



**AUSTRALIAN
CUSTOMS SERVICE**

AUSTRALIAN CUSTOMS SERVICE

Customs Act 1900 - Part XVB

TRADE MEASURES BRANCH

STATEMENT OF ESSENTIAL FACTS NO. 60

CONTINUATION INQUIRY:

CLEAR FLOAT GLASS

**EXPORTED FROM PEOPLE'S REPUBLIC OF CHINA
AND BANGKOK FLOAT GLASS CO., LTD OF
THAILAND**

August 2001

CONTENTS

CONTENTS	2
ABBREVIATIONS	4
1. SUMMARY	5
1.1 Background.....	5
1.2 Economic condition of the industry	5
1.3 Customs' assessment.....	6
1.4 Conclusion	7
2. INTRODUCTION.....	8
2.1 Investigation process	8
2.2 Purpose of this statement	8
2.3 Responding to the statement	9
3. BACKGROUND TO THE INQUIRY	10
3.1 Public notifications	10
3.2 Public record.....	10
3.3 Goods under inquiry.....	10
3.4 History of measures	11
4. LIKE GOODS AND AUSTRALIAN INDUSTRY.....	12
4.1 Produced in Australia.....	12
4.2 Like goods	12
4.3 The Australian industry	12
4.4 Conclusion	13
5. AUSTRALIAN MARKET	14
5.1 Market structure.....	14
6. ECONOMIC PERFORMANCE OF THE INDUSTRY	16
6.1 Introduction	16
6.2 Applicant's claims	16
6.3 Industry's performance.....	16
6.3.1 Sales volumes	16
6.3.2 Market share.....	17
6.3.3 Price and cost trends	18
6.3.4 Profit and profitability	19
6.4 Other factors	20
6.4.1 Capital investment	20
6.4.2 Utilization of capacity	20
6.5 Conclusion	20
7. CUSTOMS' ASSESSMENT	22
7.1 Introduction	22
7.2 The Australian industry's claims.....	22
7.3 Submissions to the inquiry	23
7.3.1 Luoyang.....	23
7.3.2 Other submissions	24
7.4 Import activity.....	26
7.4.1 BFG	26

7.4.2	China	27
7.5	Production capacity.....	27
7.5.1	BFG	27
7.5.2	China	28
7.6	Third country dumping	28
7.6.1	Mexico and India.....	28
7.6.2	New Zealand.....	29
7.6.3	Other.....	30
7.7	Chinese pricing	30
7.8	Economic performance of the industry.....	31
8.	RECURRENCE OF DUMPING CAUSING MATERIAL INJURY	33
8.1	BFG	33
8.2	China	33
8.2.2	Luoyang.....	34
8.2.3	Conclusion	34
9.	RECOMMENDATIONS.....	35

ABBREVIATIONS

ABS	Australian Bureau of Statistics
ACDN	Australian Customs Dumping Notice
BFG	Bangkok Float Glass Co., Ltd
CEO	Chief Executive Officer of Customs
CFG	clear float glass
CFR	cost and freight
China	People's Republic of China
CIF	cost, insurance and freight
CTMS	cost to make and sell
CTS	cut to size
Customs	Australian Customs Service
FOB	free on board
FRS	factory run sizes
GSS	glazing stock sizes
GUC	goods under consideration
Luoyang	Luoyang Glass Co., Ltd
Minister	Minister responsible for Customs
NIFOB	non-injurious free on board (price)
Pilkington	Pilkington (Australia) Limited
PAD	preliminary affirmative determination
s.	section, sub-section or paragraph
SEF	statement of essential facts
TMRO	Trade Measures Review Officer
the Act	<i>Customs Act 1901</i>
USP	unsuppressed selling price
WTO	World Trade Organisation

1. SUMMARY

1.1 Background

Anti-dumping measures currently applying to imports of certain thicknesses of clear float glass (CFG) exported from the People's Republic of China (China) and by Bangkok Float Glass Co., Ltd (BFG) from Thailand are due to expire on 2 November 2002. On 25 January 2002, Customs publicly invited interested parties to apply for continuation of those measures.

On 22 March 2002, Pilkington (Australia) Limited (Pilkington), the sole Australian producer of CFG, lodged an application requesting the Minister continue the anti-dumping measures.

On 15 April 2002, Customs initiated an inquiry to determine whether there was sufficient basis for it to recommend to the Minister that the measures should be continued, or that they be allowed to expire.

Customs will make a report and recommendation to the Minister on or before 17 September 2002.

This statement of essential facts (SEF) sets out the essential facts that will form the basis of Customs' recommendations to the Minister.

Interested parties have 20 days to comment on this SEF (i.e. by 23 August 2002).

During this inquiry, Customs:

- undertook investigations at the premises of Pilkington;
- contacted importers of CFG from China to establish import details and invite submissions;
- visited ten importers and/or distributors of CFG;
- mailed BFG and known exporters of CFG from China to establish export details and invite submissions;
- received submissions from Luoyang Glass Co., Ltd (Luoyang) of China.

1.2 Economic condition of the industry

Information provided by Pilkington and verified by Customs shows that in the last four years the Australian industry has experienced:

- no growth in sales volumes;
- relatively steady market share;

- average revenue per tonne which improved during 2000–01 but has declined since;
- average costs per tonne which has remained flat throughout the period;
- improved profits;
- improved returns on sales and net trading assets;
- deferment of capital investment in plant rebuilding;
- relatively full capacity utilization.

1.3 Customs' assessment

- Imports comprise about 35% of the Australian market.
 - The largest volume of imports is sourced from Indonesia, with China the next largest.
 - There have been no imports from BFG since 1999.
- Before the imposition of anti-dumping measures, China had been the largest supplier of imported CFG.
- Pricing of Chinese imports has closely followed changes to the anti-dumping measures. When the measures were reduced in 2000 prices of Chinese imports fell significantly.
- Price is a key factor in determining the supplier of CFG. Currently, undumped Indonesian imports are priced below Chinese imports.
- There appears to be substantial surplus production capacity in China. However, there is no evidence that BFG has surplus production capacity.
- There is evidence that Chinese manufacturers have sought to increase exports, for example to Mexico and India, and are prepared to undercut existing prices in the market. However, there is no such evidence in regard to BFG.
 - The Ministry of Commerce & Industry in India has initiated an anti-dumping investigation into imports of float glass (including CFG) from China and Indonesia.
- Weighted average import prices of all Chinese CFG since early 2000 have been below the assessed normal values for China (although above the NIFOBs), and therefore dumped.
- Evidence provided by Luoyang indicates its sales to Australia during 2000 and 2001 were not dumped.
 - There is no evidence to indicate that sales by Luoyang to Australia in the future would be dumped.
- There is no evidence of third country dumping by Luoyang in the last five years.
- There is no evidence that BFG intends to export to Australia.

- Nor is there evidence that if exports by BFG were to occur that they would be at dumped prices.
- The Australian industry is currently profitable but is performing below satisfactory levels.
 - As a consequence, the sole producer in Australia, Pilkington, decided not to rebuild its Ingleburn production facility in 2001.
- A reduction in the Australian industry's profits caused by, for example, loss of sales and/or reduced prices, would be likely to cause material injury to the Australian industry.

1.4 Conclusion

Based on the information available, Customs intends to recommend that the Minister:

- continue the anti-dumping measures against imports of CFG (3mm to 12mm) from China (other than Luoyang);
- not continue the anti-dumping measures on CFG (3mm to 12mm) imported from Luoyang of China; and
- not continue the anti-dumping measures on CFG (3mm to 12mm) imported from BFG of Thailand.

Measures not continued will expire after 2 November 2002.

2. INTRODUCTION

2.1 Investigation process

Under section 269TM of the *Customs Act 1901* (Customs Act), dumping and countervailing duty notices automatically expire five years after the date on which they were published, unless revoked earlier.

