



Australian Government

**Australian Customs and
Border Protection Service**

CUSTOMS ACT 1901 - PART XVB

TRADE MEASURES BRANCH

REPORT TO THE MINISTER NO. 151

**INQUIRY INTO WHETHER THE CONTINUATION OF
ANTI-DUMPING MEASURES IS JUSTIFIED**

**POLYVINYL CHLORIDE HOMOPOLYMER RESIN
EXPORTED FROM
THE REPUBLIC OF KOREA**

25 FEBRUARY 2010



**POLYVINYL CHLORIDE HOMOPOLYMER RESIN
EXPORTED FROM THE REPUBLIC OF KOREA
Finding in relation to continuation inquiry**

Public notice under Part XVB of the *Customs Act 1901*

The Australian Customs and Border Protection Service (Customs and Border Protection) has completed its inquiry into whether the expiration of the anti-dumping measures applying to polyvinyl chloride homopolymer resin (PVC) exported to Australia from the Republic of Korea (Korea) would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent. Recommendations resulting from that inquiry, reasons for the recommendations and material findings of fact and law in relation to the inquiry are contained in Trade Measures Report No 151 (referred to in this notice as "the Report").

In the Report, Customs and Border Protection recommended that the anti-dumping measures applying to PVC exported to Australia from Korea expire on 23 March 2010.

I, BRENDAN O'CONNOR, Minister for Home Affairs, have considered the Report and accepted the recommendations and reasons for the recommendations, including all material findings of fact or law set out in the Report.

Accordingly, I declare that I have decided to not take steps to secure the continuation of anti-dumping measures currently applying to PVC exported to Australia from Korea. These measures will expire on 23 March 2010.

Copies of the Report will be sent to all interested parties that participated in the inquiry. Additional copies may be obtained by contacting Trade Measures Office Management on telephone 02 6275 6547 or by fax on 02 6275 6888. Trade Measures reports are also available in the Customs and Border Protection internet site at www.customs.gov.au.

Enquiries about this notice may be directed to Operations 3, Trade Measures Branch, Australian Customs and Border Protection Service on telephone 02 6275 6701, facsimile 02 6275 6990, or by email to tmops3@customs.gov.au.

Dated this

17th

day of

March,

2010

BRENDAN O'CONNOR
Minister for Home Affairs

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2 ABBREVIATIONS & SHORTENED FORMS

ACDN	Australian Customs Dumping Notice
Customs and Border Protection	Australian Customs and Border Protection Service and includes the CEO
AVC	Australian Vinyls Corporation
AVCH	AVC Holding Pty Ltd
AVCT	AVC Trading Pty Ltd
CEO	Chief Executive Officer of Customs and Border Protection
China	The People's Republic of China
CTMS	Cost to make and sell
Examination period	1 January 2006 to 30 June 2009
FOB	Free-on-board
GFC	Global financial crisis
Hanwha	Hanwha Chemical Corporation
Korea	The Republic of Korea
LG Chem	LG Chem Ltd
Manacol	Manacol Pty Ltd
Minister	Minister for Home Affairs
NIP	Non-injurious price
Primaplas	Primaplas Pty Ltd
PVC	Polyvinyl chloride homopolymer resin
SEF	statement of essential facts
The goods	The goods subject to the continuation inquiry
USP	Unsuppressed selling price
USA	United States of America
VCM	Vinyl chloride monomer
Vinidex	Vinidex Pty Ltd
WTO	World Trade Organisation

3 SUMMARY AND RECOMMENDATIONS

This report to the Minister for Home Affairs (the Minister) provides the results of the Australian Customs and Border Protection Service (Customs and Border Protection) inquiry into whether continuation of the anti-dumping measures applying to polyvinyl chloride homopolymer resin (PVC) exported to Australia from the Republic of Korea (Korea) is justified.

3.1 Recommendations

Customs and Border Protection recommends to the Minister that the anti-dumping measures expire on the specified expiry date of 23 March 2010.

If the Minister accepts this recommendation, to give effect to that decision, the Minister must publish a notice declaring that he has decided not to secure the continuation of anti-dumping measures and the specified day the dumping duty notice expires.

3.2 Application of law to facts

Authority to make decision

Division 6A of Part XVB in the *Customs Act 1901*¹ provides for the continuation of anti-dumping measures beyond their normal life of five years.

Role of the CEO of Customs and Border Protection

The CEO must conduct an inquiry into the continuation of anti-dumping measures and recommend that:

- the Minister take steps to secure the continuation of the anti-dumping measures; or
- the anti-dumping measures expire on the specified expiry date.

