**IMPORTER QUESTIONNAIRE**

**ANTI-CIRCUMVENTION INQUIRY No.479**

**ALLEGED SLIGHT MODIFICATION OF CLEAR FLOAT GLASS**

**EXPORTED TO AUSTRALIA FROM THE KINGDOM OF THAILAND**

This questionnaire seeks information in relation to your imports and sales of clear float glass (CFG or the goods) and edge worked CFG (referred to below as the circumvention goods) exported to Australia from the Kingdom of Thailand (Thailand). This information will be used to assist in determining whether a circumvention activity in the form of the slight modification of goods has occurred in relation to exports of CFG exported from Thailand.

The attached Anti-Dumping Notice No 2018/93 provides details of the goods the subject of the inquiry, the application and the investigation procedures.

|  |  |  |
| --- | --- | --- |
| **Part A**  | **Company and overseas supplier information** | **Return as quickly as possible but no later than** **27 June 2018** |
| **Part B**  | **Imports and forward orders** | **Return as soon as possible after receiving the Commission’s detailed spreadsheets but no later than** **9 July 2018** |
| **Part C** | **Sales and expenses** |

The timeliness of your response is important. The Commissioner must consider the direction as set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction). More details on this direction are explained in Anti-Dumping Notice No. 2015/129, available on the Commission’s website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

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ACT 2601

Australia

Attention: Director Operations 4Director Investigations 3

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# BACKGROUND TO THE INQUIRY

On 18 June 2018 the Anti-Dumping Commissioner initiated an anti-circumvention inquiry into slightly modified clear float glass exported to Australia from Thailand. The initiation of the inquiry followed consideration of an application received from CSR Viridian Ltd, a member of the Australian industry producing like goods the subject of an anti-dumping notice. Anti-Dumping Notice (ADN) No. 2018/93 refers.

In its application, CSR alleged that the applicable anti-dumping measures in respect of clear float glass (CFG or the goods) exported to Australia from Thailand has been circumvented by importers and exporters of the goods through the slight modification of those goods.

Exports to Australia during the period from 1 January 2013 will be examined to determine whether the alleged circumvention activity has occurred

Specifically, CSR alleged that CFG that would otherwise be subject to the anti-dumping measures, was being slightly modified through the application of a worked edge to one or more sides of CFG sheet, which allows for those goods to no longer be considered CFG of the kind subject to anti-dumping measures. For the purpose of this inquiry, references to edged worked CFG sheet is also considered to be a reference to ‘the circumvention goods’.

The Anti-Dumping Commission (the Commission) is responsible for investigating the allegation that slightly modified clear float glass has been exported to Australia from Thailand with the result being the circumvention of anti-dumping measures.

The Commission will use the information you provide to determine if the edge worked CFG sheets are considered circumvention goods which has resulted in a circumvention of anti-dumping measures. The Commission may also use the information you provide in making recommendations concerning potential alterations to the anti-dumping measures if required. You may make separate submissions concerning any other matter.

The Commission investigation will be carried out under the provisions of the Part XVB of the *Customs Act 1901*.

# ORIGINAL INVESTIGATION AND ANTI-DUMPING MEASURES

Anti-dumping measures in the form of a dumping duty notice apply to CFG from the People’s Republic of China (other than by Xinyi Ultrathin (Donguan) Co. Ltd (Xinyi)), Indonesia and Thailand and were first imposed on 17 October 2011 following consideration of *Trade Measures Branch Report 159C* (REP 159C) by the then decision maker the Attorney General.[[1]](#footnote-2)

The calculation of the amount of dumping duty to be collected was established using the combination of fixed and variable duty method, comprising a fixed rate of duty (based on the margin of dumping found for each thickness of CFG) and a variable rate of duty (based on the confidential ascertained export price for each thickness of CFG). The statistical quantity recorded in the DIBP Integrated Cargo System is square metres (m2), and so the fixed and variable components are calculated by reference to m2.

