



**Australian Government**  
**Australian Customs Service**

**R E P O R T**

**Customs Act 1901 – Part XVB**

TRADE MEASURES BRANCH

**STATEMENT OF ESSENTIAL FACTS NO. 114**

**Clear Laminated Safety Glass exported from the People's Republic of  
China and the Republic of Indonesia**

**Date: 22 October 2006**

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## 1 ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
Act	<i>Customs Act 1901</i>
C&F	Cost and freight
CEO	Chief Executive Officer of Customs
CFG	Clear Float Glass
China	People's Republic of China
CLSG	Clear Laminated Safety Glass
CSG	China Southern Glass Holdings
CSGA	China Southern Glass Australia
CTS	Cut to size
Customs	Australian Customs Service
DCS	Developing Country Status
DMS	Don Mathieson and Staff
FIS	Free-into-store
FOB	Free-on-board
Fortuna	PT Surya Adhitia Fortuna Glass
FRS	Factory run sizes
G James	G James Safety Glass (Qld) Pty Ltd
GSS	Glazing stock sizes
Indonesia	Republic of Indonesia
Minister	Minister for Justice and Customs
NIFOB	Non-Injurious Free on Board
NIP	Non-Injurious Price
OGA	Overseas Glass Agencies
Pilkington	Pilkington (Australia) Limited
PVB	Polyvinyl butyral
SEF	Statement of Essential Facts
SYP	Shanghai Yaohua Pilkington Glass Co Ltd
Tunggal	PT Tunggal Majurasri
USP	Unsuppressed Selling Price
VAT	Value Added Tax
Xinyi	Xinyi Glass Engineering (Dongguan Co Ltd
Zenith	Zenith Glass Pty Ltd

## 2 BACKGROUND

### 2.1 Overview

Customs is required to place on the public record within 110 days of initiation, a statement of the essential facts (SEF) on which it proposes to base its recommendations to the Minister. Interested parties are given 20 days to respond to issues raised in the statement.

On 18 April 2006 Pilkington (Australia) Limited (Pilkington) lodged an application requesting that the Minister for Justice and Customs (Minister) publish a dumping duty notice in respect of certain Clear Laminated Safety Glass (CLSG) exported to Australia from the People's Republic of China (China) and the Republic of Indonesia (Indonesia). On 27 April 2006 and 11 May 2006, further information was supplied to Customs by the applicant to support its application.

The application identified three other manufacturers of CLSG in Australia - Don Mathieson and Staff Glass Pty Ltd (DMS), G James Safety Glass (Qld) Pty Ltd (G James) and Zenith Glass Pty Ltd (Zenith). The application included letters from these manufacturers expressing support and their willingness to co-operate and provide information to Customs to enable an investigation of the CLSG industry.

Pilkington (the applicant) claimed that the allegedly dumped exports from China and Indonesia have caused material injury to the Australian industry from:

- price depression;
- price suppression;
- loss of market share and volume; and
- reduced profitability.

Data provided by the applicant also showed reduced profits and a decline in finished goods inventory.

Following an examination of the applicant's claims, Customs considered that there appeared to be reasonable grounds for the publication of a dumping duty notice. Initiation of the investigation was announced in *The Australian* newspaper on 25 May 2006. The investigation was also notified in Australian Customs Dumping Notice No. 2006/15 and on the internet at <http://www.customs.gov.au>.

Customs examined exports of CLSG to Australia during the period 1 April 2005 to 31 March 2006 to determine whether dumping had occurred. Customs examined the Australian market from 1 April 2001 for injury analysis.

Customs is required to place on the public record within 110 days of initiation (unless the Minister extends the date) an SEF that sets out the facts on which it proposes to base its recommendations to the Minister.

For this investigation, the Minister granted a 40-day extension (to 22 October 2006) to the date by which the SEF must be placed on the public record.

Interested parties may comment on the matters being considered by Customs in formulating the report and recommendation. This statement sets out the essential facts on which Customs will base its recommendation to the Minister.

Responses to this statement should be made before 11 November 2006.

Submissions should be sent to:

Director, Operations 3  
Trade Measures Branch  
Australian Customs Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2600

Customs is not obliged to have regard to any submissions made in responses to this statement received after the end of 11 November 2006 if to do so would prevent the timely preparation of the report to the Minister.

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 the non-confidential submissions by interested parties, and the statement of essential facts, the public record also contains non-confidential versions of Customs verification reports. These reports cover normal value, export price and material injury. The SEF should be read in conjunction with these documents.

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

All Customs dumping notices are available on the internet at <http://www.customs.gov.au> (follow prompts for "Dumping")

## **2.2 Termination of investigation in relation to certain exporters**

On 18 October 2006, the Chief Executive Officer of Customs (CEO) terminated the investigation, so far as it relates to certain exporters, into the alleged dumping of certain clear laminated safety glass exported to Australia from the China and Indonesia.

As a result of its investigations, Customs found that there has been no dumping of the goods by Shanghai Yaohua Pilkington Glass Co Ltd (SYP) and Xinyi Glass Engineering (Dongguan) Co Ltd of China and PT Surya Adhitia Fortuna Glass of Indonesia. Section 269TDA(1) of the *Customs Act 1901* (the Act) requires the CEO to terminate an investigation as it relates to an exporter if satisfied that there has been no dumping by the exporter. Accordingly, the CEO has terminated the investigation so far as it relates to those exporters. Non-Confidential Appendix A provides information about the dumping investigation for these exporters.