The CEO must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the CEO is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The CEO's powers have been delegated to certain officers of the Trade Measures Branch.

¹ A reference in this report to a provision of legislation, unless otherwise specified, is a reference to the Customs Act 1901

Role of the Minister

Section 269ZHG specifies:

The Minister must, after considering the report of the CEO and any other information that the Minister considers relevant, declare whether or not he has decided to take steps to secure the continuation of the anti-dumping measures concerned. This declaration is made by publishing a notice.

3.3 Summary of findings and conclusions

The recommendation contained in section 3.1 is based on the following findings:

- PVC produced by Australian Vinyls Corporation (AVC) is like goods to PVC exported from Korea (see sections 5.1, 6.1 and 6.2 of this report);
- AVC (through the separate business of AVC Trading Pty Ltd) imports certain grades of PVC from Taiwan to supplement domestic production (see section 6.3 of this report);
- the economic performance of the Australian industry has deteriorated over the examination period largely due to the impact of a plant shutdown in March 2008 and the GFC which began impacting the market in September 2008 (see section 9 of this report); and
- it is likely that exports of PVC from Korea to Australia will recur in small volumes (see section 10.2 of this report);
- it is likely exports of PVC from Korea will be at dumped prices (see section 10.3 of this report); and
- it is not likely that exports of PVC from Korea to Australia at dumped prices will lead to a recurrence of material injury (see section 10.4 of this report).

In summary, having regard to the above findings, Customs and Border Protection **is not satisfied** that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent. Customs and Border Protection considers that the anti-dumping measures should expire on the specified expiry date of 23 March 2010.

4 INTRODUCTION

4.1 The current continuation inquiry

Anti-dumping measures applying to PVC from Korea and Hungary are due to expire on 23 March 2010.

On 18 May 2009, Customs and Border Protection published a notice inviting certain persons to apply to Customs and Border Protection for continuation of the anti-dumping measures applying to PVC from Korea and Hungary.

On 17 July 2009, AVC, the only Australian manufacturer of PVC, lodged an application for the continuation of the anti-dumping measures. No application was lodged for a continuation of anti-dumping measures applying to PVC from Hungary. Therefore, anti-dumping measures on PVC from Hungary will expire on 23 March 2010.

Customs and Border Protection examined the application and decided not to reject it.

Public notification of initiation of the continuation inquiry was made on 24 August 2009 in *the Australian* newspaper. Australian Customs Dumping Notice (ACDN) No. 2009/26 was also published.

On 25 November 2009 the Minister approved an extension of 30 days to the due date for publishing a statement of essential facts (SEF). Customs and Border Protection placed the SEF on the public record on 11 January 2010. Interested parties were invited to lodge submissions in response to the SEF by not later than 31 January 2010. One submission was received in response to the SEF.

This report to the Minister is due on or before 25 February 2010.

Participation

Customs and Border Protection visited AVC during the continuation inquiry and verified the data provided by AVC in its application for continuation of the anti-dumping measures.

Notwithstanding the negligible volumes of PVC exported to Australia from Korea since measures were originally imposed on exports from Korea in 2000, Customs and Border Protection invited the following Korean producers to participate in this inquiry:

- Hanwha Chemical Corporation (Hanwha);
- LG Chem Ltd (LG Chem); and
- The Normandy Group S.A.

These producers were identified by AVC in its application and by Customs and Border Protection in the 2005 continuation inquiry² as having previously exported PVC to Australia. Another company, Hyundai Petrochemical, was also identified by AVC in its application. Customs and Border Protection found that Hyundai Petrochemical's PVC operation had been acquired by LG Chem.

Specifically, Customs and Border Protection forwarded exporter questionnaires to the above companies and requested that they provide data in relation to export sales, domestic sales and cost to make and sell. Hanwha advised that it did not want to participate in the inquiry. The Normandy Group S.A. did not respond to the invitation. LG Chem agreed to participate and submitted a completed response to the exporter questionnaire on 19 October 2009 and additional information on 10 December 2009.

Customs and Border Protection visited two importers who had previously imported PVC from Korea, Primaplas Pty Ltd (Primaplas) and Vinidex Pty Ltd (Vinidex), to obtain information on the Australian market for PVC.

Submissions by interested parties

Submissions prior to the SEF

Submissions prior to the SEF were made by AVC (the application) and LG Chem (exporter questionnaire response and supplementary information). Issues raised in these submissions were addressed in the SEF.

Submissions in response to the SEF

The only submission in response to the SEF was made by AVC. Customs and Border Protection has responded to the matters raised in this submission in the relevant sections of this report.

