lost volume was primarily related to its internal transfers to Viridian Downstream, which in turn can be explained by changes in operational arrangements within Viridian.

7.4.2 Lost market share

The following graph shows Viridian's quarterly market share (including its imports) in square metres (metric tonne is unavailable) over the injury analysis period. The chart is in relation to the total of external sales and internal transfers.



The graph shows that Viridian's overall market share was relatively stable over the first half of the injury analysis period. In the second half of the injury analysis period, Viridian's overall market share observed a slightly declining trend. The cause of this declining trend was predominantly due to internal transfers as Viridian's market share of external sales increased.

Summary – Lost market share

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Viridian has experienced injury in the form of lost market share in relation to the total of its external sales and internal transfers. However, Viridian has not experienced lost market share as far as it relates to its sales to its external customers. Viridian's lost market share was related to its internal transfers to Viridian Downstream.

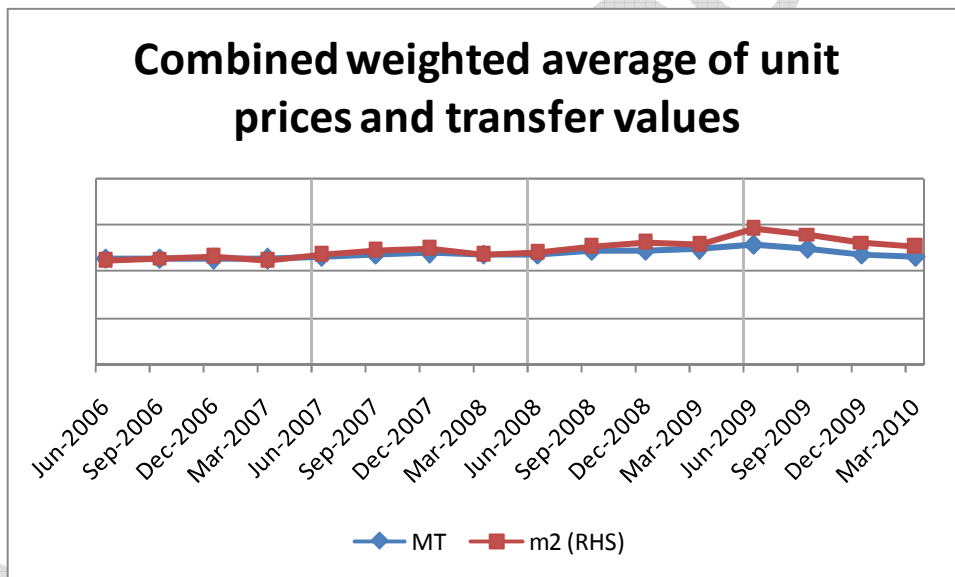
7.5 Price effects

Price effects may be in the form of:

- price depression, which occurs when a company, for some reason, lowers its prices; and/or
- price suppression, which occurs when price increases for the applicant's product, which otherwise would have occurred, have been prevented.

7.5.1 Unit prices using metric versus square metres

The following graph shows the combined quarterly weighted average unit prices and internal transfer values, in both square metres and metric tonnes, from Viridian Upstream to its external customers and internal transfers to Viridian Downstream over the injury analysis period. Note that the square metre and metric tonne values are on separate axes.



