



Australian Government
**Australian Customs and
Border Protection Service**

**CONSIDERATION OF AN APPLICATION FOR
CONTINUATION OF ANTI-DUMPING MEASURES**

**Polyvinyl Chloride Homopolymer Resin
exported from the Republic of Korea**

6 August 2009

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1. Background

Anti-dumping measures applying to polyvinyl chloride homopolymer resin (PVC) exported from the Republic of Korea (Korea) were initially imposed by the Minister following consideration of Trade Measures report No.10 of 5 October 1999. The measures were continued for a further five years after ministerial consideration of Trade Measures report No.91 of 11 March 2005.

The measures are due to expire on 23 March 2010.

On 18 May 2009 Customs and Border Protection published a notice in accordance with s 269ZHB of the *Customs Act 1901* inviting persons specified in s 269ZHB(1)(b) to apply to the Chief Executive Office (CEO) of Customs and Border Protection for the continuation of anti-dumping measures on exports from Korea and Hungary.

On 17 July 2009, Australian Vinyls Corporation Pty Limited (Australian Vinyls), the sole producer of PVC in Australia, applied for the continuation of the measures on PVC exported from Korea. Continuation was not sought on exports from Hungary. Those measures will expire on 23 March 2010.

The CEO must examine the application and decide whether to reject, or not to reject, the application; see s 269ZHD(4). Section 269ZHD(2) specifies the matters to be considered in relation to an application. These matters are:

- whether the application complies with s 269ZHC; and
- whether there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

If the CEO is not satisfied in respect of each of these matters, the application must be rejected. If the CEO decides not to reject the application, the CEO must publish a notice indicating that it is proposed to inquire whether continuation of the anti-dumping measures is justified.

These matters are examined in the following sections of this report.

2. Goods, like goods and Australian industry

2.1 The goods subject to the measures

The goods subject to anti-dumping measures are polyvinyl chloride homopolymer resin. The goods are classified within subheading 3904.10.00, statistical code 18 to the Customs Tariff Act 1995. The rate of duty for PVC from Korea is 5 percent.

2.2 Previous investigations

Since 1992, there have been a number of anti-dumping investigations in respect of PVC. Measures have been imposed on numerous countries including Brazil, Canada, China, France, Hungary, Israel, Japan, Korea, Mexico, Norway, Saudi Arabia, Thailand, and the USA. Anti-dumping measures currently apply to exports from Japan and the USA since 1992 and from Hungary and Korea since 2000.

The measures for Hungary and Korea were continued in 2005; see Trade Measures Report No.91 of 11 March 2000. The measures have been reviewed once in Trade Measures Report No.100 of 14 September 2005.

There have been two more recent continuation inquiries, the USA in Trade Measures Report No.115 of 3 November 2006 and Japan and Thailand in Trade Measures Report No.123 of 6 July 2007.

2.3 Australian industry producing like goods

Australian Vinyls is the sole manufacturer of PVC in Australia. The company operates a production facility at Laverton in Victoria. Australian Vinyls states on its website that it currently produces approximately 140,000 tonnes of PVC resin annually.

Since the last continuation inquiry, Australian Vinyls has changed ownership. The company was acquired in September 2007 by CSBP Limited, a subsidiary of Wesfarmers. Australian Vinyls now has four key business units: Resins, Trading, Specialty Products and ModWood Technologies Pty Ltd.

It is reasonable to conclude that Australian Vinyls continues to be the sole Australian manufacturer of PVC and produces like goods to the imported goods.

2.4 Australian market

Information on the Australian market has been compiled from the application, previous Trade Measures reports and Customs and Border Protection commercial database.

The Australian market is supplied by Australian Vinyls and imports from a number of countries. The Australian market is around 200,000 tonnes per annum. Since closing its production facility at Altona in 2002, Australian Vinyls has augmented its local production with imported PVC. Australian Vinyls was described as a significant importer of the product in Trade Measures Report No.123.

Imports from Korea have been small and sporadic over recent years.

3. Compliance with s 269ZHC

Section 269ZHC(1) specifies that an application under s 269ZHB must:

- (a) be in writing; and
- (b) be in an approved form; and
- (c) contain such information as the form requires; and
- (d) be signed in the manner indicated in the form.

Sections 269ZHC(2) and (3) cover procedural matters in relation to lodgement of the application.

The application lodged by Australian industry satisfies the requirements of s 269ZHC.

The applicant also provided non-confidential versions of the application for distribution to interested parties. The non-confidential version adequately reflects the reasons for seeking continuation of the measure, or, where the reasons could not be summarised, a statement of reasons why summarisation is not possible was provided.

4. Consideration of the application

This section of the report examines whether there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent

Australian Vinyls has set out its claims in two broad headings; a continuation or recurrence of the dumping; and a continuation or recurrence of the material injury that the measures are intended to prevent. The claims are set out here as they appear in the application.

4.1 Dumping

The applicant has given the following reasons why the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of the dumping. Each claim is summarised and comments are provided in turn.