Notice of this decision was published in *The Australian* on 20 October 2006.

This SEF examines whether alleged dumping by:

- Chinese exporters other than Shanghai Yaohua Pilkington Glass Co Ltd and Xinyi Glass Engineering (Dongguan) Co Ltd; and
- Indonesian exporters other than PT Surya Adhitia Fortuna Glass

has caused, or threatens to cause, material injury to the Australian industry.

## 3 INTRODUCTION

### 3.1 Purpose of the investigation

The dumping legislation provides for anti-dumping measures to be imposed where an imported product sold at dumped prices caused, or threatens to cause, material injury to an Australian industry producing like goods. The application claimed that CLSG exported to Australia from China and Indonesia was dumped and that the dumping was causing material injury to the Australian industry.

Customs commenced the investigation in order to examine the claims made by Pilkington on behalf of the Australian industry.

### 3.2 Procedures

In its consideration of matters relevant to the investigation, Customs had regard to:

- the application;
- its commercial database;
- further submissions from the Australian industry;
- submissions and information from importers, exporters and end users; and
- publicly available information.

Customs visited all known Australian producers of CLSG, being Pilkington, DMS, G. James and Zenith to gather and verify data in respect of injury to the Australian industry.

Customs visited importers of CLSG from China and Indonesia to gather and verify data in respect of export price and market information.

Customs sent questionnaires to all known exporters in China and Indonesia and received responses from CSG, SYP and Xinyi of China and Fortuna and Tunggal of Indonesia. Customs also received a partial response from Qin Shang Trading Co, a buying agent in respect of Chinese CLSG.

Customs visited CSG, SYP, Xinyi, Fortuna and Tunggal to obtain and verify data. It did not visit Qin Shang Trading Co because the questionnaire was incomplete.

Customs maintained a public record throughout the investigation. The public record includes the application, the initiation report, visit reports and submissions by interested parties.

## 4 THE GOODS

The goods under investigation are described by the applicant as clear laminated safety glass for building applications (excluding toughened glass and automotive, tinted and coated laminated safety glass) falling within the range of 5.38 mm to 12.38 mm in thickness, classified to tariff subheading 7007.29.00, with statistical codes 18 (not exceeding 8 mm in thickness) and 19 (exceeding 8 mm but not exceeding 15 mm in thickness) of the *Customs Tariff Act 1995*.

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

### 4.1 Imports

Using its commercial database and information provided by importers and exporters Customs calculated shares of CLSG imported from China, Indonesia and other countries.

<b>Country (%)</b>	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>	<b>2004/05</b>	<b>2005/06</b>
<b>China</b>	11%	17%	24%	33%	38%
<b>Indonesia</b>	13%	19%	24%	25%	19%
<b>Other</b>	76%	64%	52%	42%	43%

## 5 AUSTRALIAN INDUSTRY

### 5.1 Like goods

The Australian industry produces CLSG in thicknesses from 5.38 mm to 12.38 mm, as well as other thicknesses. Australian produced CLSG comprises a layer of polyvinyl butyral (PVB) 'sandwiched' between two layers of clear float glass (CFG), which is then heated in an autoclave.

The applicant described Australian produced CLSG as being identical to imported CLSG provided the imported product is produced using 'international' quality CFG.

CLSG is recognised as a Grade A safety glass. The other Grade A safety glass is toughened glass. There is a degree of substitutability between these two types of glass.

There are some applications that stipulate that CLSG only will be used. One example is where there is overhead glass, such as in a suspended ceiling. However, toughened glass differs from CLSG because of differences in weight, strength, production process, temperature resistance, physical characteristics and price.

Australian Standard 1288 require the use of Grade A safety glass where there is a risk of human impact or injury.

Having regard to production processes, end uses, and physical characteristics, Customs concludes that Australian produced CLSG, if not identical to imported CLSG, has characteristics closely resembling imported CLSG. Customs does not consider Australian produced toughened glass to be like goods to imported CLSG.

### 5.2 Produced in Australia

Subsections 269T(2) and 269T(3) of the Act specify that for goods to be regarded as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- where the goods have been partly manufactured in Australia then at least one substantial process in the manufacture of the goods must be carried out in Australia.

Pilkington identified three other industry members producing like goods in its application. These members expressed their support to the investigation and agreed to submit data to the application. All companies produce the CLSG that is on-sold in the Australian market. Customs visited Australian manufacturing facilities and observed the production process. Customs also verified cost and sales data of all companies, although data provided by G James and Zenith was limited.

Based on data supplied in the submission and its own observations, Customs was satisfied that CLSG was wholly produced or partly manufactured in Australia and at least one substantial process of manufacture was performed by the Australian industry.

### **5.3 Australian industry**

Subsection 269T(4) of the Act specifies that the Australian industry consists of the producer or producers of like goods in Australia.

The CLSG industry comprises four manufacturers: Pilkington, DMS, G James and Zenith. Pilkington is a vertically integrated producer of CLSG as it also manufactures CFG, used in its CLSG production. The other companies source CFG from external suppliers. All companies import PVB.