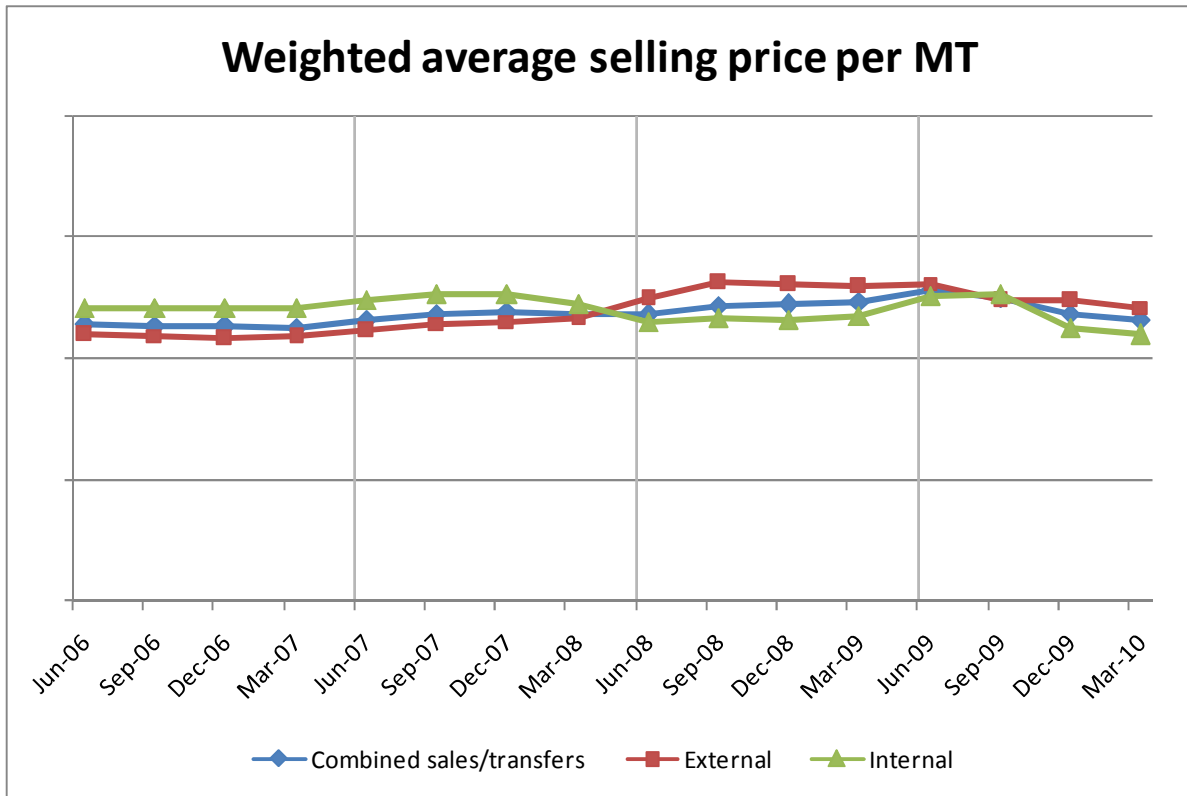
The graph above shows that the weighted average unit prices and internal transfer values in metric tonnes and square metres followed similar trends during the first half of the injury analysis period, then diverged slightly during the second half of the injury analysis period. This divergence is likely due to changes in operational arrangements within Viridian, shifting the average product mix thickness upwards. Nonetheless, it is appropriate to use either measure as they both observe similar trends.

7.5.2 Price depression

The following graph shows Viridian's quarterly weighted average unit prices of its external sales, weighted average internal transfer values, and weighted average total combined sales prices and internal transfer values.

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The graph shows that Viridian’s weighted average unit price for its external sales and combined sales price and transfer value trended slightly upwards in the injury analysis period. However, the unit prices and internal transfer values trended downwards within the investigation period. Weighted average unit prices for external sales in the investigation period were higher than in the year-ending-March 2007 while weighted average internal transfer values in the investigation period were lower than in the year-ending-March 2007.

Viridian claimed that the selling prices to certain external customers had decreased over the injury analysis period. However, the graph indicates that the quarterly weighted average sales price was reasonably stable during the injury analysis period.

Summary – Price depression

Viridian has not experienced injury in the form of price depression during the injury analysis period, whether measured for external sales prices, internal transfer values, or a combination of external sales and internal transfers.

