



AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2010/18

**Geosynthetic clay liners
exported from
The Federal Republic of Germany (Germany)
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. 145* of 9 June 2009 into the alleged dumping of geosynthetic clay liners exported to Australia from Germany, which resulted in the Minister's decision to publish notices under s.269TG(1) and s.269TG(2) of the *Customs Act 1901*. Naue GmbH & Co applied to the TMRO for a review of the Minister's decision. Notice of the review was given on 7 December 2009.

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

- a. the economic condition of the Australian industry;
- b. whether dumping caused material injury
- c. whether dumping and material injury will continue, and
- d. non-injurious price.

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.

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.

The Minister has directed the CEO to report the result of the reinvestigation to him by 20 August 2010.

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 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.

Enquiries about this notice may be directed to telephone +61 2 6275 6393, facsimile number +61 2 6275 6888 or e-mail tmliaison@customs.gov.au

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