Pilkington is the largest Australian producer by volume, followed by DMS. These two companies represent about 80 percent of total Australian production of CLSG. G James produces most of the remainder while Zenith produces a relatively small amount.

## 6 AUSTRALIAN MARKET

As well as China and Indonesia, other large volumes of CLSG were imported from Malaysia, Taiwan and Thailand. In addition to producing CLSG, G. James also imports CLSG from its manufacturing plant in Malaysia.

### 6.1 Market structure

Australian produced CLSG is generally sold in bulk lots but, depending on the manufacturer, is also sold in smaller job lots in blocks or cut to size. CLSG is sold in Australia in thicknesses between 5.38 mm and 12.38 mm, as well as other thicknesses. The most common thicknesses are 6.38 mm and 10.38 mm. For most companies (Australian Industry and importers) visited by Customs these two thicknesses represented more than 80 percent of their CLSG sales. The other common thicknesses across the range are 5.38mm, 8.38mm and 12.38mm CLSG.

#### 6.1.1 Australian produced CLSG

Pilkington sells CLSG through a division called National Sales. These sales are in 20 tonne loads. It also transfers CLSG to another division, Processing and Merchandising (P&M).

P&M operates at the same level in the market as National Sales. It holds glass in stock and sells to individual customers, such as builders and glaziers, who do not require 20 tonne loads of glass at a time. P&M also further processes the glass if required, by cutting to size.

Pilkington sells CLSG nationally.

DMS sells both processed and unprocessed CLSG to glass merchants, fabricators and glazing companies. DMS sells CLSG nationally.

G. James produces CLSG glass for its own use in window manufacture and for external customers. It also sells CLSG produced in its Malaysian plant. G. James sells CLSG in all states except WA.

Zenith supplies CLSG to independent glass merchants who are in the wholesale, retail and secondary processor end of the market. These merchants generally cut to size and further process the glass before on-selling the product. Zenith's customers are mainly in the Sydney area.

#### 6.1.2 Chinese and Indonesian produced CLSG

Chinese and Indonesian CLSG is nearly always imported in bulk lots either in specified sheet sizes or in standard sizes.

In one case the importer had an ownership association with the exporter of the glass, in other cases there was no relationship other than that of buyer and seller. Many of the importers visited also further process CLSG, generally by cutting to size.

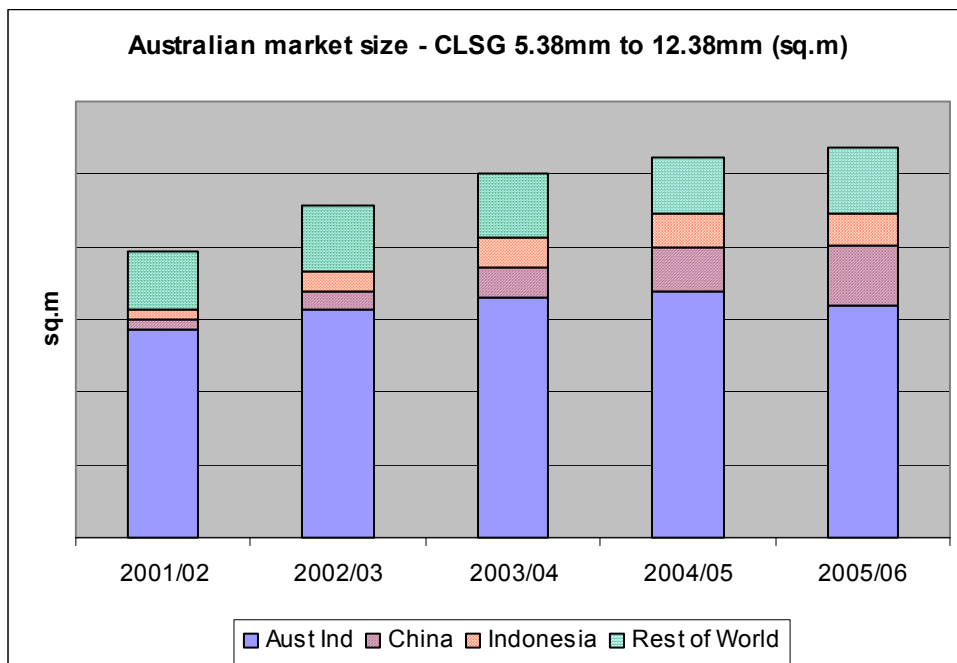
## 6.2 Market share

Customs calculated market from data provided by Australian industry, exporters and Customs' commercial database.

Customs' estimate of the shares of the Australian CLSG market in the injury period is as follows:

	2001/02	2002/03	2003/04	2004/05	2005/06
Australia	73%	69%	66%	64%	60%
China	3%	5%	8%	12%	15%
Indonesia	3%	6%	8%	9%	8%
Rest of the World	21%	20%	18%	15%	17%

The size of the Australian market for 5.38mm to 12.38mm CLSG grew by approximately 36 percent during the injury analysis period. The following graph illustrates the growth of the market and the respective shares of the Australian CLSG market for Australian industry, China, Indonesia and the rest of the world.