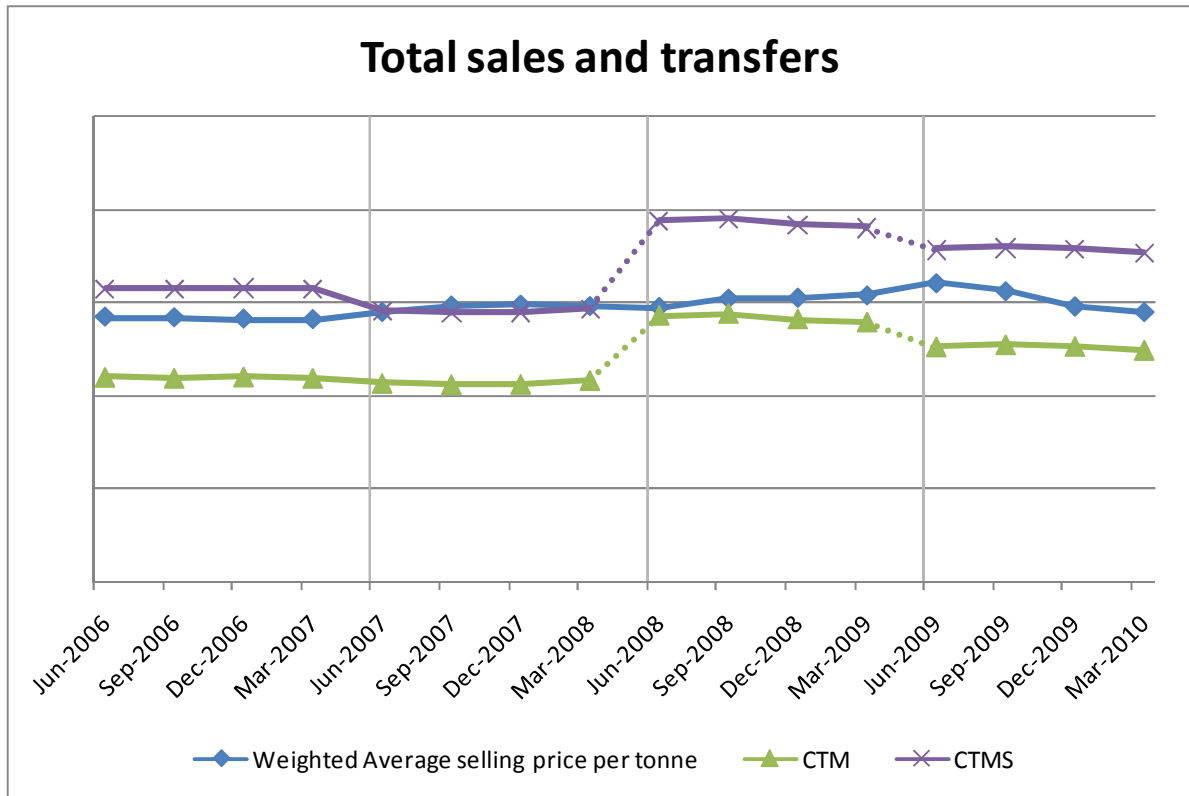
7.5.3 Price suppression

The following graph shows Viridian Upstream’s combined quarterly weighted average unit price per metric tonne, cost to make (CTM) per metric tonne; and cost to make and sell (CTMS) per metric tonne over the injury analysis period.

Viridian’s costs for the year-ending-March 2009 were affected by its Dandenong plant refurbishment (see the Australian industry visit report for details), which has been separated by the dotted lines.

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The graph above shows that Viridian’s costs increased during the latter half of the injury analysis period however, prices did not increase by the same rate, indicating price suppression.

The increase in costs occurred primarily during the Dandenong plant refurbishment. Nonetheless, in comparing its fully absorbed CTMS with its prices throughout the injury analysis period, the graph shows that Viridian’s prices have not been able to fully recover its costs except for the period year-ending-March 2008.

External sales and internal transfers analysed separately

Analyses of the weighted average unit price or internal transfer value, CTM and CTMS separately for external sales and internal transfers were also conducted for the injury analysis period.

The analyses show a similar result to Viridian’s total combined price suppression graph above. When comparing its fully absorbed CTMS with its external selling prices and internal transfer values throughout the injury analysis period, the analysis indicates that costs increased during the latter half of the injury analysis period however, prices and internal transfer values did not increase by the same rate. Viridian’s external prices and internal transfer values have generally not been able to fully recover its costs except for the period year-ending-March 2008 for internal transfers.

Summary – Price suppression

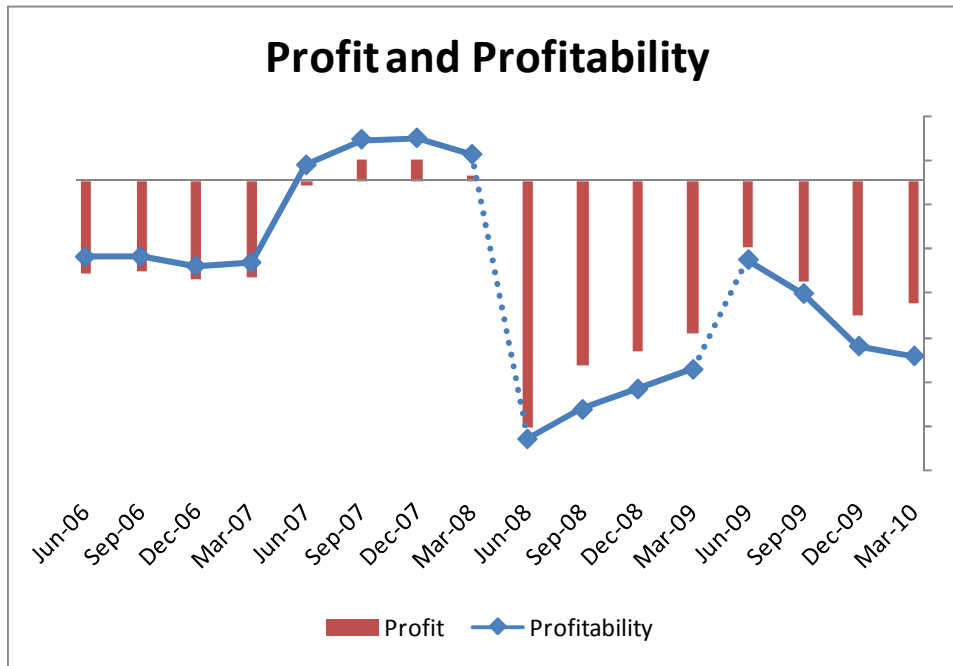
Viridian has experienced injury in the form of price suppression in relation to both its sales to its external customers and its internal transfers to Viridian Downstream.