Section 269ZHB of the Customs Act stipulates that not later than nine months before an anti-dumping or countervailing measure expires Customs must announce that the notice is due to expire and invite interested parties to apply within 60 days for continuation of the measures. If no application for continuation of the measures is received by Customs within the period allowed in the notice the measures automatically expire on the specified date.

If an application for continuation of an anti-dumping or countervailing measures is lodged and it complies with the legislative requirements Customs must initiate a formal inquiry. Customs then has up to 155 days to inquire and report to the Minister on whether the measures should be continued.

Before recommending the continuation of the measures, Customs must be satisfied that expiration of the measures would lead, or would be likely to lead, to a continuation, or recurrence, of the material injury that the anti-dumping or countervailing measures were intended to prevent.

Where the Minister decides to continue anti-dumping or countervailing measures, the notice will remain in force after the specified date for a further period of five years (unless the relevant notice is revoked before the end of that period).

Unlike the Minister's decision in relation to an investigation or a review of measures the decision of the Minister in a continuation inquiry is not subject to review by the Trade Measures Review Officer (TMRO). Any party aggrieved by the Minister's decision would have to appeal through the courts.

2.2 Purpose of this statement

Under the provisions of Division 6A of Part XVB of the *Customs Act 1901* (the Act), in relation to a continuation inquiry Customs must:

- issue a Statement of Essential Facts (SEF) in relation to the investigation within 110 days of initiation;
- make a recommendation to the Minister within 155 days of initiation as to whether anti-dumping duties should be continued.

The purpose of this SEF is to set out the essential facts that will form the basis of Customs' recommendation to the Minister in respect of the

investigation. This allows interested parties the opportunity to comment before a recommendation is made.

This statement is based on:

- the application;
- information provided to Customs during visits to interested parties;
- submissions received by Customs from interested parties;
- any other information considered by Customs to be relevant.

2.3 Responding to the statement

Interested parties are given 20 days to comment on the facts outlined in this SEF (i.e. by 23 August 2002).

Submissions made in response to this SEF should be limited to the issues of fact as outlined in this document. Because of the statutory time limit to make a report to the Minister it would generally not be possible for Customs to consider new issues or facts raised at this stage.

Submissions should be sent to:

Director Operations 3
Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601.

Customs is not obliged to have regard to any submissions made in response to the SEF that are received after the end of the 20 day period if to do so would prevent the timely preparation of the report to the Minister. Submissions in response to the SEF should include a non-confidential version for the public record.

This SEF should be read in conjunction with other publicly available documents relating to the inquiry (see section 3.2 of this statement).

3. BACKGROUND TO THE INQUIRY

3.1 Public notifications

On 25 January 2002 Customs announced in a notice in the *Australian Financial Review* that the anti-dumping measures currently applying to CFG exported from China and by BFG from Thailand were due to expire after 2 November 2002. The notice invited interested parties to apply, within 60 days from the date of the notice, for continuation of the measures.

On 22 March 2002 an application was received from Pilkington, the sole producer of CFG in Australia, for continuation of the measures for a further five years.

On 15 April 2002, following prima facie examination of the applicant's claims, Customs announced the commencement of an inquiry in the *Australian Financial Review* and in Australian Customs Dumping Notice (ACDN) No 2002/19.

3.2 Public record

Under s. 269ZJ of the Act Customs is required to maintain a public record of the inquiry. Interested parties are entitled to inspect that record.

The public record contains, as well as this SEF, non-confidential versions of:

- the application;
- reports by Customs on its visits to interested parties;
- submissions made by interested parties to the inquiry.

This statement should be read in conjunction with these other publicly available documents.

All Customs dumping notices and this SEF are available on the internet at <http://www.customs.gov.au/notices/index.htm>.

3.3 Goods under inquiry

The goods under review are CFG in thicknesses ranging from 3mm to 12mm.

CFG is typically produced in a float process. Sand, soda ash, dolomite and other raw materials are melted in a furnace. A continuous ribbon of molten glass flows out of the furnace onto a bath of molten tin. The top surface finds a natural level and flatness while the bottom surface conforms to the flat surface of the molten tin. The speed at which the glass is removed from the bath governs the thickness.

CFG is supplied in a variety of size categories, including 'jumbo' or factory run sizes (FRS), glazing stock sizes (GSS) and cut to size (CTS). CFG is produced primarily for use in the building and associated industries. It can be further processed into other glass types, such as toughened, laminated, mirrored, and architectural.

The tariff classification of the goods under review is subheading 7005.29.00, statistical codes 2 to 6, in Schedule 3 of the *Customs Tariff Act 1995*. The general rate of duty is 5% and the developing country status (DCS) rate is 4%. Both China and Thailand are subject to the DCS rate.

3.4 History of measures

The date of notice of the measures was 2 November 1992.

A continuation review of the measures was carried out by the Anti-Dumping Authority (ADA) in 1997. Details of the inquiry are contained in ADA Report No.177 and ACDN No. 97/076.

In addition, there have been various reviews of the measures applicable to China and BFG – in 1993, 1995, 1997 (China only), 1998 (China only), 1999, 2000 and in early 2002.

Currently, the measures for China and BFG are based on non-injurious free on board prices (NIFOBs).

4. LIKE GOODS AND AUSTRALIAN INDUSTRY

Anti-dumping measures are imposed to counter the material injury caused by dumped imports to an Australian industry producing like goods. If there is not an industry producing like goods in Australia it would not be appropriate to continue the measures.

4.1 Produced in Australia

Customs must be satisfied that the goods claimed by the applicant to be like goods are 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.

Customs inspected Pilkington's manufacturing facilities and observed the production of CFG. Customs verified product information, including the cost to make, provided by Pilkington in its application. Customs is satisfied that CFG is wholly manufactured in Australia.

Customs is satisfied that the conditions of ss. 269T(2) and (3) are met.

4.2 Like goods

Customs must also determine if the goods produced in Australia are like goods to the goods under consideration.

Subsection 269T(1) of the Customs Act defines 'like goods' as follows:

"like goods", in relation to goods under consideration, means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

On the basis of the evidence available from the current and previous inquiries, Customs is satisfied that Pilkington produces like goods to the goods under consideration.

4.3 The Australian industry

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

The applicant, Pilkington, manufactures CFG at two plants in Australia—one in Dandenong in Victoria and the other in Ingleburn in NSW. In this and previous inquiries Customs did not find other producers of CFG in Australia.

Customs has previously concluded (for example, Trade Measures Report No. 21) that companies that further process CFG, or cut it to size and on-sell it, are not part of the Australian CFG manufacturing industry.

On the basis of evidence available from the present and previous inquiries, Customs is satisfied that Pilkington is the sole producer of CFG in Australia and therefore comprises the Australian industry.

4.4 Conclusion

Customs concludes that the requirements of ss. 269T(1), (2), (3) and (4) are satisfied. That is, there continues to be an Australian industry producing like goods.

