



Australian Government
Australian Customs Service

R E P O R T

CUSTOMS ACT 1901 - PART XVB

**TRADE MEASURES BRANCH
REPORT No. 109**

**Clear Float Glass exported from the People's Republic
of China - review of normal values and NIFOB's**

19 May 2006

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Abbreviations

ACDN	Australian Customs Dumping Notice
CFG	Clear float glass
Customs	Australian Customs Service
Minister	Minister for Justice and Customs
NIFOB	Non injurious free-on-board price
Pilkington	Pilkington (Australia) Ltd
SEF	Statement of essential facts
SG&A	Selling, general and administration costs
SGHQ	Saint-Gobain Hanglas CLFG Qingdao
the Act	<i>Customs Act 1901</i>
USP	Unsuppressed selling price
Yaohua	Qinhuangdao Yaohua Glass Co., Ltd

1. SUMMARY

This report reviews certain normal values applying to clear float glass (CFG) in the range of 3 – 12mm (the goods) exported from the People's Republic of China (China) to Australia. The review also covers the level of the non-injurious free on board price (NIFOB) applying to the goods.

On 20 October 2005, Saint-Gobain Hanglas CLFG Qingdao Glass Co., Ltd, (SGHQ), a Chinese manufacturer of CFG applied for an accelerated review of measures that applied to it, on the basis it was a new exporter. SGHQ was not eligible for an accelerated review.

On 16 November 2005, Customs commenced a review into the normal values and NIFOB's applying to CFG manufactured and sold by SGHQ. Following interest expressed by a number of Chinese exporters, the review was expanded on 16 December 2005 to include all exporters of CFG from China. The review investigation period was from 1 January 2005 to 31 October 2005.

Customs published a notice in *The Australian* on 16 November 2005 to notify interested parties that anti-dumping measures applying to 3-12 mm CFG exported from SGHQ were to be reviewed. Australian Customs Dumping Notice (ACDN) 2005/63, advising the initiation of the review, was also published on that date.

On 16 December 2005 Customs published a notice in *The Australian* advising interested parties the review would be expanded to include all exporters of CFG from China subject to anti-dumping measures.

On 27 January 2006, Customs received a request from Qinhuangdao Yaohua Glass Co., Ltd (Yaohua), a Chinese manufacturer and exporter of CFG, for an extension of time to lodge a submission. An extension was granted and a comprehensive submission was received within the time allowed by Customs.

On 5 April 2006 Customs placed the statement of essential facts (SEF) on the public file.

Customs reascertained normal values for two Chinese manufacturers of CFG: SGHQ and Yaohua. The recommended normal values for these companies are lower than the existing 'other' normal value. Normal values for other companies remain unchanged. The normal value, rather than the NIFOB, is the operative measure for SGHQ and Yaohua at the average rates of exchange for April 2006.

2. BACKGROUND AND PROCEDURES

2.1. The review

The 1992 legislation does not provide for an accelerated review, but does allow the Minister to re-ascertain normal values under s. 269TAD of the *Customs Act 1901* (Act). This section has since been superseded but has also been preserved to apply to measures that commenced prior to 1 January 1993. Similarly, s. 8(5) of the *Customs Tariff Anti-Dumping Act 1975*, as it was in 1992, has since been superseded but preserved to allow for a review of NIFOB's.

SGHQ applied for an accelerated review but was found not to fit the definition of "new exporter". SGHQ is however eligible for a review of normal values under s. 269TAD of the Act as the anti-dumping duties applying to clear float glass exported from China were first imposed in 1992.

Customs visited SGHQ, Yaohua, the Australian CFG industry being Pilkington (Australia) Ltd (Pilkington) and certain importers to gather information relevant to the consideration of normal values, NIFOB calculation and unsuppressed selling prices (USP).

Measures applying to CFG exported from China were also reviewed in 1993, 1995, 1997, 1998, 1999, 2000, 2002 and 2003.

The review investigation period is from 1 January 2005 to 31 October 2005.

Customs received no responses to the SEF.

2.2. The goods

The goods subject to the anti-dumping duties covered by this review are clear float glass, in nominal thicknesses from 3 to 12 mm (actual thickness 2.8 mm to 12.3 mm), classified within Tariff Item 7005.29.00 in Schedule 3 to the *Customs Tariff Act 1995*. Details are provided in the table below:

Heading	Statistical Code/Unit	Goods
7005.29.00		-- Other
		<i>Float glass, having a nominal thickness:</i>
	02 sm	<i>.Exceeding 2.5 mm but not exceeding 3 mm</i>
	03 sm	<i>.Exceeding 3 mm but not exceeding 4 mm</i>
	04 sm	<i>.Exceeding 4 mm but not exceeding 6 mm</i>
	05 sm	<i>.Exceeding 6 mm but not exceeding 10 mm</i>
	06 sm	<i>.Exceeding 10 mm</i>

The general rate of duty applying is 5% and the developing country (DCS) rate is 4%. China is subject to the DCS rate.