7.6 Profit effects

The following graph shows Viridian Upstream’s profit and profitability for its combined external sales and internal transfers during the injury analysis period.

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The graph above shows that Viridian Upstream incurred losses in the year-ending-March 2007, which improved to profitable results during the following year. In the year-ending-March 2009, which included the Dandenong plant refurbishment, Viridian experienced its largest losses for the injury analysis period. Viridian's losses continued in the investigation period and, although at an improved level when compared with the previous year, the losses remained at levels similar to that of the year-ending-March 2007.

7.6.1 Lost profit – external sales and internal transfers

Analyses of the quarterly profit of Viridian's CFG external sales and internal transfers were conducted separately over the injury analysis period.

The analyses show that its position in relation to both Viridian Upstream's internal transfers and external sales improved from a losses to a profit making situation during the first half of the injury analysis period. It then deteriorated sharply in the June 2008 quarter before recovering, although still making a loss throughout the investigation period.

Summary – Lost profit

Viridian has experienced injury in the form of lost profits in relation to both its external sales and internal transfers.

7.6.2 Lost profitability – external sales and internal transfers

Analyses of the quarterly profitability of Viridian's CFG external sales and internal transfers were conducted over the injury analysis period.

The analyses show that Viridian Upstream's profitability for both internal transfers and external sales improved during the first half of the injury analysis period, then fell sharply in the June 2008 quarter before recovering, although still resulting in a negative return.

Summary – Lost profitability

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Viridian has experienced injury in the form of lost profitability in relation to both its external sales and internal transfers.

7.7 Summary of volume, price and profit injury indicators

The Australian industry has suffered injury in the form of lost sales volume, lost market share, price suppression and lost profits and profitability.

The injury in the form of lost sales volume and lost market share was related to Viridian Upstream's internal transfers to Viridian Downstream.

7.8 Other economic factors

Viridian has claimed injury in the form of reduced return on investment.

Reduced return on investment

Viridian Upstream's return on investment increased in year-ending-March 2008, then fell in year-ending-March 2009 to a level below that of year-ending-March 2007. It then increased in year-ending-March 2010 to a level above that of year-ending-March 2007 but below year-ending-March 2008.

Assets

The value of assets used in the production of CFG by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2009 then fell in year-ending-March 2010 but was still above year-ending-March 2007 and year-ending-March 2008.

Capital investment

Capital investment for the production of CFG by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2009 then decreased in year-ending-March 2010 to a level below year-ending-March 2007.

Research and Development (R & D)

The expenditure on R & D for CFG by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2009.

Sales revenue

Sales revenue from CFG for Viridian Upstream decreased between year-ending-March 2007 and year-ending-March 2010.

Capacity

The production capacity of CFG by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2008, then decreased in year-ending-March 2009 and year-ending-March 2010.

Capacity utilisation

The capacity utilisation of CFG by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2008, then decreased in year-ending-March 2009 before increasing again in year-ending-March 2010.

Employment

The number of workers associated with the production of CFG employed by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2010.

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Productivity

The productivity of Viridian Upstream decreased between year-ending-March 2007 and year-ending-March 2008, then increased in year-ending-March 2009 and year-ending-March 2010.

Stocks

The amount of CFG stock held by Viridian Upstream increased between year-ending-March 2007 and year-ending-March 2008, then decreased in year-ending-March 2009 before increasing again in year-ending-March 2010.

Summary of other economic factors

The Australian industry has suffered injury in the form of reduced return on investment and reduced sales revenue.

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8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Preliminary findings

CFG exported to Australia from China, Indonesia and Thailand at dumped prices has caused material injury to the Australian industry producing like goods.

8.2 Introduction

A dumping duty notice may be published where:

- the amount of the export price of the goods is less than the amount of the normal value of those goods; and
- because of that, material injury to the 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 hindered³⁰.

In making a determination whether material injury to an Australian industry has been caused by the dumped imports, any injury caused by a factor other than the exportation of the goods must not be attributed to the exportation of those goods³¹.

The investigation must be terminated so far as it relates to that country where injury, if any, to an Australian industry that has been caused by that dumping is negligible³².

8.3 Cumulation of injury

In determining the effect of the exportation of the goods to Australia from different countries of export, the cumulative effect of those exportations can be considered if it is appropriate to consider the cumulative effect of those exportations, having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced³³.

The conditions of competition between imported and domestically produced CFG are similar. The domestically produced CFG can be directly substituted with the exported CFG.