5. AUSTRALIAN MARKET

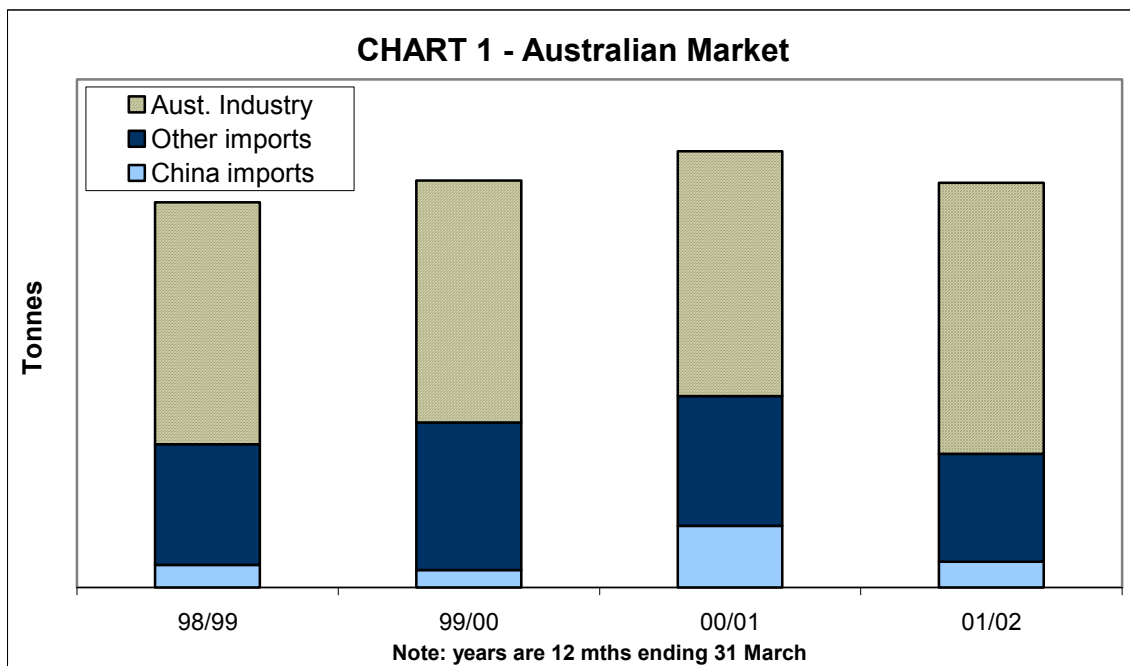
5.1 Market structure

The Australian market for the CFG under investigation varies around 125,000 tonnes per annum, depending on demand conditions particularly from the construction/building industry. It is not a market that has been characterised by regular growth in recent years - the market size in 2001–02 was only marginally bigger than it was three years earlier in 1998-99. The market is supplied by:

- Pilkington;
- imports from China;
- imports from other countries, especially Indonesia.

There have been no imports of CFG from BFG of Thailand for at least the last three years.

The structure of the market is depicted in chart 1.



Pilkington is the largest supplier to the market, with a market share varying between 60-70%. It sells CFG to glass merchants and processors. Pilkington also processes and sells some of the CFG it produces, thereby competing with other processors. Pilkington sells directly from its factory to larger companies, and to smaller customers through its own distribution network.

In previous inquiries Customs found that the Australian market was generally described as consisting of three levels of trade, as follows.

- At the first level are large-scale purchasers of CFG. These customers may buy directly from Pilkington, either in containers or 20 tonne truck loads. Or they may buy containers of imported CFG, either by importing the goods themselves or by purchasing them from an importer. Customers at this level include large glass merchants who may also be glass processors and fabricators.
- The second level of sales is by these large glass merchants to smaller merchants, processors and fabricators. CFG sold at this level is commonly sold by the case. A case is the package size used by the manufacturer. Traditionally it was a wooden frame. The quantity of glass in a case varies with thickness, width, and height, and between manufacturers.
- At the third level identified by Customs, case buyers resell CFG to other smaller merchants, processors and fabricators. Domestic glaziers may also be supplied at this level.

It should be noted that while the above is a generally accepted description of market structure, functions performed at the various levels of trade are similar and it may not always be clear at what level a particular company is trading.

6. ECONOMIC PERFORMANCE OF THE INDUSTRY

6.1 Introduction

Customs must examine whether expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

In this context, Customs examines the economic performance of the industry.

6.2 Applicant's claims

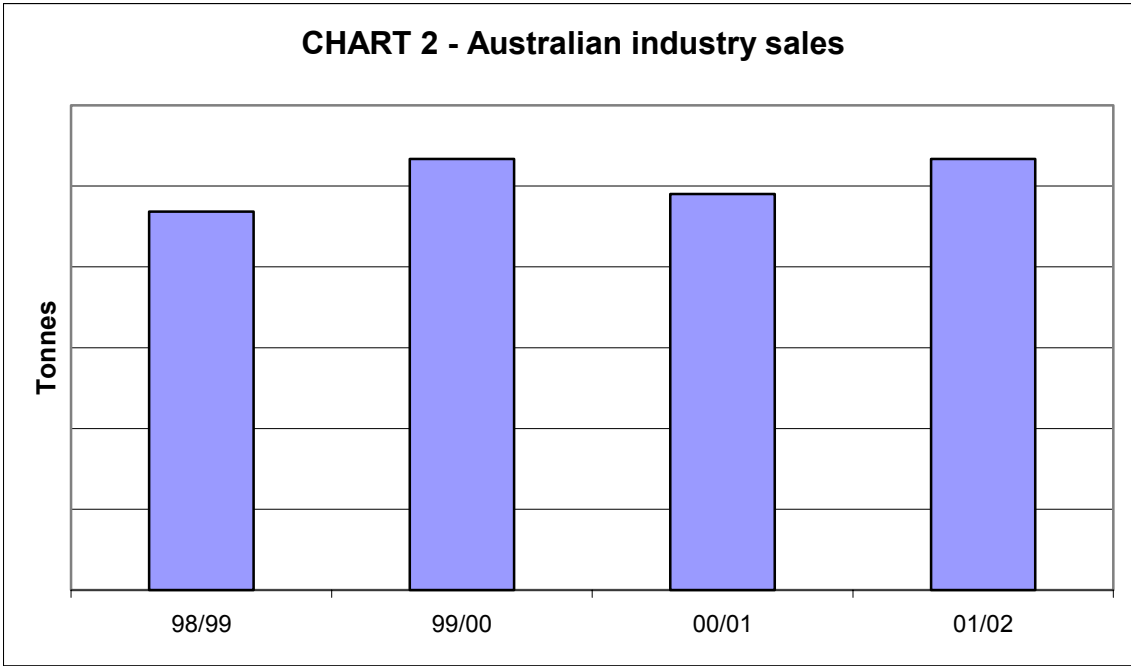
Pilkington made the following claims regarding its current and future performance.

- Market share has been under pressure since 1997–98 and has subsequently declined.
- A low return on sales was suffered up until about mid 2000, after which returns have improved but are below levels required to encourage further investment. Pilkington attributes the improvement to changes to the measures in May 2000 following a review.
- There is substantial surplus production capacity in China. Since the imposition of measures Chinese exporters have lost market share in Australia, although they still remain significant exporters to Australia. If measures were discontinued Chinese exporters would reduce prices to try to recapture market share. Australian industry would be compelled to compete at these lower price levels resulting in lower returns and recurrence of material injury.
- Historically the Asahi Group, a significant exporter of CFG to Australia, has altered the source country of exports depending on the circumstances of anti-dumping action, whether this was in the nature of a review of measures or a new application. Currently the Asahi Group is exporting to Australia mostly from Indonesia. Imports of 3mm CFG from the Asahi Group's subsidiary in Indonesia is subject to measures. This glass size is a high demand product in Australia. There is a threat that the Asahi Group could shift the source of these (as well as other sizes) exports from Indonesia to BFG, an Asahi Group company in Thailand, should the measures against BFG expire.