2.3. The Australian industry

Pilkington is the sole Australian producer of CFG in Australia. Pilkington produces its CFG at its plants in Dandenong in Victoria and Ingleburn in New South Wales.

2.4. Current anti-dumping measures

Measures do not apply to exports of CFG by Luoyang Glass Co Ltd.

Guangdong Float Glass Co Ltd and Dalian Float Glass Co Ltd are subject to their own respective rates of measures.

All other exporters are subject to the 'other' rate of measures.

The current measures are due to expire on 22 October 2007.

3. NORMAL VALUE

Customs contacted major exporters representing approximately 74% of all CFG exported from China to Australia. Substantive responses were received from two exporters: Yaohua and SGHQ. Customs visited these companies to verify information contained in their submissions.

3.1. Yaohua

3.1.1. Domestic sales

Yaohua sells CFG it terms as 'automotive grade' directly to its customers through its Sales Department. Although termed automotive grade, this glass is used for building and construction purposes.

Yaohua's customers are either end users or distributors. Customs found that the price to end users and distributors was essentially the same for similar quantities purchased. The price is determined according to market conditions, although large volume purchasers will be offered a better price. All domestic sales are ex-factory.

Customs verified sales data provided with the submission to source documents for selected domestic sales.

Customs compared the domestic selling price of Yaohua's glass to its cost to make and sell. Customs found that there was a sufficient volume of sales of like goods sold in the ordinary course of trade for home consumption in the country of export in sales that were arms length transactions to determine normal values per thickness.

3.1.2. Costs

Yaohua provided a breakdown of its costs per month on a 'weight case' basis. A weight case is 50 kgs of CFG.

Customs verified the cost to make by focussing on the larger costs included in the total, representing the major proportion of the total cost to make and sell, to source documents and company ledgers. Lesser amounts, such as labour, were compared to standard costs. The standard costs supported the amounts claimed in Yaohua's cost to make. Details of the verification process are set out in Yaohua's visit report.

Customs examined and verified Yaohua's selling, general and administration expenses (SG&A) to the company's general ledger as the accounts for 2005 were in the process of being prepared.

Yaohua did not differentiate between its cost to make of domestically produced glass and glass destined for export and Customs found no basis to differentiate these costs.

Customs was satisfied that the verified information provided in Yaohua's submission represented a fully absorbed cost to make and sell for each thickness of CFG subject to measures and is satisfied that the information was suitable for testing profitability of domestic sales.

3.1.3. Normal value

Customs is satisfied that Yaohua's domestic sales, that were arms length and in the ordinary course of trade, are suitable for calculation of normal values in accordance with s. 269TAC(1) of the Act. Customs considers the following adjustments should apply in accordance with s. 269TAC (8) of the Act:

- VAT (net positive adjustment);
- export transport (positive adjustment); and
- port and clearance charges (positive adjustment).

3.2. SGHQ

3.2.1. Domestic sales

All SGHQ's domestic sales were at the distributor level. For comparative purposes, Customs selected domestic sales of grades of CFG equivalent to that being sold to Australia.

Customs verified sales data provided with the submission to source documents for selected domestic sales.

Customs compared the domestic selling price of CFG to its cost to make and sell and found that very few of its sales were in the ordinary course of trade – substantially less than 10%.

Customs considers that the remaining profitable sales were of such a low volume that they were not representative of a normal market situation. Customs therefore considers that normal values should not be determined under s. 269TAC(1) of the Act using SGHQ's domestic sales data.

3.2.2. Sales by other sellers

The 'other sellers' provision of s. 269TAC(1) of the Act would only apply where '...like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions' ...are not so sold by the exporter'. Customs found that there were, in fact, arms length sales in the ordinary course of trade sold for home consumption in China by SGHQ, although the volume of such sales was small. Therefore, Customs did not use selling prices from the other seller visited, Yaohua, to calculate a normal value for SGHQ.

3.2.3. Costs

SGHQ provided a breakdown of costs per month per thickness.

Customs verified the cost to make by focussing on the larger costs included in the total, representing the major proportion of the total cost to make and sell, to source documents and company ledgers. Lesser amounts were compared to standard costs. The standard costs supported the amounts claimed in SGHQ's cost to make. Details of the verification process are set out in SGHQ's visit report.

Customs examined and verified SG&A expenses to the company's draft 2005 accounts while at the factory, as the audited accounts were in the process of

being prepared. When the audited accounts were forwarded to Australia, Customs cross-referenced the draft accounts to the audited accounts and were found to match in all material aspects.

As there was no production of CFG in the period January to March 2005, and very few domestic sales, Customs matched sales in the period April to December 2005 to production costs in that period. Allocation of SG&A expenses was by sales revenue.

Customs verified SG&A expenses to the income statement and to the draft accounts or relevant management accounts. Subsequent to the visit, expenses were verified to the audited accounts.