## 7 THE DUMPING INVESTIGATION

### 7.1 Introduction

Customs visited three exporters of Chinese CLSG, CSG, SYP and Xinyi, all of whom were identified in the application. Those three exporters collectively sold approximately 70 percent of Chinese CLSG exported to Australia during the investigation period. Of the three exporters visited, Xinyi and SYP are the largest exporters. In comparison, CSG sold a small quantity of CLSG in the last three months of the investigation period.

Other Chinese exporters did not provide submissions to Customs. Data from the Customs commercial database indicates that there were over 35 exporters in this category. These exporters typically sold low volumes of CLSG onto the Australian market over the investigation period. Their sales were generally limited and intermittent, the data indicating most sold the equivalent of one or two shipments over the investigation period.

Customs visited two exporters of Indonesian CLSG, Fortuna and Tunggal, both of whom were identified in the application. Those two exporters collectively sold 98.6 per cent of Indonesian CLSG sold to Australia during the investigation period. Other Indonesian exporters did not provide submissions to Customs.

Customs also visited importers of CLSG sourced from China and Indonesia.

As outlined in section 2.2 of this report, Customs found that there has been no dumping of the goods by SYP and Xinyi of China and Fortuna of Indonesia<sup>1</sup>. The CEO terminated the investigation, so far as it relates to those exporters.

The following examination of dumping concerns:

- Chinese exporters other than SYP and Xinyi; and
- Indonesian exporters other than Fortuna.

### 7.2 Export Price

#### 7.2.1 China

##### 7.2.1.1 China Southern Glass (CSG)

CSG sold goods both to China Southern Glass Australia (CSGA) and directly to Australian customers.

For goods sold to CSGA, Customs considers CSG to be the exporter of the goods and CSGA to be the importer and that the goods were exported to Australia other than by the importer.

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<sup>1</sup> Dumping investigation information for SYP, Xinyi of China and for Fortuna of Indonesia is at non-confidential appendix A

During the importer visit at CSGA, Customs was informed that CSG sets the price of the goods to the Australian customer. However, CSGA subsequently submitted that the above claim was wrong and that price was negotiated between it and its Australian customers.

In considering export price for sales by CSG to CSGA, Customs examined the profitability of sales made by CSGA in the last quarter of the investigation period (January to March 06) in which it traded. Customs also noted the ownership relationship between CSG and CSGA (CSGA is a wholly owned subsidiary of CSG).

After considering all information before it Customs was satisfied that sales by CSG to CSGA were not arms length in terms of s. 269TAA(b) of the Act.

Customs calculated deductive export prices for sales between CSG and CSGA in accordance with s. 269TAB(1)(b) of the Act, ex factory. As overall sales by CSGA were at a loss, for purposes of s. 269TAB(2)(c) Customs calculated a profit for those sales based on the weighted average profitability of other importers.

For goods sold directly to Australian customers, Customs considers CSG to be the exporter of the goods and the Australian customer to be the importer.

For one direct customer, the customer only provided limited information about its imports from CSG. It provided no details relating to its sales of imports in Australia, and therefore Customs could not test the profitability of sales of CLSG imported from CSG. Customs is satisfied that sufficient information had not been furnished to enable export price to be ascertained under sections 269TAB(1)(a), (b) or (c) of the Act.

Customs therefore calculated export price for sales to this customer in accordance with s. 269TAB(3) of the Act, using CSGA's selling prices in Australia and deducting Customs duties, costs, charges, exportation expenses (to ex factory level) and profit. A rate of profit was calculated based on the weighted average profitability of other importers of CLSG.

For other direct customers, Customs was satisfied that sales were arms length transactions and determined export price under s. 269TAB(1)(a), ex factory.

#### 7.2.1.2 Other exporters - China

Customs calculated export price for other non-cooperating Chinese exporters after considering verified data from exporters that were visited by Customs. The export price for other exporters was calculated by thickness on the basis of verified data from the exporter with the lowest average export price.

In the absence of reliable information for other exporters, export prices were calculated in accordance with s. 269TAB(3) of the Act, ex factory.

## **7.2.2 Indonesia**

### **7.2.2.1 Tunggal**

Tunggal sold CLSG to one Australian customer during the investigation period.

Customs considers Tunggal to be the exporter of the goods and the Australian customer to be the importer of the goods, and that the goods were exported to Australia other than by the importer.

Customs found that sales were arms length in terms of s. 269TAA of the Act.

Customs calculated export prices for Tunggal in accordance with s. 269TAB(1)(a) of the Act, ex factory.

### **7.2.2.2 Other exporters - Indonesia**

Customs calculated export price for other non co-operating Indonesian exporters after considering verified data from those exporters visited by Customs. The export price for other exporters was calculated by thickness on the basis of verified data from the exporter with the lowest average export price.

In the absence of reliable information for other exporters, export prices were calculated in accordance with s. 269TAB(3) of the Act, ex factory.

## **7.3 Normal value**

### **7.3.1 China**

#### **7.3.1.1 CSG**

CSG had no domestic sales of like goods in China during the investigation period. The other sellers of like goods in China visited by Customs, SYP and Xinyi, were found to have a low volume of domestic sales of like goods and not large enough to permit a proper comparison, in terms of s. 269TAC(14) of the Act.