6.3 Industry's performance

6.3.1 Sales volumes

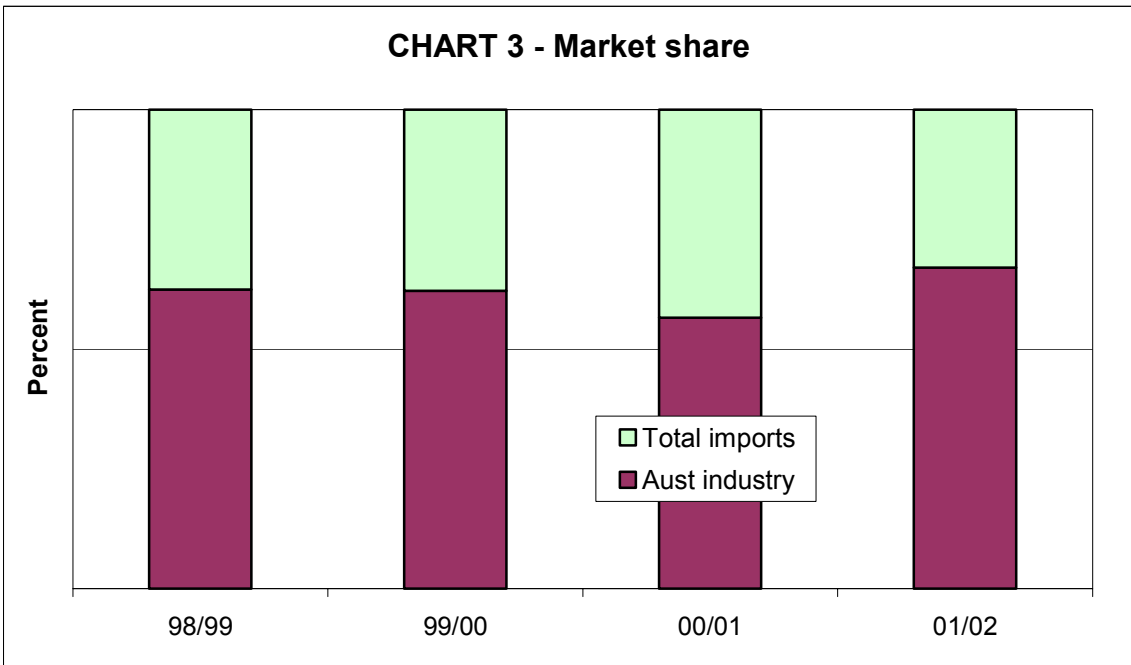
Sales volumes for the Australian industry for the last four years are shown in chart 2.



The chart shows that the industry has not expanded sales volumes.

6.3.2 Market share

Market share is depicted in chart 3.



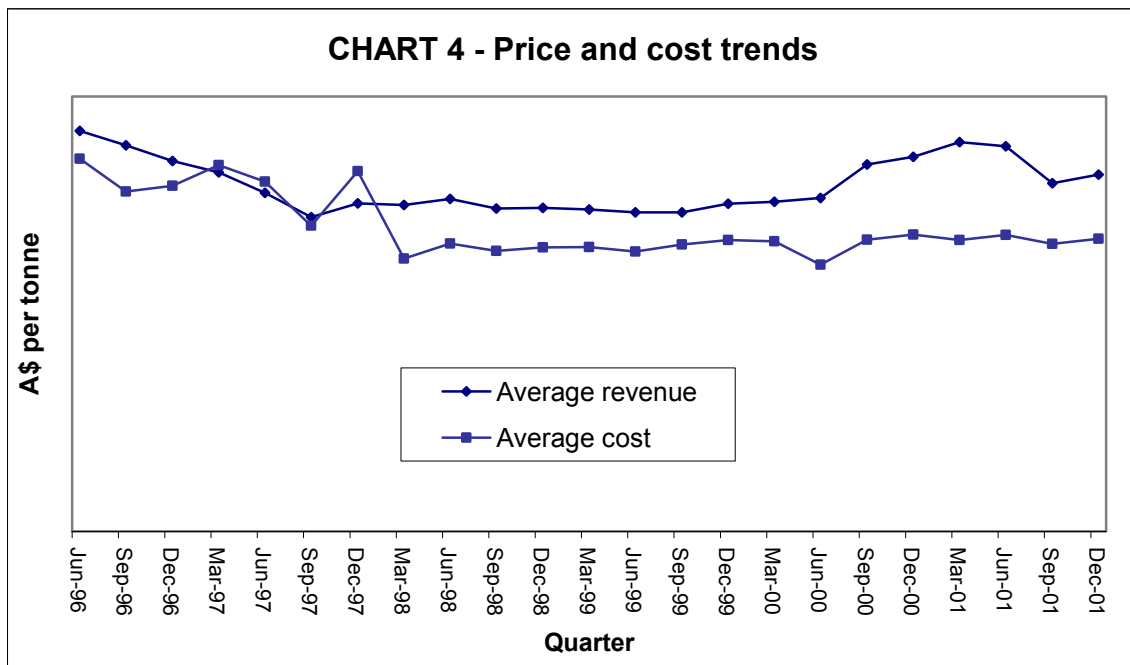
The chart shows the Australian industry's market share has remained relatively static.

In the application Pilkington comments that its 'market share peaked in 1993/94 when measures were first imposed and again in 1997/98 at the time of the Asian economic crisis. This was despite a substantial increase in the volume of imports from Indonesia. However since 1997/98 Pilkington's market share has declined and in 2000/01 it reached its lowest level. Pilkington claims this coincided with a review of measures which saw NIFOBs for China reduced.'

Customs' records confirm the NIFOB reduction early in 2000 and chart 1 shows that imports from China increased in 2000–01.

6.3.3 Price and cost trends

Price and cost trends for the Australian industry are depicted in chart 4.



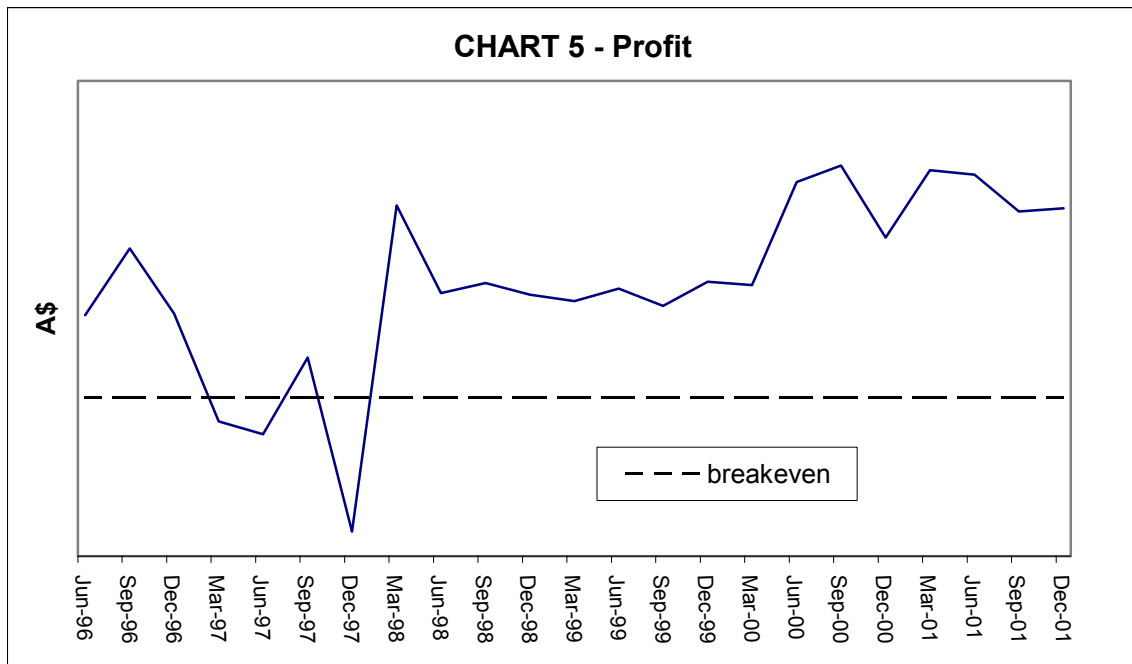
Prices, as measured by average revenue per tonne sold, fell through 1996 and 1997 before levelling out in 1998 and 1999. From the March quarter 2000, prices rose until the June quarter 2001 whereupon they declined again. This coincided with the anti-dumping investigation against Indonesia and when the plant of Muliaglass of Indonesia was shut down for maintenance. The most recent high point (in March quarter 2001) was below the price in the June quarter 1996.