Some importers of CFG have imported from at least two of the countries subject to the investigation. This indicates that the products are used by the same or similar customers.

The goods are alike, have similar specifications and end-uses, and compete in the same markets. The conditions of competition are such that it is appropriate to consider the cumulative effect of the dumped imports from China, Indonesia and Thailand.

Guardian submitted that its product offering has a number of differentiating features compared to the exporters from China and Indonesia. These differentiating features,

³⁰ Section 269TG

³¹ Section 269TAE(2A)

³² Section 269TAE(13)

³³ Section 269TAE(2C)

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Guardian argues, are quality, characteristics, product range, packaging, and customer service.

Three of the six importers visited purchased CFG from Guardian and another supplier of CFG from China and/or Indonesia for the same purposes. Some of them also purchased CFG from Viridian. In addition, a search of the Customs and Border Protection import database indicates that many of Guardian's Australian customers also source CFG from other exporters in China and/or Indonesia. It is clear that Guardian's CFG competes directly with locally manufactured CFG and CFG imports from China and Indonesia. Therefore, it is appropriate to consider the cumulative effect of CFG exports by Guardian.

8.4 Dumping

It was established that exporters from China have exported CFG to Australia at dumped prices during the investigation period. The dumping margins calculated for Chinese exporters are between -2.8% and 37.2%.

It was established that exporters from Indonesia have exported CFG to Australia at dumped prices during the investigation period. The dumping margins calculated for Indonesian exporters are between 3.3% and 30.3%.

It was established that exporters from Thailand have exported CFG to Australia at dumped prices during the investigation period. The dumping margins calculated for Thai exporters are between 3.8% and 11.8%.

CFG exported at dumped prices represents greater than 80% of the total CFG imports during the investigation period.

8.5 Indirect injury

Viridian does not contend that CFG exported to Australia at dumped prices, which was further processed and/or incorporated into fabricated products, caused injury indirectly to Viridian Upstream as a consequence of competition between Viridian Downstream and its competitors. Viridian has not presented evidence along these lines.

8.6 Volume effects

As discussed in section 7.4 above, injury to Viridian in the form of lost sales volume and lost market share was primarily related to its internal transfers to Viridian Downstream, which in turn can be explained by changes in operational arrangements within Viridian. In addition, Viridian has not made a claim that volume injury has been incurred indirectly through transfers to Viridian Downstream (8.5 above).

8.7 Price effects

As discussed in section 7.5 above, Viridian has suffered injury in the form of price suppression in relation to both its sales to its external customers and its internal transfers to Viridian Downstream. This section will consider whether imports of CFG exported to Australia from China, Indonesia and Thailand at dumped prices have caused price suppression to Viridian's external sales and internal transfers.

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8.7.1 Price sensitivity

Quality, service and reliability have featured as considerations in purchasing decisions for CFG, but price is also important. Some interested parties submit that they prefer CFG from particular manufacturers due to specific characteristics, but the evidence suggests that it is common for CFG from each of the three countries to compete directly with Viridian's CFG. The degree of product differentiation is not significant.

In addition, it is common for purchasers of CFG to procure supply from more than one source, including a combination of imports and Viridian's CFG. This affords many of Viridian's customers the ability to compare its prices with those of CFG exported from China, Indonesia and Thailand.

In this context, the price for CFG in the Australian market is sensitive and transparent. Accordingly, it is reasonable to expect that competitive price offers are likely to have an effect on the volumes and/or prices of competitors.

8.7.2 Price undercutting

A price undercutting analysis was conducted at a macro and micro level, comparing Viridian's selling prices for external sales with the selling prices in Australia for CFG imported from China, Indonesia and Thailand. The prices were calculated at the free-into-store (FIS) level as this best represents the point at which Viridian's prices compete with imported CFG. The FIS prices for imported CFG were calculated using the verified cost, insurance and freight (CIF) export price, plus the verified into-store costs of the most efficient importer.

At the macro level, the comparison of these prices from all three countries with Viridian's prices indicated that the imported goods were consistently undercutting Viridian's price. The levels of price undercutting were significant, although the magnitude of undercutting was greater for exports of CFG from China and Indonesia than for exports from Thailand.

At the micro level, certain Viridian customers were identified as also sourcing CFG from the verified exporters during the investigation period. The price undercutting analysis was conducted by comparing each particular customer's quarterly weighted average purchase price from Viridian and the exporter. This analysis also found that Viridian's prices have been consistently and significantly undercut by CFG exported to Australia at dumped prices.