4.2 History of anti-dumping measures

Since 1992 there have been a number of anti-dumping investigations or review inquiries in respect of PVC. Measures have been imposed on numerous countries including Brazil, Canada, the People's Republic of China (China), France, Hungary, Israel, Japan, Korea, Mexico, Norway, Saudi Arabia, Thailand, and the United States of America (USA).

Anti-dumping measures currently apply to exports from Japan and the USA (since 1992) and from Hungary and Korea (since 2000).

Since 1999, the following reports have been published:

Report	Type	Date report	of Countries	Result/comment

² Report No. 91: Continuation inquiry - PVC from Hungary and Korea 11 March 2005

10	Investigation	5 Oct 1999	Hungary, Indonesia, Korea and Singapore	Measures imposed on Hungary and Korea
36	Review of normal values and non-injurious prices	28 Mar 2001	Thailand	Measures re-ascertained for Thailand
46	Continuation	8 Nov 2001	USA	Measures continued on USA
54	Investigation	22 Jun 2002	Indonesia and Israel	Measures imposed on Israel.
57	Continuation	10 Jul 2002	Japan and Thailand	Measures continued on Japan and Thailand.
91	Continuation	11 Mar 2005	Hungary and Korea	Measures continued on Hungary and Korea
100	Review of normal values, export prices and non-injurious prices	14 Sep 2005	Hungary, Korea, Israel, Japan, Thailand and USA	Measures re-ascertained for Hungary, Korea, Israel, Japan, Thailand and USA
115	Continuation	3 Nov 2006	USA	Measures continued on USA
123	Continuation	6 Jul 2007	Japan and Thailand	Measures were continued on Japan Thailand

5 GOODS SUBJECT TO THE CONTINUATION INQUIRY AND LIKE GOODS

5.1 Like goods

Customs and Border Protection found in the 2005 continuation inquiry that the physical characteristics, end-use and substitutability of PVC manufactured by AVC remained similar to the PVC from Korea exported to Australia in the original investigation period and was satisfied that PVC manufactured by AVC is like goods³.

Customs and Border Protection visited the AVC production facility, where it noted the production process, and product range, has not changed substantially since the 2005 continuation inquiry.

Customs and Border Protection notes that interested parties did not suggest that the PVC manufactured and sold by AVC is not like goods to the PVC manufactured in Korea.

Customs and Border Protection remains of the view that PVC produced by the Australian industry is like goods to PVC exported from Korea.

5.2 Goods subject to anti-dumping measures

The goods subject to anti-dumping measures are polyvinyl chloride homopolymer resin, known as PVC, exported to Australia from Korea.

PVC is a white powder produced by the polymerisation of vinyl chloride monomer (VCM). PVC can be manufactured through a suspension process or a mass process, but the final goods are considered to be similar and interchangeable.

In the 2005 continuation inquiry, Customs and Border Protection determined that paste (or emulsion), compound grades and recycled PVC (such as from cordial bottles) are not regarded as the goods.

The goods are classified to tariff subheading 3904.10.00 (statistical code 18) of Schedule 3 to the *Customs Tariff Act 1995*. The duty rate for Korea is currently 5 percent.

³ In terms of section 269T

6 AUSTRALIAN INDUSTRY

6.1 Company background

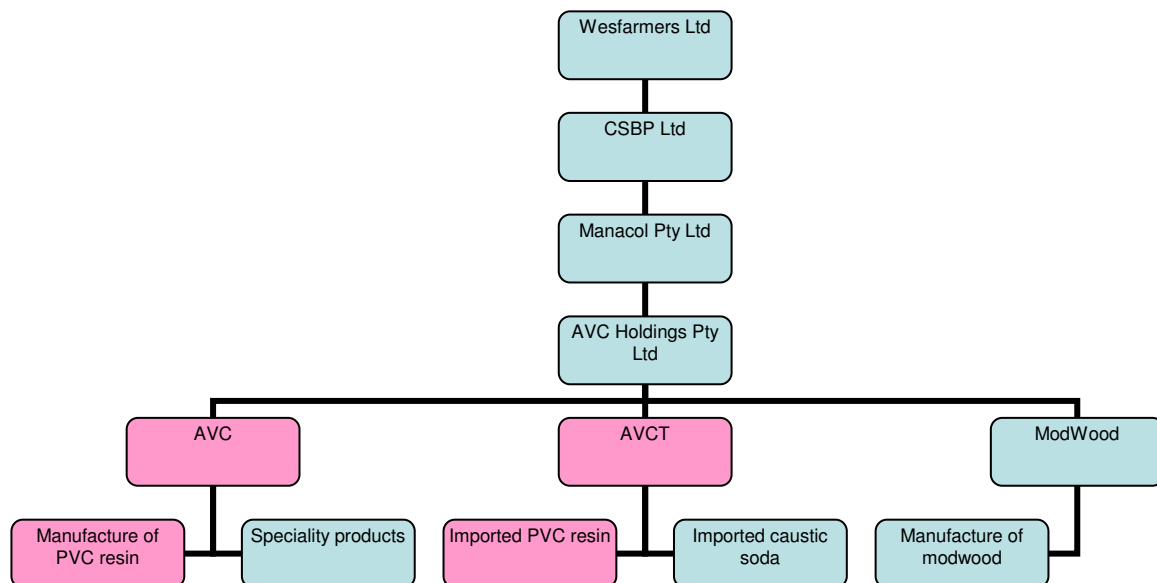
At the time of the initial investigation in 1999⁴, the Australian industry consisted of AVC which was a joint venture formed in August 1997 between ICI Limited and Geon Corporation, a USA based company. AVC produced PVC at two Victorian production facilities in Altona and Laverton until January 2002 when it closed its Altona facility.