SGHQ did not differentiate between its cost to make of its domestically produced glass and glass destined for export and Customs found no basis to differentiate these costs.

Customs was satisfied that the verified information provided in SGHQ's submission represented a fully absorbed cost to make and sell for each thickness of CFG subject to measures and concluded that the information was suitable for testing profitability of domestic sales.

3.2.4. Normal value

Customs has constructed normal values for SGHQ in accordance with s. 269TAC(2)(c) of the Act, based on the cost of production and SG&A expenses.

Customs considers the following adjustments should apply in accordance with s. 269TAC(9) of the Act:

- domestic packing (negative adjustment);
- domestic consulting fee (commission) (negative adjustment);
- VAT (net positive adjustment);
- export credit (positive adjustment);
- export transport (positive adjustment); and
- other pre FOB charges (positive adjustment).

4. NON INJURIOUS FREE ON BOARD PRICES

4.1. Introduction

Before 1 January 1993 there was no statutory definition of, or express reference to, NIFOB. Subsection 8(5A) of the CT(ADA) Act (superseded section) indirectly refers to NIFOBs and requires the Minister to have regard to the concept in making directions under 8(5) for the calculation of anti-dumping duty.

A NIFOB allows for a lesser duty to apply if that lesser duty is sufficient to remove injury to the Australian industry.

The method of calculating a NIFOB is not defined in the legislation. Customs' usual practice is to derive a NIFOB from the Australian industry's USP. The USP is a price at which the Australian industry might reasonably be able to sell goods in a market unaffected by dumping.

4.2. Unsuppressed selling price

Customs' approach to establishing a USP observes the following hierarchy:

1. market approach – industry selling prices at a time when the Australian market was unaffected by dumping;
2. construction approach – the Australian industry's cost to make and sell plus a reasonable rate of profit;
3. selling prices of undumped imports in the Australian market.

Having calculated the USP, Customs then calculates a NIFOB by deducting the most efficient importer's 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, duty, insurance, into store costs and amounts for importer expenses and profit.

4.3. Customs' consideration of USP and NIFOB

Customs considers the market approach, outlined above, is the most reasonable approach to calculating a USP in this instance. It is also consistent with the above hierarchy.

Customs therefore recommends a USP based on Pilkington's selling prices to an independent customer during the review period on the basis that, because there were anti-dumping measures in place, there was no CFG sold at dumped prices in the Australian market. Therefore, Pilkington's prices to its customers during the review period were prices not affected by dumping. These prices were also reflective of normal market forces.

Customs has calculated the NIFOB by deducting the following from the USP:

- Overseas freight;
- Marine insurance;
- Wharf charges;
- Broker's disbursements;

- Cartage to store;
- Bank charges;
- Importer's SG&A;
- Importer's profit on Australian sale;and
- Customs duty.

This will calculate a NIFOB at the point of FOB, Chinese port.

5. REVIEW OUTCOMES AND RECOMMENDATIONS

5.1. Outcomes

Customs found that:

- Normal values for Yaohua and SGHQ should be reascertained;
- Normal values for all other exporters subject to measures should remain unchanged; and
- The NIFOB for all exporters of CFG to Australia subject to measures should be recalculated.

In a submission dated 31 March 2006, SGHQ requested that, as part of this review of CFG, it be exempted from measures.

Customs notes that the submission was not received in sufficient time to allow consideration of the issues contained therein, or to allow interested parties an opportunity to comment on those issues.

Customs therefore declined to revoke the measures in respect of SGHQ, but notes that the company may apply, at any time, to have measures against it revoked as a separate review.

5.2. Recommendations

Customs recommends that the Minister consider this report and if agreed:

- Sign legal instruments under superseded s. 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* amending normal values applicable to CFG exported to Australia from China by Qinguangdao Yaohua Glass Co., Ltd and Saint-Gobain Hanglas CLFG Qingdao.

Customs recommends that the Minister **direct**:

- In accordance with s. 269TAC(8), in assessing normal values for Qinguangdao Yaohua Glass Co., Ltd, that the price paid for like goods be adjusted for differences between export and domestic sales in VAT, inland freight and export clearance charges.

Customs recommends that the Minister **determine**

- In accordance with s. 269TAC(9), in assessing normal values for Saint-Gobain Hanglas CLFG Qingdao, that the price paid for like goods be adjusted for differences between export and domestic sales in packing, commission, VAT, credit terms, and export costs.

Customs also recommends that the Minister decide not to publish the tables attached to the notices because publication would adversely affect the business or commercial interests of interested parties.

6. EVIDENCE RELIED UPON

In formulating the recommendations in this report, Customs had regard to:

Topic	Section of report detailing facts relied upon	Evidence relied upon
Normal values	3	Exporter submission and information obtained during exporter visits
NIFOB	4	Information gathered from importers and Australian industry.

7. LIST OF APPENDICES

Confidential appendix 1

Recommended normal values

Confidential appendix 2

Recommended NIFOB's