Costs improved significantly between June 1996 and March 1998 quarters and have remained relatively consistent since then.

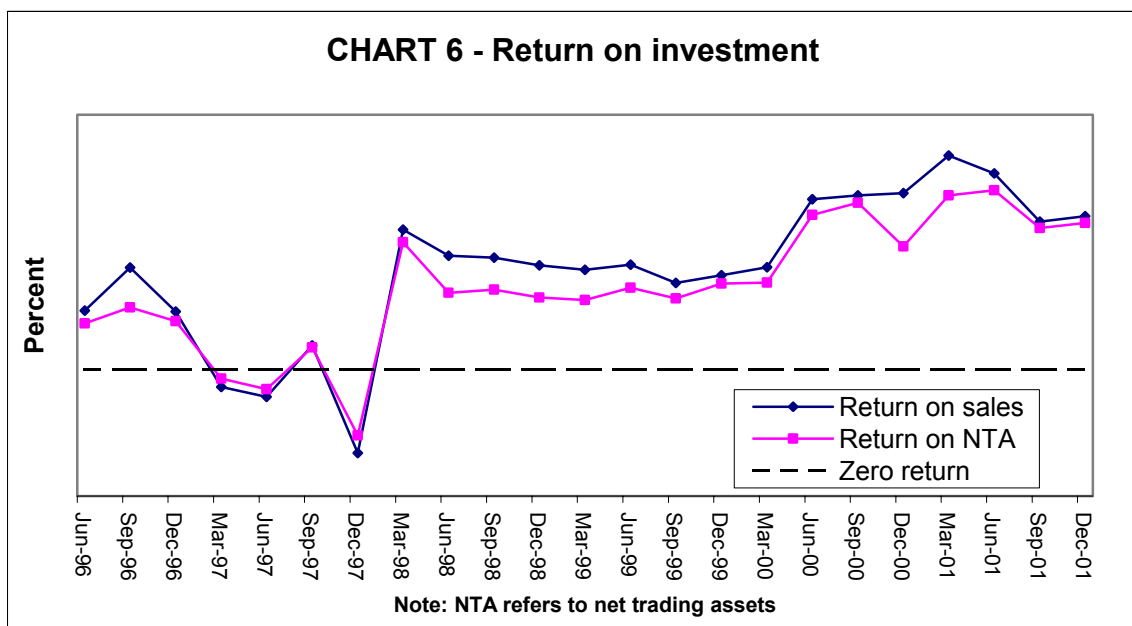
The impact of the price and cost trends on the Australian industry can be gauged by examining the profit trend.

6.3.4 Profit and profitability

Chart 5 shows that the Australian industry's profit performance in 1996 and 1997 was poor as the company experienced price suppression. From the March quarter 1998 profit improved as costs reduced. Profit remained steady for the next 18 months as costs and prices stabilised. From the March quarter 2000 prices rose, resulting in higher profits, until the second half of 2001 when prices once again softened causing profit to reduce.



The effect that profit levels had on the industry's economic performance can be measured by the rates of return on sales and net trading assets. Rates of return since 1996, as provided by Pilkington, are depicted in chart 6.



The figures show that between 1996 and 1998 the industry suffered from a low return on sales, negative in some quarters. From 1998 until March 2000 quarterly returns on sales improved. After March 2000, return on sales rose substantially for each of the next five quarters before falling back a few percentage points for the last half of 2001.

6.4 Other factors

6.4.1 Capital investment

The financial information provided by Pilkington shows that the capital investment required for manufacturing CFG is considerable. Pilkington's Australian operations must compete with other Pilkington (UK) Group companies throughout the world in obtaining additional capital from the parent. While Pilkington's performance has improved (see section 6.3.4 above) since measures were imposed, it remains below targets set by the parent company.

This impacted on the Australian operations in 2001 when the Ingleburn (Sydney) float line faced decommissioning. Rather than investing the considerable capital required for a complete rebuild of the facility a temporary repair program was carried out.

Pilkington advised that its facility in Dandenong (Melbourne) faces a major rebuild in 2005–06. Once again, the decision whether to invest the necessary capital will be based on returns achieved by the Australian industry during the next few years.

6.4.2 Utilization of capacity

Pilkington's two manufacturing facilities have the production capacity to totally supply the Australian market for CFG - if production was largely focussed on that type of glass. However the company also produces and sells a range of other types (colours) of glass, and total production capacity is shared between the different glasses. In the last three years production of CFG (thicknesses 3-12mm) has consistently been about three quarters of saleable output.

Production information provided by Pilkington shows that over the last three years the company's utilization of production capacity was more than 90%.

6.5 Conclusion

Information provided by Pilkington and verified by Customs shows that in the last four years the Australian industry has experienced:

- no growth in sales volumes;
- relatively steady market share;

- average revenue per tonne which improved during 2000–01 but declined since;
- average costs per tonne which remained flat throughout the period;
- improved profits;
- improved returns on sales and net trading assets;
- deferment of capital investment in plant rebuilding;
- relatively full capacity utilization.

7. CUSTOMS' ASSESSMENT

7.1 Introduction

The purpose of this inquiry is to establish whether the anti-dumping duties currently applying to imports of CFG from China and BFG should be continued for a further five years.

Subsection 269ZHF(2) of the Customs Act states that:

The CEO must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the CEO is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The test to be applied by Customs is a positive one. That is, Customs must be satisfied that the material injury caused by dumping would be likely to continue or recur. Customs cannot recommend the continuation of the measures on the basis that it cannot be satisfied that these events will not occur.

Therefore the central issue to be addressed in this continuation inquiry is whether the expiration of the anti-dumping measures would lead, or would be likely to lead, to continuation or recurrence of:

- the dumping of exports of CFG from China and/or BFG; **and**
- the material injury to the Australian industry that the anti-dumping measures were intended to prevent.

7.2 The Australian industry's claims

In summary, the Australian industry claimed that:

- Imports from China have fluctuated with public notification of the initiation or results of anti-dumping inquiries.
 - Whenever the level of measures against China has decreased, prices of Chinese imports have correspondingly declined and import volumes increased.
 - When an inquiry has led to declining imports from other countries, principally Indonesia, Chinese imports have increased.
- When Muliaglass' (of Indonesia) plant underwent maintenance for an extended period in 2000, Chinese imports rose significantly.
- The preceding points indicate that China remains very interested in the Australian market.

- The current measures prevent China from increasing export volumes by price competition. If the measures were removed, Chinese exporters would strive to increase export volume by reducing prices.
- Imports from Thailand increased during 2000–01.
 - The parent company of BFG, the Asahi Group, exports CFG to Australia through its Indonesian and Chinese affiliates. If measures against BFG are removed the Asahi Group could readily source more product from Thailand, especially if future anti-dumping inquiries affect one or more of its other companies.
- There is no apparent impediment facing exporters in either continuing to supply the Australian market or to increase the volume of exports in the immediate future.
 - Production capacity continues to rise in China while current capacity utilisation is only around 71%.
 - There is excess production in Thailand in the face of a weak domestic market.
- It is only since certain anti-dumping measures were imposed in May 2000 that a more satisfactory return on sales has been achieved. However returns remain below levels required for further capital investment.
 - If measures are discontinued import prices would likely decrease. As customers look to import parity pricing, Pilkington would have to reduce prices to retain them. Return on sales for the Australian industry would decline to unsatisfactory levels.
- In May 1998 the Trade Remedies Group of the NZ Ministry of Commerce concluded that imports from China and Thailand had been dumped.
 - More recent (2001) NZ import data indicates imports from China and Thailand continue to be at dumped prices.
- Recent exporting behaviour by Chinese and Thai exporters in Mexico and Chinese exporters in India demonstrates their willingness to seek greater shares in export markets by dumping.

