



Australian Government

**Australian Customs and
Border Protection Service**

AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2009/45

Certain Plywood

**Exported from Brazil, Chile, the People's Republic of China
and Malaysia**

Initiation of an investigation into alleged dumping

Customs Act 1901 – Part XVB

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation following an application lodged by Allen Taylor and Company (trading as Boral Plywood), Carter Holt Harvey Woodproducts Australia Pty Ltd and Big River Group Pty Ltd, manufacturers of plywood in Australia. The application requests the publication of a dumping duty notice in respect of plywood exported to Australia from Brazil, Chile, the People's Republic of China (China) and Malaysia.

The application alleges that the goods have been exported to Australia from Brazil, Chile, China and Malaysia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- lost sales volume;
- lost market share;
- price undercutting;
- price suppression
- price depression;
- reduced profits and profitability;
- reduced production volume;
- reduced revenue;
- reduced employment;
- deteriorating returns on investment; and
- reduced attractiveness to reinvest.

The non-confidential version of the application, made available on the public record, contains the basis of the alleged dumping.

A notice under subsection 269TC(4) of the *Customs Act 1901* (the Act) advising initiation of this investigation was published in *The Australian* newspaper on Thursday 3 December 2009. Consideration Report No. 156, available on the internet and the public record, details the consideration of the application and other relevant information and provides the reasons relied on in making the decision not to reject the application.

The goods

The goods the subject of this application are certain plywood sheeting, of conifer and non-conifer species, in various widths and grades ranging from high quality appearance structurally-certified grades with minimal imperfections, through to non-structural non-appearance grades to which no manufacturing standard applies.

Overlaid plywood with a thickness of less than 7 mm, and plywood with an interior glueline, are specifically excluded from the goods the subject of the application.

The following additional examples of the goods were provided by the applicant to assist in understanding the goods covered by the application:

- Bracing ply – used in house construction to brace the timber frame by providing ‘racking’ resistance from strong wind. Typically available in a range of lengths of approximately 2400/2745/3050mm, width of approximately 900/1200mm, and thickness of approximately 4mm to 7mm. AS/NZS 2269 applies to plywood used in bracing ply applications.
- Flooring ply – available in a broad range of thicknesses, is suitable for most flooring applications. Typically available in sheet sizes of approximately 2400/2700mm x 1200mm, and thicknesses of approximately 12, 15, 17, 19, 21 and 25 mm, with a veneer grade CD finish. AS/NZS 2269 applies to plywood used in flooring applications.
- Formply – applications include formwork for construction in buildings. Recommended that formply complies with AS/NZS 6669, however, it is known that some imports do not comply. Sizes typically include approximately 1800 x 1200mm (6ft) and approximately 2400 x 1200mm (8ft), with a range of thicknesses of approximately 12, 17, 18, 19 and 25mm.
- Structural – the most common form of plywood used in load-bearing applications (AS/NZS 2269 applies). A substantial volume of imports are used in non-load bearing, general purpose applications (which do not necessarily comply with AS/NZ 2269). Typically available in sheets of approximately 2400 x 1200mm and 2700 x 1200mm, and thicknesses including 7, 9, 10, 12, 15, 17, 18, 19, 21, and 25mm, with a CD or DD veneer grade finish. “

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

- 4412.31.00 (statistical codes 16, 50, 51 and 60);
- 4412.32.00 (statistical codes 18, 52, 53 and 61); and
- 4412.39.00 (statistical codes 22, 30, 31 and 40).

The general rate of duty is currently 5%. Plywood imported from Chile has been free under the Australian-Chile Free Trade Agreement since 6 March 2009. Prior to this date the general rate of duty applied. The general rate applies to all plywood imported from Brazil, China and Malaysia.

Investigation process

The investigation period is 1 October 2008 to 30 September 2009. Customs and Border Protection will examine exports to Australia of the goods during that period to determine whether dumping has occurred. Customs and Border Protection will examine details of the Australian market from 1 January 2006 for injury analysis.

In making findings in relation to the application for a dumping duty notice the CEO must consider whether:

- (a) the export price of the goods that have already been exported to Australia is less than the normal value of those goods; and
- (b) the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (c) because of that, material injury to the Australian industry producing like goods has been or is being caused or is threatened.

Lodgement of submissions

Interested parties are invited to lodge submissions concerning the publication of the dumping duty notice by **12 January 2010**, addressed to:

Director Operations 1
Trade Measures Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Or by email: tmops1@customs.gov.au

Interested parties wishing to participate in the investigation must ensure that submissions are lodged promptly. Interested parties may be granted an extension of time for lodgement of a submission, provided the request is in writing and is reasonable and practical given the circumstances. Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

Interested parties should note that the CEO is not obliged to have regard to a submission received by Customs and Border Protection after the end of the period mentioned above if to do so would, in the CEO's opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- satisfy the CEO that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "In-Confidence".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

The CEO must maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties (letters and electronic mail are generally regarded as "submissions" if they contain information relevant to the inquiry). Documents included in the public record are available at <http://adpr.customs.gov.au/Customs/>

Alternatively, the public record may be examined at the office address below during business hours by contacting the Trade Measures Branch on telephone number (02) 6275 6547.

Trade Measures Branch
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Provisional measures

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice or countervailing duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping duty

and/or countervailing duty that may become payable on the goods, may be imposed where a preliminary affirmative determination has been made.

Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable Customs and Border Protection to report to the relevant Minister (in this case the Attorney-General) within the legislative timeframe. A statement of essential facts (SEF) will be placed on the public record by 23 March 2010, or by such later date as the relevant Minister may allow in accordance with section 269ZHI of the Act. The SEF will set out the essential facts on which the CEO proposes to base a recommendation to the relevant Minister. That SEF will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record. Submissions to the SEF should also be lodged with Customs and Border Protection at the above mail or email address.

Report to the relevant Minister

Submissions received in response to the statement of essential facts will be taken into account in completing the report and recommendation to the relevant Minister. A recommendation to the relevant Minister will be made in a report on or before 7 May 2010 (or such later date as the relevant Minister may allow), unless the CEO terminates the investigation earlier under section 269TDA of the Act.

Review Officer

Certain parties will have the right to seek review in accordance with Division 9 of Part XVB of the Act of either a decision by the CEO to terminate the investigation, or a decision of the relevant Minister after considering the CEO's report.

Customs and Border Protection contact

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6729, fax number (02) 6275 6990 or e-mail tmops1@customs.gov.au.

Geoffrey Johannes
National Manager
Trade Measures Branch

3 December 2009