(i) *Background history – exports to Australia*

Applicant's claim

In the past, Korea has been the largest volume supplier of any import source to Australia. It is likely that the measures have curtailed import volumes as traders have switched sources of supply.

Comment

At the time of the initial investigation (Trade Measures Report No.10), Korea was the largest volume source of imports. On page 15 of Report 10, a pie chart indicates that the market share held by the four countries under investigation during the injury period (1998/99) was between 10 and 15 percent. In 1998/99, the Australian market was around the same size as today, Australian Vinyls ran two production facilities and the import share of the market was much lower.

Imports from Korea decreased significantly after the application of measures in 2000. In recent years (2006 to date), imports have small and sporadic.

(ii) *Current import activity*

Applicant's claim

According to Korean export data Korean PVC continues to have a relatively small presence in the Australian market – around 750 tonnes in 2007 and 2008 and trending higher in 2009. This relatively small volume of imports is due to the restraining effect of the measures. It is evident that Korean exporters and importers continue to retain distribution links and it is reasonable to assume that in the absence of measures imports from Korea would likely resume at a significant level.

Comment

The Korean export statistics include data on all of subheading 3904.10.00 which includes the PVC resin under consideration and also paste and emulsion grades that are not covered by measures. It appears that the majority of Korean resin imported since 2006 is the latter. Imports from Corporate Research Environment (CRE) are at **confidential attachment 1** to this report.

If there is trade between two parties, there must be some sort of commercial link, however, it is difficult to say with certainty whether trade would resume at a significant level.

(iii) *Exports to third countries*

Applicant's claim

Attachment A provides monthly volume and value of Korean exports from third countries and Australia for the period January 2007 to April 2009. Attachment B contains Korean domestic price information over the same period from a market research company. An analysis of this data shows that approximately 43 percent of Korean exports to all countries are at unit values below the Korean domestic price. That is, a substantial volume of Korean exports are 'prima facie' dumped.

Comment

A softcopy of the data and dumping analysis were provided by Australian Vinyls. The data has been examined on a country basis over the periods 2007, 2008 and year-to-date 2009, along the lines of a dumping calculation normally conducted by Trade Measures.

The examination shows a significant number of instances by where Korean export prices were below domestic prices for a number of export destinations. A copy the dumping analysis is at **confidential attachment 2** to this report.

When conducting the dumping analysis, differences in exchange rates were noticed in attachment B to the application and average monthly exchange rates calculated from Reserve Bank of Australia data. Exchange rates were used to convert Korean monthly domestic prices in won to Australian Dollars. The application has used exchange rates for the 15th day of each month and in some cases there are significant differences when compared to average monthly exchange rates. It is our practice when converting monthly data to use an average monthly exchange rate. The effect of using the average monthly figure is to lower the percentage of dumped product cited in the application from 43 percent to 38 percent.

(iv) Dumping assessment

Applicant's claim

Australian Vinyls is firmly of the view that it would be wrong to assess dumping on the basis of a weighted average analysis in consideration of a continuation inquiry.

Comment

The weighted average is a mathematical calculation used to give a unit value over a period or from several individual observations, i.e. the total value is divided by the total volume to give a unit value. The data presented at attachment A to the application on export prices contains weighted average export prices for country by each month.

The concerns raised in the application appear to be not so much about the use of weighted averages rather giving less weight to non-dumped imports. It is not proposed to alter Trade Measures assessment of dumping in these circumstances.

(v) PVC anti-dumping actions by third countries

Applicant's claim

China and Pakistan imposed anti-dumping measures on Korean PVC imports in 2003 and 2004 respectively. Australian Vinyls is not aware of any sunset review outcomes.

Comment

The latest WTO Semi-annual reports were obtained (July to December 2008) of dumping actions submitted by China and Pakistan; see **confidential attachment 3** to this report. The measures imposed by China and Pakistan are still in force.

(vi) PVC Production/Capacity

Applicant's claim

Korea is one of the largest producers and exporters of PVC worldwide. Exports total around 500,000 tonnes. Korea is a net exporter of PVC.

Comment

Data provided at attachment C to the application supports the last two claims. Internet research has been conducted on the world PVC market. In the last couple of years, China has overtaken the USA as the major PVC producer nation. China's production is estimated to be 18.8 million tonnes in 2008. This would put Korea's production in the middle ranking category at best.

(vii) Competitiveness in the Australian market

Applicant's claim

Australian Vinyls cannot assess how competitive Korean imports would currently be in the Australian market because import data is suppressed by the ABS.

Comment

Korean export data overstates the volume of PVC resin subject to measures exported to Australia. The volume of imports from Korea is very small and could not currently have any noticeable impact in the Australian market.

(vii) PVC as a commodity product

Applicant's claim

Locally produced PVC can be easily replaced by imported product:

- There is a large range of import sources worldwide;
- Low level of brand recognition;
- Sources of import supply can be readily changed; and
- No impediment to imported, dumped Korean PVC replacing locally manufactured PVC.