7.3 Submissions to the inquiry

7.3.1 Luoyang

Customs received submissions to the inquiry from a Chinese exporter, Luoyang. The submissions included:

- audited financial report for year ending 31 December 2001;
- invoices for domestic sales in 2001 and 2002;
- invoices for export sales in 2001 and 2002;

- production information.

In the submissions, the following points were made.

- Luoyang is not selling CFG into Australia at dumped prices and does not intend to sell into Australia at dumped prices.
- Injury to the Australian industry is the result of competing with undumped imports from Indonesia.
- Prices of imports of each of the relevant sizes of CFG from China has been higher than the respective import prices from nearly all other countries exporting CFG to Australia.
- Luoyang's sales of CFG are primarily into the Chinese domestic market.
 - Because of low profit margins for high quality glass in China Luoyang would like to develop export markets for this glass.
 - However, export sales will only be made if they are profitable.
- The volume of sales by Luoyang to Australia in 2001 was relatively small.
 - Prices obtained in Australia during 2001 were very good and higher than in the Chinese domestic market.
 - Luoyang wishes to continue to develop a market in Australia, if prices continue to be profitable.
- Luoyang has relatively modest surplus production capacity.

7.3.2 Other submissions

Customs visited ten importers/users during the inquiry. Reports were prepared on the visits and placed on the public record. Comments made by these interested parties include:

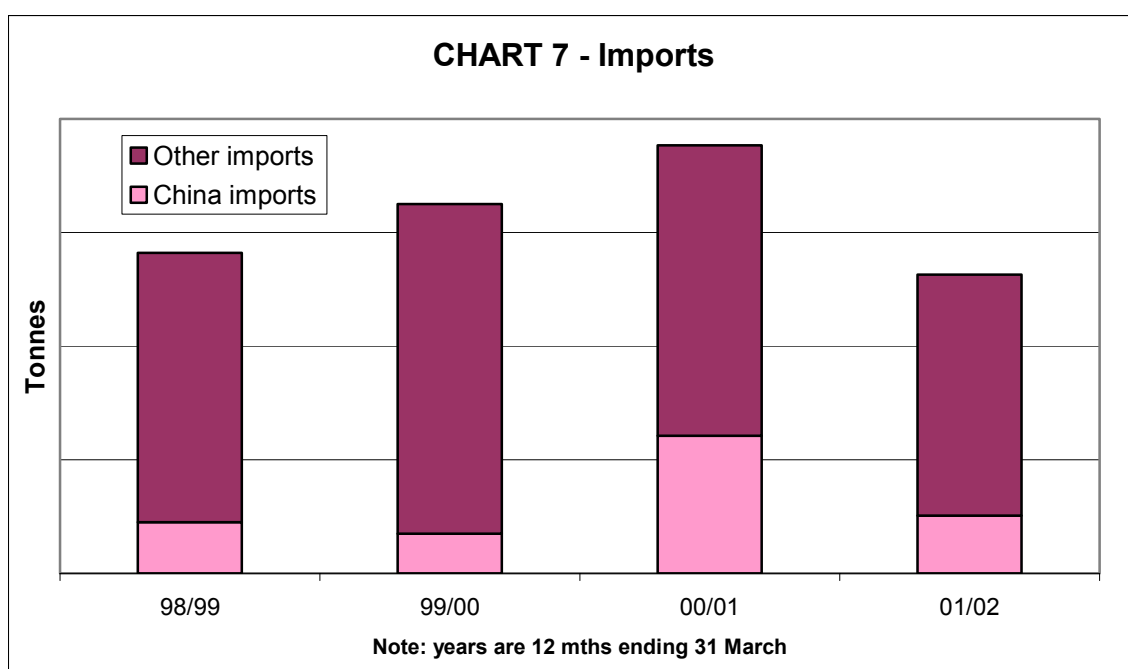
- Pilkington is a monopoly producer in Australia. It is also a distributor, a processor and a retailer of glass and therefore competes against many of its glass customers. In such circumstances it is vital that distributors/processors have alternative sources of supply.
- Pilkington does not have the capacity to fully supply the CFG market in Australia and also produce the range of other types of glass that it markets. Therefore imports of CFG are a necessity, and the global supply situation important.
- Domestic CFG glass supply in Australia fluctuates and shortages often occur. This can come about because of strong demand, especially from the building/construction industry. Or, it can be because of domestic production shortfalls, for example when a plant is undergoing maintenance or production lines are being used to produce other types of glass.

- Quality is not a major issue between Pilkington glass and glass purchased from major exporters. Price, however, is important.
- Some importers consider glass to be a commodity with a world price, while others consider the price to have regional variability. A number consider that the current global market for CFG is in balance and that prices are firming.
- Prices for CFG in Australia are determined by the selling prices set by Indonesian exporters. Some importers commented that currently Chinese offer prices are not competitive (with Indonesian prices).
- Chinese exporters have not been actively seeking to increase exports to Australia because of the low prices in this market. Chinese manufacturers prefer to sell in Europe, US or the Chinese domestic market because prices are higher.
- Imports of Chinese manufactured CFG rose in 2000–01 because PT Muliaglass' plant in Indonesia underwent extensive maintenance and imports were sourced from China until the maintenance was completed.
- Although there are many glass manufacturers in China and the overall capacity is large, many manufacturers are small, located away from the coast (ports) and often produce inferior glass. These manufacturers do not have the ability or product to export and only sell to the domestic market. Supply has also been affected by government action during 1999–00 that forced many small glass manufacturers to close.
- One importer commented that there would be a limited number, eight was suggested, of Chinese manufacturers who had both the ability to export and a product with the quality suitable for use in Australia.
- A common view of importers was that China had been undergoing a construction boom for a number of years and there were no signs of the boom stopping. Chinese domestic demand for CFG was therefore strong and prices were 'very good'.
- Due to the strong domestic demand and favourable prices for CFG in China most CFG production is directed to the domestic market. The larger manufacturers maintain a focus on exporting, but only if prices are better than could be achieved in the domestic market.
- A few importers commented that, because of reasons mentioned in the paragraph above, it would be unlikely that Chinese exporters would want to compete with the relatively low prices in the Australian market. Therefore it would be unlikely that the volume of imports from China would increase significantly if the measures expired.
- One importer (who mostly purchased from Indonesia) cautioned that if the construction activity in China slowed it was likely that Chinese manufacturers would seek other markets and exports to Australia could suddenly increase.

7.4 Import activity

The applicant supplied import statistics since 1993, based on Australian Bureau of Statistics figures. The figures comprise all imports of clear float glass, and therefore include thicknesses of CFG outside those that are under investigation (3mm to 12mm inclusive).

In order to filter out imports of CFG that were not the goods under investigation, Customs used its own commercial database to examine import activity. The import pattern is depicted in chart 7.



7.4.1 BFG

The import data shows that there have been no imports from BFG since at least 1999 (and few imports from Thailand - less than 2% of imports in most years). Pilkington asserted that this is because of the measures.

Pilkington noted that BFG is a member of the Asahi Group that, through subsidiaries, manufactures CFG in a number of countries, including Thailand. The Group is currently a significant exporter to Australia, primarily by its Indonesia subsidiary, but it can readily change the source of its exports. One thickness of glass (3mm), exported to Australia from Indonesia is subject to measures. Pilkington contended that if measures against BFG expired the Group could change the source of its exports to Australia, particularly in relation to 3mm glass, to BFG.

While the scenario presented above is possible there is no evidence to suggest that it would be likely to happen. Customs notes that there is another Asahi Group member in Thailand, Thai-Asahi Public Glass Co, and the Asahi

Group has not sourced substantial exports to Australia from this company even though measures against it expired in 1998.