On 15 February 2002, the PVC Resins and Speciality Products businesses were sold to a consortium of AVC management and CPH Investment Corporation. AVC is 100 percent owned by the parent company AVC Holdings Pty Ltd (AVCH). AVCH formed AVC Trading Pty Ltd (AVCT) in early 2002 to import PVC for resale by AVC.

In recent years, there have been the following changes to the group structure:

- In June 2005 AVC management, Colonial First State Investments Ltd and Colonial First State Private Capital Ltd formed a new company - Manacol Pty Ltd (Manacol). Manacol then acquired 100 percent of the shares in AVCH; and
- In September 2007 Manacol's shares were acquired by CSBP Ltd which is 100 percent owned by Wesfarmers Ltd. (CSBP Ltd is Wesfarmers Ltd's chemical and fertiliser business.)

The current company group structure is illustrated in the following diagram.



⁴ Report No.10 dated 5 Oct 1999 – PVC exported from Hungary, Indonesia, Korea and Singapore - Measures imposed on Hungary and Korea

The above diagram shows that AVC has the following product streams:

- manufacture and sale of PVC; and
- sale of imported speciality products – AVC imports specialised polymers and polymer additives for resale.

6.2 Australian production

AVC is the sole manufacturer of PVC in Australia. Its production facilities are located at Laverton, Victoria. Customs and Border Protection visited AVC's offices to verify the data contained in its application.

AVC has the capacity to produce 140,000 tonnes of PVC annually from imported VCM. AVC uses other raw materials in the PVC production process (i.e. chemicals to start and stop the process and granulating agents) which are imported and sourced locally.

AVC produces PVC by the suspension process. AVC operates six reactors around the clock.

AVC has ten storage silos with a total capacity of 5,500 tonnes. The resin from two of the silos is packed in the warehouse into either 25 kg bags for dispatch on one tonne pallets or into one tonne bulk bags. The bags are then stored in the warehouse before dispatch by road truck. The remaining eight silos discharge PVC directly into bulk powder tankers or into shipping container boxes that are carried on the back of trucks.

6.3 AVC as an importer of PVC

AVC reaffirmed the Customs and Border Protection finding in the 2005 continuation inquiry that:

- since the closure of its Altona plant in early 2002, AVC (through the separate business of AVCT) has imported certain grades of PVC from Taiwan to supplement domestic production. AVC provided monthly sales volume data for imported PVC for the period January 2007 to June 2009;
- imports are utilised particularly in the states furthest from the plant in Victoria. The goods are shipped from the country of export to the closest port of the customer; and
- AVC's terms and conditions applying to sales of imported PVC are similar to those applying to sales of locally produced PVC. Customs and Border Protection noted that there is little price difference between AVC's sales of locally produced PVC and imported PVC in any particular month.

AVC advised that in 2008, when it was short of supply due to a plant shutdown in March 2008 which affected production for 3 months, it imported PVC from a range of additional countries to maintain supply to its customers including the Republic of South Africa, the USA and China.

Customs and Border Protection noted that AVC's volume of imported PVC between 2006-07 and 2008-09 comprised a significant proportion of total imports into Australia.

7 AUSTRALIAN MARKET

7.1 Market structure

The principal uses for PVC in Australia are the manufacture of pipes and pipe fittings and wire and cables for the construction and building industry. AVC claimed that 70-75 percent of the PVC market is pipe grade resin. Other uses for PVC include hoses and tubing and injection mouldings such as shoes.