The measures which were made applicable to exports of CFG from Thailand are outlined in the table below.

|  |  |  |
| --- | --- | --- |
| **Nominal Thickness** | **Guardian Industries Corp Ltd** | **Other Thai exporters** |
| 3 mm | 3.7% | 12.0% |
| 4 mm | 5.5% | 13.8% |
| 5 mm | 0.0% | 5.3% |
| 6 mm | 0.0% | 4.7% |
| 8 mm | 0.0% | 2.8% |
| 10 mm | 8.7% | 16.8% |
| 12 mm | 12.8% | 20.7% |

**CFG Anti-Dumping Measures Thailand**

# CURRENT ANTI-DUMPING MEASURES

Following the completion of a continuation inquiry which commenced on 22 February 2016, the Commission published a notice on 8 September 2016 regarding the decision of the then Parliamentary Secretary to the Minister for Industry, Innovation and Science securing the continuation of anti-dumping measures on the goods exported from China, Indonesia and Thailand for a further five years from 18 October 2017.

ADN No.2016/86, in notifying the findings of *Anti-Dumping Commission Report No.335* (REP 335) specified an effective rate of interim dumping duty for CFG exported from Thailand by Guardian Industries Corp Ltd of 8.8% using the ad valorem duty method. All other exporters from Thailand were specified an effective rate of interim dumping duty of 25.8% also using the ad valorem duty method.

# THE GOODS SUBJECT TO ANTI-DUMPING MEASURES (THE GOODS)

The goods currently subject to the dumping duty notice (the goods) are described as:

*clear float glass (CFG) in nominal thicknesses of 3 to 12 millimeters (mm).*

The acceptable tolerances to these thicknesses are shown below.

|  |  |
| --- | --- |
| **Nominal thickness (mm)** | **Acceptable tolerances (mm)** |
| **Minimum** | **Maximum** |
| 3 | 2.80 | 3.50 |
| 4 | 3.51 | 4.50 |
| 5 | 4.51 | 5.50 |
| 6 | 5.51 | 7.00 |
| 8 | 7.01 | 9.00 |
| 10 | 9.01 | 11.00 |
| 12 | 11.01 | 12.30 |

The goods have the following characteristics:

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

Glass with the following characteristics are not the goods:

* coated, coloured, tinted or opaque;
* absorbent, reflective or non-reflective layer;
* wired;
* bent, edge-worked, engraved, drilled, enamelled or otherwise worked;
* framed or fitted with other materials;
* toughened (tempered) or laminated;
* acid etched; or
* low iron.

The goods are currently classified to the following tariff subheading of Schedule 3 to the *Customs Tariff Act 1995*:

* 7005.29.00 (statistical codes 03, 04, 05, 06 and 09).

# GOODS SUBJECT TO THE INQUIRY (THE CIRCUMVENTION GOODS)

The goods subject to the anti-circumvention inquiry (the circumvention goods) are described as:

*Clear float glass (CFG) in nominal thicknesses of 3 to 12 millimeters (mm) (i.e. the goods currently the subject of the original anti-dumping notice) which has been edged worked along at least one side of the CFG sheet.*

With the exception of the worked edge, it has been alleged that the circumvention goods are considered to be identical to the goods subject to the anti-dumping notice.

The circumvention goods are allegedly being imported into Australia from Thailand under tariff subheading 7006.00.00, statistical code 49 of Schedule 3 to the *Customs Tariff Act 1995*. The following table provides the details regarding goods classified under 7006.

| **Tariff Subheading** | **Statistical Code** | **Unit** | **Description** |
| --- | --- | --- | --- |
| 7006.00.00 | 49 | Not Specified | Glass of 7003, 7004 or 7005, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials |

# PART A – COMPANY AND OVERSEAS SUPPLIER INFORMATION

**A.1 Your company**

|  |  |
| --- | --- |
| Company Name |  |
| ABN: |  |
| Contact name: |  |
| Position: |  |
| Mailing address: |  |
|  |  |
|  |  |
|  |  |
|  |  |
| Telephone: |  |
| Facsimile: |  |
| E-mail address: |  |

Provide details on the ownership of your company and major shareholders:

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Describe the role of your company in the Australian market for glass products – for example, buying or selling agent, importer/distributor, importer/wholesaler, importer/retailer or importer/end-user.