It is reasonable to expect that Viridian, as the local supplier, would be able to achieve some degree of price premium over the imported CFG prices. Such a premium might be realised in the market for reasons including shorter lead times (just-in-time), delivery options (eg. Viridian 'float-liner'), or after sales service and support. While this notional premium cannot be accurately measured, the magnitude of the price undercutting margins in relation to exports from China and Indonesia are not so small as to be negated by any reasonable measure of the price premium. However, in the case of exports from Thailand, the margins of undercutting are significantly diluted after taking into account a reasonable amount for price premium.

8.7.3 External sales

Viridian faces competitive pressures from CFG exported to Australia from China, Indonesia and Thailand at dumped prices. This pressure is enabled by the fact that the

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prices for CFG in the Australian market are sensitive and transparent (as discussed above).

As a number of Viridian's customers, particularly its larger customers, also import CFG from China, Indonesia and/or Thailand, both Viridian and its customers are aware of the prevailing prices, and new price offers, for CFG in Australia. In addition, many importers source CFG from multiple overseas suppliers and are able to source CFG at internationally competitive prices. As a result, CFG exporters not only compete with Viridian, but also compete with one another for market share in Australia. Therefore, Viridian's customers are in a good position to take advantage of the dumped prices by undercutting and exerting pressure on Viridian's prices. This price pressure from dumped exports has been a significant cause of Viridian's inability to sell CFG at a price that fully recovers its CFG manufacturing and selling costs.

In addition, the manufacturing of CFG is highly capital intensive. In the presence of lower CFG prices on the Australian market, Viridian responded to these prices to ensure that capacity is maintained. This is consistent with the finding that injury to Viridian in the form of lost volume was not found.

The prevailing market prices for CFG in Australia have been adversely affected by CFG exported to Australia from China, Indonesia and Thailand at dumped prices and this has prevented Viridian from increasing its prices, which otherwise would have occurred, to a significant degree.

8.7.4 Internal transfers

Viridian submits that it treats internal transfers to Viridian Downstream the same way as its sales to external customers. It argues that Viridian Upstream's "prices" for CFG are subject to competition from imported CFG at dumped prices whether or not it is a transfer to Viridian Downstream or sale to an external customer.

JELD-WEN submits that the internal transfer price is a management decision on the accounting methodology of allocating costs between divisions of a company. It argues that internal transfer values of CFG within Viridian are not exposed to import competition and could not have been suppressed by competition from imports.

As discussed in section 7.3.2 above, the internal transfers to Viridian Downstream can be considered for the purpose of injury assessment to Viridian Upstream.

It is apparent that the methodology for determining the transfer values, while confidential, is linked to import parity. A comparison of certain external customers' selling prices to the internal transfer value established a direct relationship. Moreover, the analysis shows that the external price leads the internal transfer value, indicating a link in its external selling prices to its internal transfer value.

Therefore, as a consequence of the suppressed prices in Viridian sales to external customers, the internal transfer values have also been suppressed because of CFG exported from China, Indonesia and Thailand at dumped prices.

8.8 Profit effects

As discussed in section 7.6 above, Viridian has suffered injury in the form of lost profit and profitability.

Lost profit and profitability is a function of volume and profit margin. As discussed in section 8.6 above, Viridian's lost sales volume was primarily related to its internal

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transfers to Viridian Downstream, which in turn can be explained by changes in operational arrangements within Viridian. However, as discussed in section 8.7 above, the presence of CFG exported to Australia at dumped prices has caused price suppression. Consequently, Viridian has lost profits and profitability as a result of the CFG exported from China, Indonesia and Thailand.

8.9 Other causes

8.9.1 Global Financial Crisis and weak market conditions

Several interested parties have argued that the global financial crisis and weak market conditions have caused the injury experienced by Viridian, rather than CFG exported to Australia at dumped prices.

Viridian argues that although the market downturn has contributed to its injury, dumped CFG imports have also caused material injury to Viridian.

As shown in section 5.3 above, the building construction industry experienced a contraction from the September 2008 quarter before beginning to recover from the June 2009 quarter. It is noted that between these two quarters, Viridian's prices to its external customers remained relatively stable at the highest levels of the injury analysis period (section 7.5.2 above).

8.9.2 Dandenong plant refurbishment

It is acknowledged that the Dandenong plant refurbishment had an impact on Viridian's costs in year-ending-March 2009 and this was addressed in sections 7.5 above. Interested parties submitted that the refurbishment has resulted in increased costs due to increased idle capacity in a weak market and increased depreciation and finance costs. Interested parties argue that Viridian cannot reasonably recover these costs in a weak market.

Viridian notes that the increased production capacity as the result of the refurbishment also reflects new products such as coated glass.

The Dandenong plant refurbishment has resulted in higher depreciation costs incurred by Viridian, which has contributed to its increased costs. However, the anticipated efficiency savings from increased economies of scale would unlikely be immediately realised. If the effects of the higher depreciation and finance costs are removed, Viridian's increased costs in year-ending-March 2010 would not have been as great.