Customs calculated normal values in accordance with s. 269TAC(2)(c) of the Act. Customs considered using a rate of profit derived from the financial statements of CSG. However, this rate of profit included a large range of glass products.

Customs noted that the rate of profit for another producer was based on the profit made in domestic sales of toughened glass. Customs considers toughened glass to be in the same general category of goods as CLSG. Accordingly, Customs used the rate of profit for toughened glass, sourced from another producer, in CSG's constructed normal value calculation.

Adjustments to the constructed cost to make and sell were made in accordance with s. 269TAC(9) of the Act. Normal value and export price were determined ex factory. A positive adjustment was made for the VAT differential. No negative adjustments to the constructed cost to make and sell were made.

#### 7.3.1.2 Other exporters - China

Customs had no reliable data in respect of normal values from Chinese exporters of CLSG other than the above.

Therefore Customs selected normal value data from the exporter with the highest average normal values by thickness.

Normal values for other exporters were calculated in accordance with s. 269TAC(6).

### **7.3.2 Indonesia**

#### 7.3.2.1 Tunggal

Only a small proportion of Tunggal's CLSG production was sold in Indonesia during the investigation period. Customs considered this volume of domestic sales to be a low volume of domestic sales of like goods and not large enough to permit a proper comparison, in terms of s. 269TAC(14) of the Act. The only other seller of like goods with domestic sales in Indonesia visited by Customs, Fortuna, was found to have had a low volume of domestic sales relative to the export volume of Tunggal.

Customs calculated normal values in accordance with s. 269TAC(2)(c) of the Act. Customs considered using a rate of profit derived from Tunggal's sales of domestic laminated glass. However, this rate of profit was considered to be inappropriate due to the low volume of sales, the CLSG was further processed or value added before sale, and the order sizes were small.

Tunggal does not make safety glass other than laminated glass.

Customs noted that the rate of profit for another producer was based on the profit made in domestic sales of toughened glass. Customs considers toughened glass to be in the same general category of goods as CLSG.

Accordingly, Customs used the rate of profit for toughened glass, sourced from another producer, in Tunggal's constructed normal value calculation.

Normal value and export price were determined ex factory. No adjustments were made to the constructed cost to make and sell.

#### 7.3.2.2 Other exporters - Indonesia

Customs had no reliable data in respect of normal values from exporters of CLSG from Indonesia other than the above.

Therefore Customs selected normal value data from the exporter with the highest average normal values by thickness, but not inclusive of any negative adjustments.

Normal values for other exporters were calculated in accordance with s. 269TAC(6) of the Act.

## 8 DUMPING MARGINS

Customs calculated dumping margins in accordance with s. 269TACB(2)(a) of the Act.

Customs found that CSG and 'other' Chinese exporters had sold the goods to Australia at dumped prices during the investigation period with a dumping margin in the range of 2 percent to 5 percent. The margin is confidential as CSG's export price and constructed normal value includes data from other importers and another exporter, respectively.

Customs calculated a dumping margin for Tunggal and 'other' Indonesian exporters in the range of 2 percent to 5 percent. The margin is confidential as Tunggal's constructed normal value includes data from another exporter.

Normal values, dumping margins and export prices for each visited exporter and other exporters are at confidential appendices 1 – 4.

## 9 ECONOMIC CONDITIONS OF THE INDUSTRY

Australian industry claimed some forms of injury were apparent in the 1990's. Pilkington considered the injury became material from April 2001. Customs examined data from this period to assess this claim.

Pilkington and DMS provided cost and sales data in support of its injury claims. Insufficient information was provided by G. James and Zenith to enable an assessment of their economic performance. Accordingly, the following material injury assessment is based on Pilkington and DMS data.

As Pilkington and DMS represent about 80 percent of Australian production, Customs is satisfied the data provided by these companies is sufficient to draw conclusions about injury to the Australian industry as a whole. The following material injury assessment is also based on 6.38mm and 10.38mm CLSG as these two thicknesses represented more than 80 percent of CLSG sales in Australia. All references to CLSG in the material injury assessment refer to 6.38mm and 10.38mm sizes, unless otherwise stated.

### 9.1 Applicant's Claims

Pilkington claimed that it had suffered the following forms of injury:

- price depression;
- price suppression;
- loss of market share and volume; and
- reduced profitability.

### 9.2 Price effect

#### 9.2.1 Price depression

Price depression occurs when an industry, for some reason, lowers its prices.

Pilkington provided price lists to external customers that showed prices for 6.38 mm CLSG had declined from an index of 100 to an index of 91 over the injury period. For 10.38 mm CLSG, prices declined from an index of 100 to 92. Customs verified the price lists to invoices and payments.

Pilkington also provided price lists from 2003 for transfer prices to its P&M division. Price lists for the earlier part of the injury period were not available. These transfer prices showed a decline in prices from an index of 100 to 91. As these were transfers, rather than actual sales, Customs considered evidence relating to transfer pricing to have less probative value than data relating to actual sales. Nevertheless, Customs considers the trend in transfer prices to be indicative.

For DMS, prices for 6.38 mm CLSG declined from an index of 100 down to 81 over the injury period, and for 10.38 mm the index declined down to an index of 79. Price decreases were evident for other thicknesses.

Customs considers that, overall, the Australian industry has suffered price depression.