7.4.2 China

Before 1997, China was the major source of imports of CFG into Australia. Since then, imports from China have declined substantially, to be replaced by imports from other countries, principally Indonesia. However, China remains the second biggest exporting country to Australia. In 2000–01, imports from China rose significantly. Pilkington expressed the view that this was mainly due to the uncertainty caused by the commencement of an anti-dumping investigation against Indonesia in February 2000. A major importer from Indonesia said that an extended maintenance period at one of the Indonesian plants during 2000 halted supply for a number of months and forced importers to temporarily look elsewhere. Once Indonesian production was restored, imports from China were reduced.

Australian industry contended that the import pattern shows how resilient exports from China are despite the imposition of anti-dumping duties. It observed that although the measures have effectively raised the price of imports from China, the volume of imports remains significant. Industry claimed that the ability and willingness of Chinese exporters to quickly respond to any opportunity to increase exports to Australia was demonstrated in 2000–01. It said that if the measures expire, Chinese exporters would seek to increase market share by reducing prices to compete with the Indonesians (refer section 7.7 for history of pricing of Chinese imports).

Using its commercial database Customs examined imports of the goods under consideration from Luoyang during the last three years. In that time import volumes from Luoyang have been relatively small. In its submission the company commented that prices received in Australia for high quality glass were good compared with those received in China and if prices remained satisfactory the company would like to continue to develop its market presence here.

7.5 Production capacity

7.5.1 BFG

Pilkington supplied a report from the Internet that quoted the Deputy Secretary General of the Thai Industrial Standards Institute as saying that current glass production in Thailand exceeds (domestic) demand and the industry will have to look to export markets to eliminate overcapacity.

However, the report does not provide any evidence to indicate that BFG itself has surplus production capacity. Nor is there any evidence that Thai companies generally, and BFG in particular, intend to export to Australia.

7.5.2 China

Pilkington submitted copies of several recent (2001 and 2002) articles from a variety of sources to demonstrate excess production capacity in China.

In summary, the articles indicate that China's total flat glass capacity in 2000 was around 300 million weight cases (or 15 million tonnes). Output was about 214 million weight cases. On these figures, capacity utilisation is about 71 per cent.

Pilkington argued that these figures demonstrate that Chinese manufacturers have substantial spare capacity that they could exploit to export CFG to Australia if the measures were removed.

Some importers claimed that much of the production capacity in China is with small to medium producers most of whom do not have the ability to export and/or are only interested in supplying the booming domestic market. Further, it was claimed, much of the production is of inferior glass that is not acceptable in either Australia or other export markets.

An implication of these importer views is that using surplus production capacity as a guide to the potential for China to export to Australia could be misleading since a large proportion of that capacity would only be available to the domestic market.

In reaching conclusions, Customs relies wherever possible on verified information or information that is supported by independent sources. The views expressed by importers were based on perception and, in some cases, on observations during visits to China. No documentation or actual data was presented to Customs in support of these views. Therefore, in assessing the capacity of Chinese manufacturers to export, Customs has given more weight to the views of Australian industry.

In its submissions, Luoyang provided details of its production capacity for CFG and actual production. These details indicate that Luoyang does have surplus production capacity, however it is much less than the figures quoted above for China generally.

7.6 Third country dumping

7.6.1 Mexico and India

In its application, Pilkington provided a research article from the Internet dated January 2002 reporting allegations by Mexican glassmakers that Asian producers, including those from China and Thailand, were dumping flat glass in the Mexican market at prices between 40% and 70% lower than locally produced products. Customs notes that no specific exporters were mentioned in the allegations.

Subsequent to initiation of the investigation Pilkington provided Customs with a newspaper report dated May 2002 from the Internet stating that the Float Glass Manufacturers Association of India planned to request the Government of India to impose anti-dumping duty on float glass imported from China.

Customs made inquiries with relevant authorities in the respective countries.

The Ministry of Commerce & Industry in India advised that on 5 July 2002 it initiated an anti-dumping investigation into imports of float glass (including CFG) from China and Indonesia.

Mexican authorities have not provided further information.

7.6.2 New Zealand

Pilkington referred to the 1998 finding of the New Zealand anti-dumping authority, which found that there had been dumping of CFG from China and Thailand. Pilkington obtained price information for 2001 relating to exports to NZ and concludes *'it is apparent that dumped exports from these sources (China and Thailand) continues'*.

Pilkington further observed, from the 2001 NZ import statistics, that *'prices from China and Indonesia have consistently undercut those from Thailand for sizes less than 6mm Chinese and Indonesian export prices have also consistently undercut those from Thailand.'* Pilkington comments that this information suggests that Chinese and Indonesian exporters are price leaders in NZ.

Pilkington asserted that the New Zealand experience demonstrated the preparedness of Thai and Chinese exporters to sell in the region at dumped prices to obtain market share. Pilkington contended that Thai exporters remain very interested in exporting to the Australian/NZ market, as demonstrated by the substantial exports of CFG from Thailand to New Zealand in 2001.

Customs considers that little can be drawn from the NZ investigation or from the current NZ market situation. The investigation occurred four years ago in a market quite different from that in Australia (there is no domestic glass industry in NZ). While there remain significant Thai exports to NZ, there is no evidence that BFG itself is exporting to NZ. And while there may be Thai exports to NZ, examination of import data on Customs' commercial database shows that imports from Thailand to Australia have not increased substantially (they currently account for about 3% of imports) even though measures against Thailand (except for BFG) expired in 1998. Chinese imports to NZ in 2001 were relatively insignificant (2 per cent of imports) and Customs considers the sample too small to make meaningful conclusions regarding possible implications for Australia.

7.6.3 Other

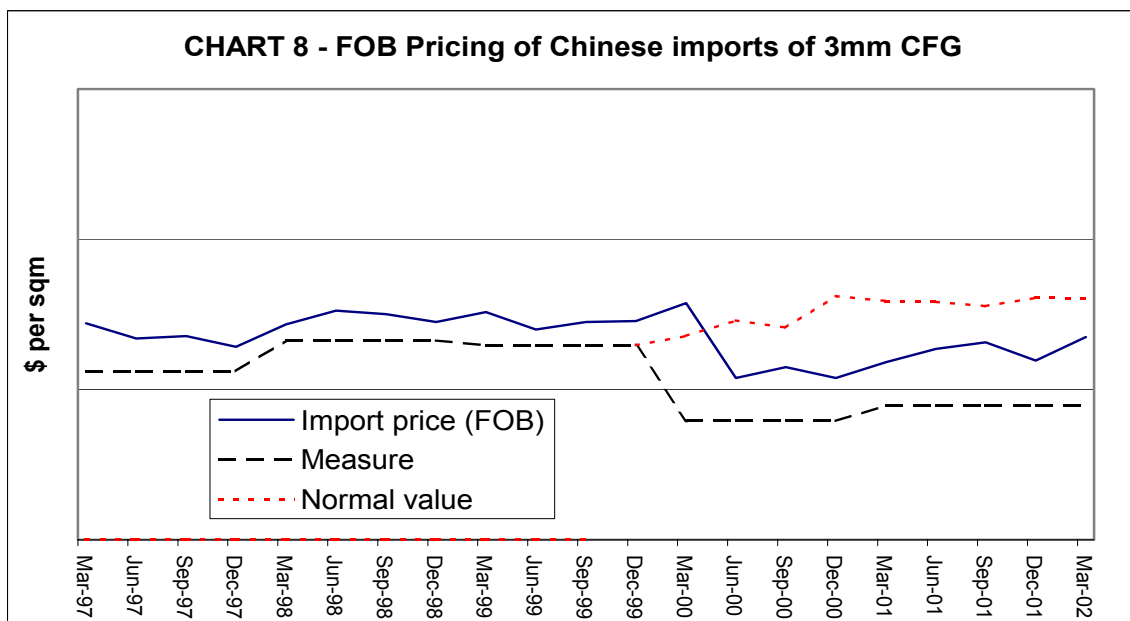
Customs also examined the latest (31 December 2001) WTO report on anti-dumping actions by member countries. According to the report, there were no anti-dumping investigations into CFG exports by BFG (or Thailand generally) or China, and no measures have been imposed on such exports by a member country in the last five years. (Customs notes that in 1998 the NZ anti-dumping authorities found dumping of CFG from China and Thailand, but no measures were imposed - see section 7.6.2 above.)