8.9.3 Inefficiency of the Australian industry

Interested parties have submitted that Viridian is a globally inefficient manufacturer of CFG lacking economies of scale, citing section 269(2A)(f) which states that injury to an industry being caused by the export performance and productivity of the Australian industry must not be attributed the dumped goods.

In particular, some of the claims made were that Viridian:

- is an inefficient producer by global standards due to producing several types of products on one single float line at each of its plants;
- has high fixed costs;
- has undergone a costly refurbishment at its Dandenong plant; and

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- has a poorly maintained and elderly plant at Ingleburn that is overdue for refurbishment.

A comparison of Viridian's manufacturing costs per unit (including fixed costs) with such costs verified in relation to the exporters from China, Indonesia and Thailand was conducted to measure the relative costs of the producers. This analysis indicated that Viridian was not the lowest cost producer among that group. While there may be comparative advantages for one or more of the exporters, it is reasonable to expect that the result is at least in part due to Viridian's relative position with respect to economies of scale and product mix produced on any one float line (with associated changeover times and losses).

However, the fact that Viridian's costs were higher than one or more of the exporters does not mean that it is not sufficiently efficient to compete in the Australian market. Exporters incur other costs such as overseas freight and port charges, and are subject to different logistical considerations.

Nonetheless, the degree of any unit manufacturing cost difference that exists between Viridian and the exporters provides one or more overseas manufacturers an advantage.

8.9.4 Exchange rate movements

Several interested parties have submitted that as CFG is traded globally in US dollars, the appreciating Australian currency during 2009 made imported CFG more competitive. CSR Limited's full year results announcement for year-ending-March 2010 acknowledges that "the continuing high Australian dollar for much of the year ... makes imported float glass more price competitive."

Viridian argues that an appreciating Australian dollar "does not remove the effect of differential pricing attributable to the margin of dumping" and "exacerbates the effects of the dumping margin."

It is noted that a significant proportion of CFG exported to Australia from China, Indonesia and Thailand are sold in Australian dollars.

8.9.5 CFG exported to Australia at undumped prices

Imports of CFG from other countries, including India and the Philippines, have been raised as other possible causes of injury to the Australian industry. However, imports of CFG from other countries represent less than 5% of the market.

In addition, as discussed in section 6.4.1 above, it was found that the dumping margin for Xinyi is negligible. The import volume of CFG from Xinyi, measured as a proportion of the Australian market, is confidential. However, it is not regarded to be of a magnitude that would influence the prevailing market prices.

8.9.6 CSR acquisition and goodwill writedown

The cost of CSR Limited's acquisition of Viridian and its subsequent goodwill writedowns have been cited in the context of factors other than dumping that have caused injury to Viridian. However, as these costs were reported against CSR, Viridian's parent company, it has not affected the cost data provided by Viridian.

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8.9.7 Customer service

Several interested parties have cited poor customer service by Viridian Downstream as the cause of its injury. In particular, JELD-WEN submits that Viridian Downstream “suffered considerably from poor customer service and delivery issues.” Similarly, PT Asahimas and AGC Asia Pacific understand that “there is considerable dissatisfaction in the Australian market with the service provided by Viridian Downstream.”

It is difficult to quantify the degree to which the customer service issues with Viridian Downstream have affected the performance of Viridian’s internal transfers. Nonetheless, the view that Viridian Downstream suffers from customer satisfaction issues have not been refuted by Viridian in any of its submissions. In fact, CSR Limited’s full year results announcement for year-ending-March 2010 states that “the performance of the downstream business has not been satisfactory ... customer service as measured by Delivery in Full On-Time (DIFOT) was not at an acceptable standard leading to a loss of market share.”

8.10 Materiality of injury caused by dumping

As discussed above, injury to Viridian in the form of lost sales volume and lost market share was primarily related to its internal transfers to Viridian Downstream, which in turn can be explained by changes in operational arrangements within Viridian.

However, the price pressure from dumped CFG has prevented Viridian from increasing its prices, which otherwise would have occurred in the absence of dumping, resulting in price suppression and consequently lost profit and profitability suffered by Viridian.

Other factors have also caused Viridian to experience price suppression and lost profit and profitability. The global financial crisis and weak market conditions would have affected market prices of CFG. The Dandenong plant refurbishment resulted in higher depreciation and financing costs, although a comparison of Viridian prices with costs adjusted to remove increases in fixed costs still indicates price suppression in the investigation period. The comparative cost advantages of one or more exporters relative to Viridian costs, and the strength of the Australian dollar contributes to the competitiveness of the imported CFG, but does not fully explain the significant levels of price undercutting.

