



AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2010/47

**Silicone Emulsion Concrete Admixtures
Exported from
The United States of America (USA)
Reinvestigation of certain findings**

Customs Act 1901 – Part XVB

The Minister for Home Affairs (Minister) has accepted recommendations made by the Trade Measures Review Officer (TMRO) and has requested the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) to reinvestigate certain findings.

These findings relate to *Trade Measures Report No. 150* of 17 March 2010 into the alleged dumping of silicone emulsion concrete admixtures exported to Australia from the USA, which resulted in the Minister's decision to publish notices under s.269TG(1) and s.269TG(2) of the *Customs Act 1901*. BASF Construction Chemicals Australia Pty Ltd applied to the TMRO for a review of the Minister's decision. Notice of the review was given on 26 May 2010.

As a result of the TMRO's recommendations, the CEO has been directed to reinvestigate findings in the following areas:

- a. the impact of the global financial crisis on the price depression analysis;
- b. the loss of sales volume calculation;
- c. the loss of market share calculation; and
- d. the scope of like products.

The CEO must conduct an investigation in accordance with the Minister's requirements and give the Minister a report of the investigation concerning the finding or findings within the specified period.

The Minister has directed the CEO to report the result of the reinvestigation to him by 14 February 2011.

In the report the CEO must:

- (a) if the CEO is of the view that the finding or any of the findings the subject of reinvestigation should be affirmed—affirm the finding or findings; and
- (b) set out any new finding or findings that the CEO made as a result of the reinvestigation; and
- (c) set out the evidence or other material on which the new finding or findings are based; and
- (d) set out the reasons for the CEO's decision.

Procedures for the reinvestigation

The officers conducting the reinvestigation will not be those that undertook the original investigation.

As noted above, the CEO is required to conduct the reinvestigation in accordance with the Minister's requirements and, as such, must only have regard to the information and conclusions to which the TMRO was permitted to have regard.

No new information or conclusions may be considered in a reinvestigation. All relevant information is available to interested parties through the public record of the original investigation maintained by Customs and Border Protection and the public record of the review maintained by the TMRO.

There is no legislative requirement to maintain a public record, or to publish a Statement of Essential Facts (SEF), in a reinvestigation. As such, Customs and Border Protection will not be maintaining a public record for the reinvestigation, nor will it be publishing a SEF prior to reporting the results of the reinvestigation to the Minister.

Customs and Border Protection contact

Enquiries about this notice may be directed to telephone +61 2 6275 8076, facsimile number +61 2 6275 6888 or e-mail tmpolicy@customs.gov.au

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