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At what level of trade is each of your customers – for example, distributor, wholesaler, retailer or end-user?

|  |  |
| --- | --- |
| **Customer** | **Level of trade** |
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**A.2 Your overseas supplier(s) of the goods and circumvention goods**

Please complete the below information for each of your overseas supplier of the goods and the circumvention goods (using a new box for each supplier).

If you source the goods or circumvention goods from a country other than Thailand, please provide details of the supplier(s).

|  |  |
| --- | --- |
| Supplier name: |  |
| Is the supplier the manufacturer?If ‘no’, please also answer question A.3 in relation to this supplier. |  |
| Formsupplied:  | e.g. edge worked, non-edge worked |
| Country of origin: |  |
| Contact name: |  |
| Position: |  |
| Mailing address: |  |
|  |
|  |
|  |
|  |
| Telephone: |  |
| Facsimile: |  |
| E-mail address: |  |

**A.3 Overseas manufacturer(s) of the goods and circumvention goods**

If the supplier(s) listed in your response to question A.2 above is not the manufacturer of the either the goods or the circumvention goods, please complete the below for each manufacturer (using a new box for each supplier).

|  |  |
| --- | --- |
| Supplier name (from A.2): |  |
| Manufacturer name: |  |
| Country of origin: |  |
| Manufacturer contact name: |  |
| Position: |  |
| Mailing address: |  |
|  |
|  |
|  |
|  |
| Telephone: |  |
| Facsimile: |  |
| E-mail address: |  |

**A.4 Timing of proposed visit by the Commission**

The Commission would like to commence visits to importers to verify the data submitted within import questionnaire responses and discuss the inquiry as soon as possible from 16 July 2018.

Can you please advise what dates are suitable to your company for this visit?

Please note that it may be helpful to consider the availability of key staff, such as your accountant, purchasing officer or sales staff.

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Address for proposed visit (the address at which your accounting records are held):

|  |  |
| --- | --- |
| Street address: |  |
|  |
|  |
|  |
|  |
| Telephone: |  |
| Facsimile: |  |

# PART B – IMPORTS AND FORWARD ORDERS

Please complete this part after the Commission has provided you with your detailed spreadsheets of imports, and return this part, along with your response to Part C no later than 9 July 2018

To assist with the identification of imports of the goods and the circumvention goods, the Commission will shortly provide you with spreadsheets of your imports in the period between;

* 1 January 2015 to 31 December 2017.

This information will be provided from the Commission’s import database.

Within this spreadsheet, the Commission will select several shipments (by highlighting them) that it wishes to examine in more detail.

**B.1 Import details**

Please complete worksheet “*Part B – Cost to import and sell*” in the supplied spreadsheet template file “*ADC 479 Importer Questionnaire Data.xls*” with details for the highlighted selected shipments.

The spreadsheet should contain your costs and sales data for the selected shipments of the goods and circumvention goods imported by your company. The completed spreadsheet should be returned as part of your Part B response, along with details of your forward orders (see B.3 below).

(Please note that that you cannot complete this part of the questionnaire until the Commission provides you with the respective listing of your imports. The Commission will contact you shortly in this regard after receiving Part A of the questionnaire).

**B.2 Documents required at the visit**

In relation to the shipments selected by the Commission for verification (i.e. those shipments highlighted in the spreadsheet which will be provided by the Commission), please prepare copies of the commercial invoice, bill of lading, packing list and any other documents supporting post exportation costs including;

* overseas freight and insurance;
* customs duties;
* landing and wharfage charges;
* freight forwarding fees;
* cartage/delivery fees and
* any other charges between the FOB point and the landed, duty paid into-store point.