Notwithstanding the likelihood that factors other than dumping have caused injury to Viridian, it is evident that the CFG exported to Australia from China, Indonesia and Thailand at dumped prices have also had an injurious effect on Viridian.

The magnitude of the dumping margins has contributed to the ability of CFG exporters from China, Indonesia and Thailand to significantly undercut Viridian’s prices. In order to maintain volumes in a price sensitive and transparent market, Viridian did not increase prices despite increased costs. Therefore the dumping prevented Viridian price increases, which would have occurred, to a significant degree.

As a consequence, Viridian lost profits and profitability. Therefore, exports of CFG to Australia from China, Indonesia and Thailand have caused material injury to the Australian industry producing like goods.

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9 WILL DUMPING AND MATERIAL INJURY CONTINUE?

9.1 Preliminary findings

CFG exported from China, Indonesia and Thailand in the future may be dumped and continued dumping may cause further material injury to the Australian industry.

9.2 Introduction

When the Minister is satisfied that material injury to an Australian industry has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Minister is satisfied that the dumping and material injury may continue.

9.3 Assessment

It was established that CFG has been exported to Australia from China, Indonesia and Thailand at dumped prices during the investigation period, except for CFG exported to Australia from China by Xinyi. The dumping margins ranged from 3.3% to 37.2% (Xinyi's margin was -2.8%).

In view of the degree of price sensitivity in the Australian market for CFG, the demand for imported CFG, and the breadth of well established supply arrangements for the imported goods, it is likely that dumping will continue if anti-dumping measures are not imposed.

Price pressures from CFG sold into the Australian market at dumped prices are likely to continue to suppress Viridian's prices and result in further losses of profit and profitability.

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10 NON-INJURIOUS PRICE

10.1 Preliminary findings

The non-injurious price (NIP) can be established by reference to the Australian industry's selling prices at a time unaffected by dumping and indexed to its CTMS.

10.2 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury. This lesser duty provision is contained in the WTO Anti-Dumping Agreement and subsection 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*.

The calculation of the NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the price that would be sufficient to remove the injury caused to the Australian industry by the dumping. The NIP is defined in section 269TACA.

Anti-dumping duties are based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

10.3 Unsuppressed selling price

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

The preferred approach to establishing USPs observes the following hierarchy:

1. industry selling prices at a time unaffected by dumping;
2. constructed industry prices – industry CTMS plus profit; or
3. selling prices of undumped imports.

Having calculated the USP, a NIP is then calculated by deducting the costs incurred in getting 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.

10.4 Australian industry

Viridian does not consider that there is sufficient and reliable information for the USP to be determined using its selling prices at a time unaffected by dumping. It therefore argues that the USP should be established using constructed industry prices.

Viridian suggested using a CTMS based on the best achievable costs with a conservative profit element and variances removed.

In addition, Viridian argues that the USP should be based on a per metre square basis.

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10.5 Other interested parties

JELD-WEN submits that the USP must be based on a per tonne basis rather than square metres and take into consideration the strength of the Australian dollar, the volatility in the cost of freight, and variations in the cost of energy and other input costs. It argues that because CFG is a commodity product, there is generally no correlation between the cost to produce CFG and its selling price. JELD-WEN contends that it is not appropriate to select a historical price of CFG and index it to a measure such as the retail price index. However, JELD-WEN did not submit any particular USP or NIP calculation.

PT Asahimas and AGC Asia Pacific submit that the USP should be the lowest undumped prices of CFG exported to Australia from India and the Philippines.

10.6 Assessment

As outlined in section 10.3 above, the preferred approach to establishing the USP is using the Australian industry's selling prices at a time unaffected by dumping. As discussed in section 7.3.4 above, year-ending-March 2007 has been identified as a year unaffected by dumping. Accordingly, the USP has been calculated using Viridian's weighted average selling prices per thickness over the year-ending-March 2007 and indexed to its weighted average CTM over the period to reflect contemporaneous prices.

As Viridian's actual selling prices and CTM for each thickness have been used, the result would be identical regardless of whether the calculation was based on square metres or metric tonnes.

It is noted that this USP is higher than the USP calculated by Viridian.

10.7 Non-injurious price

The NIP has been calculated by deducting from the USP verified weighted average importation costs, ocean freight costs, and importer's SG&A costs over the investigation period.

10.8 Comparison of the NIP to the export prices

The NIP was compared with the weighted average export prices of CFG exported from China, Indonesia and Thailand during the investigation period.

The analysis found that the NIP was higher than the weighted average export prices of all CFG exporters over the investigation period. This is consistent with the assessment that CFG exported to Australia from China, Indonesia and Thailand at dumped prices have caused material injury to the Australian industry.

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