### **9.2.2 Price suppression**

Price suppression occurs when the margin between costs and prices is reduced, or when an industry cannot raise prices to recover costs.

For Pilkington's sales to external customers, Customs found the margin between prices and costs declined over the injury period for all thicknesses.

For Pilkington's transfers a similar pattern is apparent, although Customs has regard to the fact that any conclusions in regards to transfers are indicative rather than conclusive as there has not been an actual sale.

For DMS, Customs found the margin between prices and costs generally declined over the injury period for all thicknesses.

Customs considers that, overall, the Australian industry has suffered price suppression.

### **9.2.3 Price undercutting**

Price undercutting occurs when imported product is sold at a price below that of the Australian product.

Customs has examined selling prices by the Australian industry and imports over the investigation period at the same level of trade.

In order to compare prices in the Australian market, the free-into-store (FIS) price to wholesalers by the Australian industry has been used and compared with the FIS price to wholesalers by the importer for the 6.38mm and 10.38mm CLSG. These two thicknesses represent over 80 per cent of the Australian market.

The prices for the imported 6.38mm CLSG from China and Indonesia have been consistently lower than those of Australian industry.

The prices for the imported 10.38mm CLSG exported from China and Indonesia has been consistently and significantly lower than those of Australian industry.

Customs considers that the Australian industry has suffered price undercutting.

## **9.3 Volume effect**

### **9.3.1 Production and sales volume**

Pilkington's sales and production volumes of CLSG increased during the injury period by about 25 percent.

During the injury period DMS' production and sales volume increased by about 12 percent.

Customs concludes that Australian industry did not suffer production and sales volume related injury.

### **9.3.2 Market share**

The following is a copy of part of the table in section 6.2:

	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>	<b>2004/05</b>	<b>2005/06</b>
<b>Australia</b>	73%	69%	66%	64%	60%

Australian industry's market share has declined over the injury analysis period.

Customs is satisfied that Australian industry has suffered reduced market share in a growing market.

## **9.4 Profit and profitability**

### **9.4.1 Profit**

Overall profit for Pilkington's sales declined by approximately two-thirds during the injury analysis period. The downward trend in profit is apparent regardless of whether the goods are sold to external customers directly or through P&M.

For DMS, Customs examined profit for 6.38 mm and 10.38 mm, the major thicknesses sold by the company. Profit for 10.38 mm declined by about one third during the injury period and by more than two thirds for 6.38 mm.

Customs considers that, on the whole, the Australian industry has demonstrated loss of profit.

### **9.4.2 Profitability**

Profitability relates to net profit as a percentage of sales revenue.

Profitability declined for all thicknesses sold by Pilkington during the injury analysis period. For example, profitability for 6.38 mm CLSG declined from index 100 to 80.

Profitability also declined for DMS. For example, profitability for 6.38 mm CLSG declined from index 100 to 55.

Customs considers that, on the whole, the Australian industry has demonstrated reduced profitability.

## **9.5 Other injury factors**

Pilkington made no specific claim of injury other than those described above.

Pilkington commented that return on investment could not be measured at the level of CLSG manufacture as such considerations were done in respect of the whole of Pilkington's business. As the primary business of Pilkington is the manufacture of CFG, any attempt to apply a return on investment for CLSG only would not be meaningful.

A similar argument applies to Pilkington's ability to raise capital and investment in the industry, as these are also whole-of-business decisions.

Pilkington submitted that it had no problems with cash flow and it did not consider this to be an injurious factor.

Data provided by Pilkington indicated that employment in the manufacture of CLSG has remained steady over the injury period. Pilkington submitted that increases in wages for staff have been in line with national trends.

Customs consider that the relatively low volume of sales by Pilkington to New Zealand is insufficient to be a cause of injury, or otherwise, to Pilkington. Revenue and volume sold to New Zealand has increased slightly over the injury period.

DMS commented that they had made a significant investment in laminating plant and equipment and were finding it difficult to get a reasonable return on investment.

DMS submitted that it had no problems with cash flow or the ability to raise capital and it did not consider these to be injurious factors.

Data provided by DMS indicate that employment in the manufacture of CLSG has remained steady over the injury period. DMS submitted that increases in wages for staff have been in line with national trends.

Insufficient data was provided to make an assessment of the other injury factors. Therefore Customs cannot draw any conclusions in relation to these claims.

## **9.6 Injury - conclusion**

From the information available, Customs concludes that the Australia Industry has suffered material injury from price depression, price suppression, price undercutting, reduced market share, loss of profits and reduced profitability.

## 10 HAS DUMPING CAUSED MATERIAL INJURY?

### 10.1 Introduction

Although an Australian industry may have suffered material injury, the Minister must not publish a dumping duty notice if the dumping was not, of itself, the cause of material injury. Injury caused by other factors must not be attributed to dumping.

Customs found that SYP and Xinyi of China and Fortuna of Indonesia had not sold goods at dumped prices to Australia during the investigation period. Any injury suffered by the Australian industry cannot be attributed to dumping.

Customs found that CSG and 'other' exporters from China, and Tungal and 'other' exporters from Indonesia had exported CLSG from Indonesia at dumped prices to Australia. The following examination of whether dumping has caused injury to the Australian CLSG industry concerns:

- CSG and other exporters from China apart from SYP and Xinyi; and
- Tungal and other exporters from Indonesia apart from Fortuna.