It would be appreciated if these documents could be assembled into one bundle for each shipment selected. Please retain these copies for presentation at the Commission’s visit.

**B.3 Forward orders**

Please complete the “*Part B – Forward Orders*” worksheet in the supplied spreadsheet template file “*ADC 479 Importer Questionnaire Data.xls*”. The completed spreadsheet should be returned as part of the Part B response, along with details of your selected shipments as discussed in B.1 above.

**B.4 Ordering process**

1. Fully describe the ordering and purchase process from your overseas suppliers from market offer through to invoicing, delivery and payment.

In your response, indicate the time period for each of the sales process steps.

1. Does the process described above differ in any way from the ordering and purchase process of the goods and circumvention goods? Provide details.
2. Are the models of the circumvention goods that you imported to Australia during the inquiry period part of your suppliers’ standard product offering to Australia, or are they only available under special circumstances (e.g. through special order)? Provide details.
3. Do you specifically request/order the circumvention goods? Provide details e.g. type of edge, how many sides are edged.
4. What is the minimum order quantity from your supplier of the goods and the circumvention goods.

**B.5 Purchase price**

1. Is there a difference in purchase price from your suppliers between the goods and the circumvention goods, assuming all other factors of the sale were the same (e.g. order quantity, product characteristics such as thickness, sheet size (W x L), credit terms). Provide details.

If the answer to the above is yes, quantify the price difference for each year of the inquiry period. Provide any documents that support this price difference (e.g. price lists, comparable invoices, etc).

**B.6 Supplier relationships (in the previous 5 years)**

If your company ‘shifted’ from importing the goods to the circumvention goods during the inquiry period, answer the following questions:

1. Which supplier(s) were supplying you the goods prior to shifting to imports of the circumvention goods?
2. What was the reason for this shift in imports?
3. What was this shift in response to?
4. What alterations to your ordering processes were needed?
5. When did you first commence importing the circumvention goods to Australia?

# PART C – SALES AND SELLING EXPENSES

Please return your responses to Part C along with your response to Part B no later than 9 July 2018.

**C.1 Your sales**

Please provide details of all your sales in the Australian market of the goods and the circumvention goods from Thailand in the period between;

* 1 January 2015 and 31 December 2017.

If possible, and where appropriate, the following data provided at worksheet “*Part C*” in the supplied spreadsheet template file “*ADC 479 Importer Questionnaire Data.xls*”

Please include:

* + Customer name;
	+ Customer level of trade (Distributor, End user etc);
	+ Location – state;
	+ Location – city;
	+ Invoice number;
	+ Invoice date;
	+ Delivery terms (eg. FIS, Ex-warehouse);
	+ Credit terms (days);
	+ Nominal thickness;
	+ Edge working and style of edge
	+ No of edges worked
	+ Quantity in square metres;
	+ Quantity in number of sheets;
	+ Quantity in tonnes or kilograms;
	+ Packing;
	+ Total invoiced price;
	+ Unit invoiced price;
	+ Off invoice discount/rebate amount (if applicable, list each type of discount/rebate individually);
	+ Net unit sales price;
	+ Your supplier of the glass;
	+ Purchase order number to supplier; and
	+ Country of origin.

**C.2 Selling, general and administration expenses**

*If you did not on-sell your imports please disregard this question.*

Please calculate your selling, general and administration costs for the goods and circumvention goods sourced from Thailand which you sold in the Australian market in the period between 1 January 2015 to 31 December 2017 and enter this information into worksheet “*Part B*” in the supplied spreadsheet template file “*ADC 479 Importer Questionnaire Data.xls*”.

These expenses are normally derived from profit and loss statements or other management records and are typically expressed as a percentage of sales revenue. Where rebar is only a part of overall company sales, allocations of selling, general and administrative expenses may have to be made.