Comment

History has shown that there are a large number of exporting countries. The world market for PVC is supplied by many manufacturers and is therefore highly competitive. The proportion of imports from sources covered by anti-dumping measures is quite small – see CRE data at **confidential attachment 1** to this report.

4.2 Material injury that the measures intended to prevent

The applicant has given the following reasons why the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of the material injury that the measures are intended to prevent. Each claim is summarised and comments are provided in turn.

Australian Vinyl's economic performance

(i) Actual selling prices vs an un-suppressed selling price (USP)

Applicant's claim

Actual selling prices were generally below the notional USP throughout the analysis period, the March quarter 2005 to the March quarter 2009.

Comment

Australian Vinyls has provided actual cost and price information at attachment D to the application. The data was in the form normally presented with an application for anti-dumping duties. An analysis of this data is at **confidential attachment 4** to this report.

Notional USPs have been calculated over the same period using the method employed in Trade Measures Report No.100, the last time the variable factors were reviewed. The formula for USP in that report was Australian Vinyl's vinyl chloride monomer (VCM) cost plus an amount representing the difference between VCM cost and PVC prices achieved in 1998/99.

USPs were therefore calculated by summing the actual VCM cost per quarter and the gap between VCM cost and PVC prices in 1998/99.

The data and analysis provided by the applicant seems reasonable and demonstrates the claim that actual selling prices were below USPs using the methodology employed in the last review of variable factors.

(ii) Profitability performance

Applicant's claim

Following the last continuation of measures the economic performance of Australian Vinyls was reasonably steady for a period but on more current indicators (profitability and actual selling prices versus USP) is clearly vulnerable to any renewed dumping in significant volumes.

Comment

The data presented by the applicant on costs and prices shows a deterioration of profit particularly since the middle of 2008. See graphs at **confidential attachment 5** to this report.

(iii) Likely impact of Korean imports

Applicant's claim

An analysis of notional importers Australian selling price of Korean PVC and Australian Vinyls USP shows that around 33 percent of all Korean export volume would be at prices that undercut Australian Vinyl's price.

Comment

The applicant has built up the FAS export prices in attachment A to the application for all Korean export to a notional importers selling price in Australia. The additions to the FAS export price to arrive a notional selling price seem reasonable based on amounts observed in Trade Measures investigations. Of course, the amounts added may vary for specific transactions or circumstances.

The method employed to test the likely impact of Korean exports seems reasonable. In any such estimation it is difficult to be precise as selling prices are set to maximise profit in the prevailing market conditions.

(iv) Imports/market share

Applicant's claim

Australian Vinyls did not make an assessment as all import data is suppressed.

Comment

As mentioned at claim (A)(i), in 1998/99 Korea represented the largest proportion of imports under investigation in Trade Measures Report No.10. Alleged dumped imports in that report had a market share of between 10 and 15 percent. Currently, Korean imports are very small and represent a tiny proportion of the Australian market.

From the data presented in the application and from CRE, an estimate of the Australian market has been made for the period 2006 to year to date 2009. See **confidential attachment 6** to this report.

4.3 Assessment of the applicant's claims

The application and its supporting information indicate that:

- In the past, Korea was a significant source of imports into Australia;
- Currently there are imports from Korea but they are small in comparison to past levels;
- A reasonable proportion of Korean exports to third countries appear to be at prices that are below Korean domestic prices;
- China and Pakistan have anti-dumping measures are in place against PVC exported from Korea;
- Korea is net exporter of PVC with export volumes of 0.5 million tonnes per annum; and
- PVC is a commodity product available from a significant number of sources that can replace sales made by locally made product.

On the basis of the forgoing, there is a reasonable possibility that there might be a continuation of, or a recurrence of dumping of PVC exported from Korea.

The application and its supporting information also indicate that:

- Australian Vinyls economic performance has deteriorated since the middle of 2008;
- Actual selling prices are below the USP calculated by the method set out in the last review; and
- A build up of Korean export prices to notional selling prices in the Australian market shows possible price undercutting.

On the basis of the forgoing, there appears to be a reasonable possibility that there might be a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

4.4 Conclusion on “reasonable grounds”

The CEO is required to make an assessment whether:

“there appear to be reasonable grounds for asserting that the expiration of the anti- dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.”.

I consider that in this case there appear to be reasonable grounds for this assertion.

Accordingly I recommend that you as delegate of the CEO decide not to reject the application.

In accordance with s 269ZHD(4) you will need to publish notice indicating that it is proposed to inquire into whether continuation of the measures is justified.

5. List of attachments

Confidential attachment 1	Imports from CRE – PVC by country and importer January 2006 to June 2009
Confidential attachment 2	Analysis of Australian Vinyls Korean export data
Confidential attachment 3	China and Pakistan WTO Semi-annual returns
Confidential attachment 4	Analysis of Australian Vinyls costs to make and sell data
Confidential attachment 5	Australian Vinyls profit
Confidential attachment 6	Australian market January 2006 to March 2009