### 10.2 Customs' consideration

In this instance, Customs believes the following considerations are relevant when examining whether goods sold at dumped prices to Australia have caused, or is likely to cause, material injury to the Australian CLSG industry:

- Export price of the dumped goods relative to other prices;
- Size of the dumping margins; and
- The volume of dumped exports.

The following section presents the facts about whether dumping has caused, or is likely to cause, material injury to the Australian industry.

#### 10.2.1 Tungal and 'other' Indonesian exporters

Tungal's prices were above undumped export prices of CLSG sold to Australia from other sources. Tungal's export and FIS prices are higher than those prices from other undumped sources. The same is true for export prices calculated by Customs for 'other' exporters from Indonesia. Tungal and 'other' Indonesian exporters are selling CLSG at dumped prices with a dumping margin of between 2 to 5 percent. Customs calculated Tungal's volume of exports to Australia at 4.7 percent of all exports to Australia during the investigation period. 'Other' exporters from Indonesia sold an estimated 1.4 percent of all CLSG exported from Indonesia over the investigation period.

### **10.2.2 CSG**

CSG is a new entrant into the Australian market and has only exported to Australia for one quarter of the investigation period (January to March 06). Customs calculated CSG's export volume share as follows:

- As a proportion of the Australian market it was less than 1 percent over the investigation period.
- As a proportion of volumes from China and Indonesia it was 2.6 percent.

During the time it has been in the Australian market, CSG was selling CLSG at dumped prices with a dumping margin in the range of 2 percent to 5 percent. CSG was amongst the lowest priced exporters for 6.38mm and the lowest export price for 10.38mm CLSG compared to all other exporters Customs visited.

Prior to CSG entering the market, the lowest export prices for 6.38mm and 10.38mm CLSG were higher by 3 percent and 5 percent, respectively.

The major customer of CSGA does not appear on Australian industry's customer lists. This implies that this customer has not switched its source of supply from Australian industry to imports. Other customers of CSG also source from Australian industry. For one of these customers, it is likely that they switched part of their supply from Australian industry to CSG.

### **Other exporters from China**

Data from the Customs commercial database indicates that there were over 35 exporters, who sold an estimated 30 percent of all Chinese CLSG exported over the investigation period. 'Other' exporters from China are selling CLSG at dumped prices with a dumping margin in the range of 2 percent to 5 percent. The available data indicates their pricing was generally above the price of the undumped Chinese goods. These exporters typically sold low volumes of CLSG onto the Australian market over the investigation period. However, in aggregate the volume was considerable. Their sales were generally limited and intermittent, the data indicated most sold the equivalent of one or two shipments over the investigation period.

## **10.3 Unsuppressed Selling Price and Non Injurious Price**

In considering the impact of dumped exports of CLSG from China and Indonesia on the Australian industry's economic performance, Customs calculated non-injurious prices (NIP) to be used as a point of comparison with the dumped export prices. The NIP provides an indication of the price levels at which imports are unlikely to be causing injury to the Australian industry.

The NIP calculation is based on an unsuppressed selling price (USP) which is the price at which the Australian industry would be able to sell its like goods in the absence of dumping in the market. Deductions are made to the USP taking account for costs incurred in getting the goods from the export FOB point to the appropriate level of customer in Australia.

In its application, the Australian industry claimed that the CLSG market has been affected by dumping for a long period of time. However, Customs finding of dumping from China and Indonesia is confined to the investigation period. Therefore, Customs considers it appropriate to estimate the USP using the Australian industry weighted average selling prices for the 12 month period prior to the start of the investigation period.

Submissions to the SEF should address Customs' proposed approach to calculating the USP.

## 11 EVIDENCE RELIED UPON

In reaching the conclusions contained in this report, Customs had regard to:

<b>Issue</b>	<b>Section of report</b>	<b>Evidence relied upon</b>
Goods under consideration	4	Applicant's submission, publicly available information, information and submissions from importers and exporters
Like goods	5	Information from interested parties including Australian industry submission, submissions from importers and exporters.
Australian industry	5	Australian industry submissions, information gathered from Australian industry.
Export price	7	Submissions from importers and exporters, data gathered from importers and exporters, Customs commercial data base
Normal value	7	Exporters' submissions, information gathered from exporters
Economic condition of the Australian industry	9	Submissions and data provided by the Australian industry, submissions and data provided by importers, exporters, Customs' commercial data base
Causes of injury	10	Submissions and data provided by the Australian industry, importers, exporters, Customs' commercial data base

## Appendices

Non-confidential appendix A	Dumping investigation information in respect of SYP, Xinyi and Fortuna
Confidential appendix 1	CSG normal values, export price and dumping margins
Confidential appendix 2	'Other' Chinese exporters' normal values, export prices and dumping margins
Confidential appendix 3	Tunggal normal values, export prices and dumping margins
Confidential appendix 4	'Other' Indonesian normal values, export prices and dumping margins
Confidential appendix 5	Price undercutting analysis

## 12 Non-Confidential Appendix A - Dumping investigation information in respect of SYP, Xinyi and Fortuna

### 12.1 Introduction

This attachment provides dumping investigation information for SYP, Xinyi and Fortuna. Customs found that these exporters did not sell CLSG at dumped prices to Australia and terminated the investigation so far as it relates to those exporters.