7.7 Chinese pricing

The Australian industry and most importers nominated Indonesian imports as establishing the market price in Australia. Many importers informed Customs that Chinese prices are quite high relative to Indonesian prices. Some importers said that Chinese manufacturers regard prices in the Australian market as too low relative to prices in China and export markets such as the US and Europe. The importers claimed that until prices improved in Australia Chinese manufacturers would not seek to expand their market here.

Pilkington argued that the level of the measures determined Chinese prices in Australia. As the measures changed, so did the price of Chinese imports. If the measures were removed, Pilkington contended, Chinese prices would fall to compete with Indonesian manufacturers.

From Customs' commercial database, quarterly average FOB prices of Chinese imports, for each statistical code, from 1997 to the present were determined. A comparison was then drawn between the import price and the measure applicable at the time. Where the measure was below the normal value, the normal value was also plotted. The pattern for statistical code 2 (3mm CFG) is shown in chart 8. Similar patterns were determined for the other statistical codes.



The chart highlights that average FOB import prices from China have consistently been above the applicable measure. As the measure has moved, the average FOB price has followed in the same direction. In particular, when the measures were reduced in 2000 (becoming based on the NIFOB rather than normal value) prices of imports from China also fell. The chart shows that import prices have been below normal values since that time, and while the FOB price of imports from China have been above the price level at which injury to the Australian injury would start to occur (from dumping), they have been at dumped prices.

For Luoyang, Customs examined data from its commercial database and from the company's submissions. This indicated that FOB export prices from Luoyang for relevant CFG exported to Australia during 2001 and 2002 were above the applicable NIFOB. Further, domestic sales evidence provided by Luoyang indicates that sales to Australia during 2001 and 2002 were not dumped.

7.8 Economic performance of the industry

The economic performance of the industry was examined in detail in chapter 6.

In brief, the Australian market for CFG (3-12mm) has shown little growth during the last four years. In this market, the Australian industry's performance might best be described as steady. While the industry has operated profitably over this period it has not experienced any significant growth, either in profits or sales volumes, and returns have generally been below satisfactory performance targets set by the company. Some CFG prices were raised in 2000-01 and the company briefly achieved its profit targets, however the market resisted the price increases and prices have subsequently eased.

The capital invested in the development of the Australian industry has been considerable. To continue operating efficiently and effectively the industry requires ongoing capital investment. The decision whether to commit additional capital depends on the prospect of achieving acceptable returns on the investment. In Pilkington's view, returns obtained in the past have not reached this level. This has already led the company to decide not to undertake a rebuild of its Ingleburn facility, instead opting to extend the operating life of the facility by a less costly repair program. The company's Dandenong facility is also due for a rebuild in about 2005, and the company has indicated that the decision to commit further investment to that facility will be strongly influenced by rates of return over the next few years.

Customs considers that the future of the CFG manufacturing industry in Australia is finely balanced. The industry is profitable, but not at levels the industry regards as sufficient to encourage the capital investment that will be needed in a few years' time. The market for CFG has been relatively static in recent years and there are no signs that there will be significant sustained growth in the future. Thus, should any supplier in the market actively seek to

increase market share, it would be at the expense of another supplier or suppliers. While Pilkington's ability to grow domestic sales (without decreasing export sales) would probably be limited as it is currently operating at close to production capacity, any significant loss of sales would be likely to have serious negative financial implications for Pilkington, affecting production costs, profits and rates of return on investment. The industry's attempt to boost profits by raising CFG prices have not been successful and the industry's per unit revenue for CFG has been relatively static for the last few years. Should prices reduce, even moderately, profitability would further decline and increase the threat to the industry's viability.

Customs concludes that a reduction in profits and profitability caused by, for example, loss of sales and/or reduced prices, would be likely to cause material injury to the Australian industry. Given the current state of the market and the industry, Customs considers that even a relatively moderate reduction in sales or prices would cause material injury to the industry.

8. RECURRENCE OF DUMPING CAUSING MATERIAL INJURY

8.1 BFG

On the information available, Customs has found the following.

- There have been no exports to Australia by BFG for at least three years.
- There is no evidence that BFG intends to export to Australia.
- There is no evidence to suggest that if BFG did export to Australia it would do so at dumped prices.
- There is no evidence that BFG has surplus production capacity.
- There is no evidence of third country dumping by BFG in the last five years.

Therefore, Customs is not satisfied that expiration of the measures against BFG would lead, or be likely to lead, to a continuation of, or recurrence of, the dumping and material injury that the anti-dumping measures are intended to prevent.

8.2 China

8.2.1 China generally

On the information available, Customs has found the following.

- Despite measures, exports from China to Australia continue to be significant with China the second largest source of imports.
- Pricing of Chinese imports has closely followed changes to the anti-dumping measures. When the measures were reduced in 2000 prices of imports from China fell significantly.
- Price is a key factor in determining the supplier of CFG, and if Chinese manufacturers wanted to increase exports to Australia they would have to compete on price.
- Undumped imports from Indonesia lead the price for CFG in the Australian market, and FOB prices for Indonesian imports are considerably below the prices of CFG imports from China.
- There is substantial surplus production capacity in China.
- There is evidence that Chinese manufacturers have sought to increase exports, for example to Mexico and India, and are prepared to undercut existing prices in the market.
- Weighted average import prices of all Chinese CFG since early 2000 have been below the assessed normal values for China (although

above the NIFOBs), and therefore dumped (with the exception of Luoyang - see section 8.2.2).

- The Australian industry's economic performance has been profitable but not to levels that support further capital expenditure.
- A loss of sales by the Australian industry, or a reduction in prices, would be likely to cause material injury to the industry.

8.2.2 Luoyang

On the information available, Customs has found the following.

- Luoyang's sales are mostly to the Chinese domestic market.
- The volume of Luoyang's exports to Australia during the last three years has been modest, making up a relatively minor percentage of imports generally and those from China in particular.
- Luoyang has indicated it would like to increase its presence in Australia.
- Luoyang has a moderate level of surplus production capacity.
- Luoyang's glass operations were profitable in 2000 and 2001.
- Prices of sales of CFG to Australia have been above applicable NIFOB levels.
- Sales to Australia during 2001 and 2002 were not dumped.
- There is no evidence to suggest that Luoyang would export to Australia in the future at dumped prices.
- There is no evidence of third country dumping by Luoyang in the last five years.

8.2.3 Conclusion

Customs is not satisfied that expiration of the measures against Luoyang would lead, or be likely to lead, to a continuation of, or recurrence of, the dumping and material injury that the anti-dumping measures are intended to prevent.

Customs considers that if the measures against Chinese exporters (other than Luoyang) expired it would be reasonable to anticipate that these exporters would seek to increase exports to Australia. To be successful in this endeavour they would have to compete with Indonesian prices. This would take their export prices, which are currently dumped but not injurious to the Australian industry, to below levels that Customs has previously found to be injurious to the Australian industry. Customs is satisfied that expiration of the measures against Chinese exporters (other than Luoyang) would lead, or be likely to lead, to a continuation of, or recurrence of, the dumping and material injury that the anti-dumping measures are intended to prevent.

9. RECOMMENDATIONS

Based on the information available, Customs intends to recommend that the Minister:

- continue the anti-dumping measures against imports of CFG (3mm to 12mm) from China (other than Luoyang);
- not continue the anti-dumping measures on CFG (3mm to 12mm) imported from Luoyang of China; and
- not continue the anti-dumping measures on CFG (3mm to 12mm) imported from BFG of Thailand.

Measures not continued will expire after 2 November 2002.