The Commission will seek to verify your sales data, and your estimate of selling, general and administrative expenses at the importer visit.

**C.3 Australian Sales End Use**

1. After importing the circumvention goods, explain the subsequent sales channel/use of the product. For example, do you on-sell the products to other Australian entities for their use (or further on-sale), or do you consume the goods in the manufacture of products by your company?
2. In general, are there any specific purpose(s) and/or end use(s) that the circumvention goods you import are suitable for that the goods are not suitable for? Provide specific product details and supporting evidence where possible.
3. Are there any purpose(s) and/or end use(s) that the goods and circumvention goods can be used interchangeably for?
4. What standards/specifications are the goods and circumvention goods manufactured/supplied to when importing into Australia?
5. If you are doing so, explain why are you importing a mix of the goods and circumvention goods to Australia?
6. If you use the circumvention goods for the production of other goods by your company:
7. explain the use(s) of the circumvention goods;
8. explain how the circumvention goods are treated to make it fit for your end use purposes. In answering this question, note that, as part of the application, it is claimed that the worked edge of the circumvention goods is removed prior to further processing. Please comment on these claims; and
9. are the circumvention goods able to be used for this same use(s) (if not, please explain why).
10. If your company on-sells the circumvention goods to other parties please refer to questions C3 and C4 below.

**C.3 Australian Selling Price**

*If you on-sell the goods and circumvention goods that you import (i.e. do not consume in your own manufactured products), answer the following questions.*

1. Is there a difference in selling price to your Australian customers, assuming all other factors of the sale were the same (e.g. order quantity, product characteristics such as nominal thickness, sheet size (W x L), credit terms). Provide details.
2. If the answer to the above is yes, quantify the price difference for each year of the inquiry period. Provide any documents that support this price difference (e.g. price lists, comparable invoices, etc).

**C.4 General Sales Questions**

*If you on-sell the* goods and circumvention goods *you import (i.e. do not consume in your own manufactured products), answer the following questions.*

1. When on-selling the circumvention goods, is it the case that your customer(s) specified that the product be edge worked? What type of edge working did the customer specify? Did these customers previously purchase the goods?
2. If your customer(s) changed their preference from purchasing the goods to the circumvention goods please indicate what factors may have contributed, e.g. price, end use, quality, product size (W x L), any other requirements, e.g. pre-processing at the supplier.
3. If your immediate Australian customer is not the end user of the circumvention goods you import, is it likely that the end user of those products is aware that the circumvention goods were edge worked prior to importation into Australia? If the customer(s) were aware of the edge working did this have any impact on how the product would be used?
4. Is the application of a worked edge to the circumvention goods that you supply to your Australian customers described on any of the commercial or other documentation associated with that sale, including your offer for sale to your Australian customers? If so, please provide documentary evidence of this (invoice, purchase order, offer for sale, etc).
5. Do your customers of circumvention goods specifically request that the products you sell them have some form of edge working? Describe how and at what stage of the order process this occurs.

# CHECKLIST

* Return by **27 June 2018**
* Part A response
	+ Your company details
	+ Supplier/manufacturer details
	+ Suitable dates for verification meeting with the Commission
* Return by **9 July 2018**
* Part B response
* Sales Route spreadsheet of imports
	+ Information on forward orders
* Part C response
	+ Sales spreadsheet of sales
	+ Selling, General and Administration expenses
* During verification meeting (may be required to assist verification)
	+ Copies of source documents of post-exportation costs for shipments
	+ Financial statements
	+ Bank records
	+ Import and post-exportation documents for other shipments
	+ Sales invoices
	+ Documentation to support selling costs (eg freight, warehousing)
	+ Documentation to support SG&A expenses
1. REP 159C <http://www.adcommission.gov.au/cases/Pages/ArchivedCases/EPR159c.aspx>. [↑](#footnote-ref-2)