### 12.2 Export Price

#### 12.2.1 China

##### 12.2.1.1 SYP

SYP sold CLSG directly to a number of customers in Australia, or indirectly through two trading houses, during the investigation period.

For sales sold directly to the Australian customer, Customs considers SYP to be the exporter of the goods and the Australian customers to be the importers of the goods and that the goods were exported to Australia other than by the importer.

Customs found these sales to be arms length in terms of s. 269TAA of the Act.

Customs calculated export prices for goods sold directly to Australian customers by SYP in accordance with s. 269TAB(1)(a) of the Act.

Customs had no cooperation for goods sold indirectly through trading houses to the Australian customer. Therefore, Customs had insufficient information to determine whether:

- the Australian buyer was the importer of the goods;
- SYP was the exporter of the goods;
- the goods were exported to Australia other than by the importer;
- the goods were purchased by the importer from the exporter; and
- the sales were arms length transactions.

Customs calculated export price in accordance with s. 269TAB(3) of the Act from the invoiced export price from SYP to the trading house, less charges and costs incurred from the point of ex factory.

#### 12.2.1.2 Xinyi

Xinyi sold CLSG directly to a number of customers in Australia or indirectly, through a buying agent, during the investigation period.

Customs considers Xinyi to be the exporter of the goods and the Australian customers to be the importers of the goods and that the goods were exported to Australia other than by the importer.

Customs found sales to be arms length in terms of s. 269TAA of the Act.

Customs calculated export prices at ex factory for goods both sold directly and indirectly by Xinyi in accordance with s. 269TAB(1)(a) of the Act.

### **12.2.2 Indonesia**

#### 12.2.2.1 Fortuna

Fortuna sold CLSG directly to a number of Australian customers during the investigation period.

Customs considers Fortuna to be the exporter of the goods and the Australian customers to be the importers of the goods, and that the goods were exported to Australia other than by the importer.

Customs found that sales were arms length in terms of s. 269TAA of the Act.

Customs calculated export prices at ex factory for Fortuna in accordance with s. 269TAB(1)(a) of the Act.

### **12.3 Normal Value**

#### **12.3.1 China**

##### 12.3.1.1 SYP

Only a small proportion of SYP's production of CLSG was sold in China during the investigation period. Customs was satisfied that this volume of domestic sales to be a low volume of domestic sales of like goods and not large enough to permit a proper comparison, in terms of s. 269TAC(14) of the Act. The only other seller of like goods with domestic sales in China visited by Customs, Xinyi, was found to have a low volume of domestic sales.

Customs calculated normal values in accordance with s. 269TAC(2)(c) of the Act. A rate of profit was calculated from SYP's financial data relating to the same general category of goods.

Adjustments to the constructed cost to make and sell were made in accordance with s. 269TAC(9) of the Act. Normal value and export price were determined ex factory. Positive adjustments were made for exports sales staff costs.

Negative adjustments were made for domestic sales staff costs, and domestic advertising.

In this instance, the VAT differential between export and domestic sales was excluded from the export price so no positive adjustment was necessary.

#### 12.3.1.2 Xinyi

Only a small proportion of Xinyi's production of CLSG was sold in China during the investigation period. Customs considered this volume of domestic sales to be a low volume of domestic sales of like goods and not large enough to permit a proper comparison, in terms of s. 269TAC(14) of the Act. The only other seller of like goods with domestic sales in China visited by Customs, SYP, was found to have had a low volume of domestic sales.

Customs calculated normal values in accordance with s. 269TAC(2)(c) of the Act. A rate of profit was calculated from Xinyi's financial data relating to the same general category of goods.

Adjustments to the constructed cost to make and sell were made in accordance with s. 269TAC(9) of the Act. Normal value and export price were determined ex factory. Positive adjustments were made for export credit terms and VAT differential (which in this case was not excluded from the export price). Negative adjustments were made for domestic inland freight, domestic sales commissions and domestic credit.

### **12.3.2 Indonesia**

#### 12.3.2.1 Fortuna

Only a small proportion of Fortuna's CLSG production was sold in Indonesia during the investigation period. Customs considered this volume of domestic sales to be a low volume of domestic sales of like goods and not large enough to permit a proper comparison, in terms of s. 269TAC(14) of the Act. The only other seller of like goods with domestic sales in Indonesia visited by Customs, Tungal, was found to have had a low volume of domestic sales relative to the export volume of Fortuna.

Customs calculated normal values in accordance with s. 269TAC(2)(c) of the Act. A rate of profit was calculated from Fortuna's financial data relating to the same general category of goods.

Normal value and export price were determined ex factory. No adjustments were made to the constructed cost to make and sell.

## **12.4 Dumping margins**

Customs calculated dumping margins in accordance with s. 269TACB(2)(a) of the Act.

Customs found negative dumping margins (i.e. not dumped) for SYP and Xinyi of China and for Fortuna of Indonesia.

As outlined in section 2.2 of this report, Customs found that there has been no dumping of the goods by SYP and Xinyi of China and Fortuna Glass. The CEO terminated the investigation, so far as it relates to those exporters.