AVC claims that the Australian market consists of the following market segments:

- Plumbing & electrical fittings;
- Pressure pipe; and
- General purpose.

AVC claimed that it can service all market segments with the grades that it manufactures locally supplemented by the grades it imports.

Customs and Border Protection noted that the majority of the PVC supplied to the market during the 2008-09 financial year was locally manufactured by AVC. The balance of the PVC was imported via a range of traders and importers / end users, including AVC through the separate business of AVCT (see chart in section 7.2).

Customs and Border Protection found in the 2005 continuation inquiry that:

- AVC claimed that it may get a slight price premium by being a local producer; and
- improvements in technology have led to end users using less PVC by improving additives and production processes to maintain strength e.g. end users are now making thinner pipes that require less PVC yet maintain required properties.

During this inquiry, AVC advised that these observations remained valid.

7.2 Market size

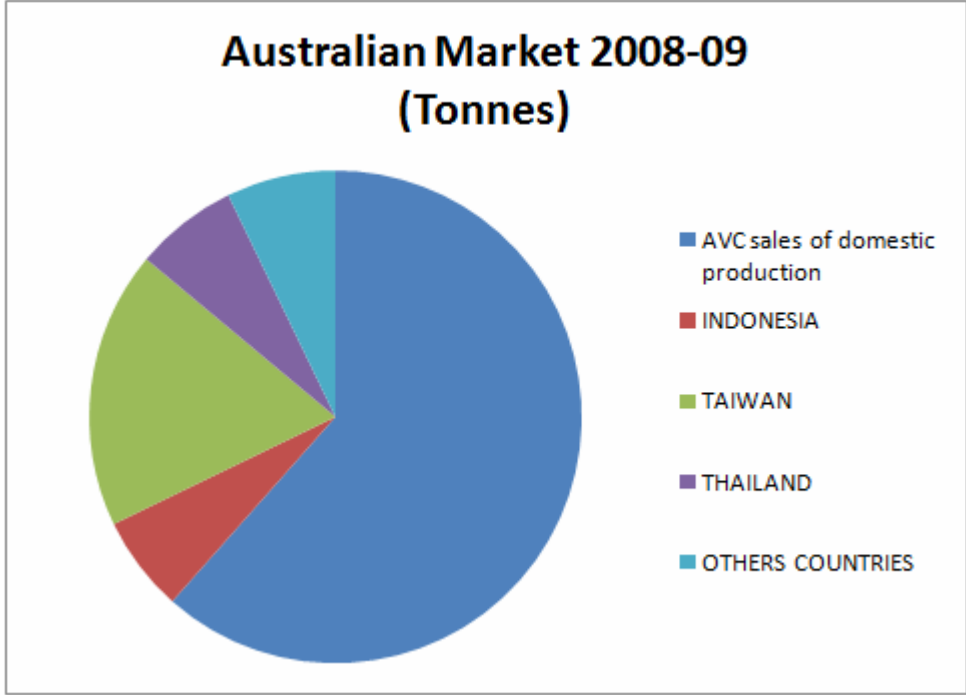
The Australian market is supplied by AVC (from local production and imported product) and importers sourcing from a number of countries. The predominant source of imported product is Taiwan, followed by Indonesia and Thailand. The source of supply of PVC to the Australian market in 2008-09 is illustrated by the chart on the following page.

To calculate the size of the PVC market in Australia, Customs and Border Protection used verified sales data from AVC and import data from the Customs and Border Protection import database.

In the 2005 continuation inquiry Customs and Border Protection found that the Australian PVC market was approximately 200,000 tonnes per year. AVC claimed in this inquiry that the Australian market declined in 2008-09 to about 185,000 tonnes and is continuing to decline in 2009-10. AVC stated that this decline is due to the economic downturn brought about by the GFC which began affecting the Australian

market in September 2008 compounded by the decreasing requirement for PVC by end-users in their products.

Customs and Border Protection estimated the market size in 2006-07 and 2007-08 was in excess of 200,000 tonnes for each year, and this reduced to a market size of less than 200,000 tonnes in 2008-09 (see **confidential appendix 1**).



8 RECENT EXPORT ACTIVITY FROM KOREA

The volume of PVC exported to Australia from Korea since measures were imposed in 2000 has been negligible.

9 ECONOMIC CONDITION OF THE INDUSTRY

Customs and Border Protection found that the economic performance of the Australian industry has deteriorated over the examination period largely due to the impact of a plant shutdown in March 2008 and the GFC which began impacting the market in September 2008.

9.1 Examination period

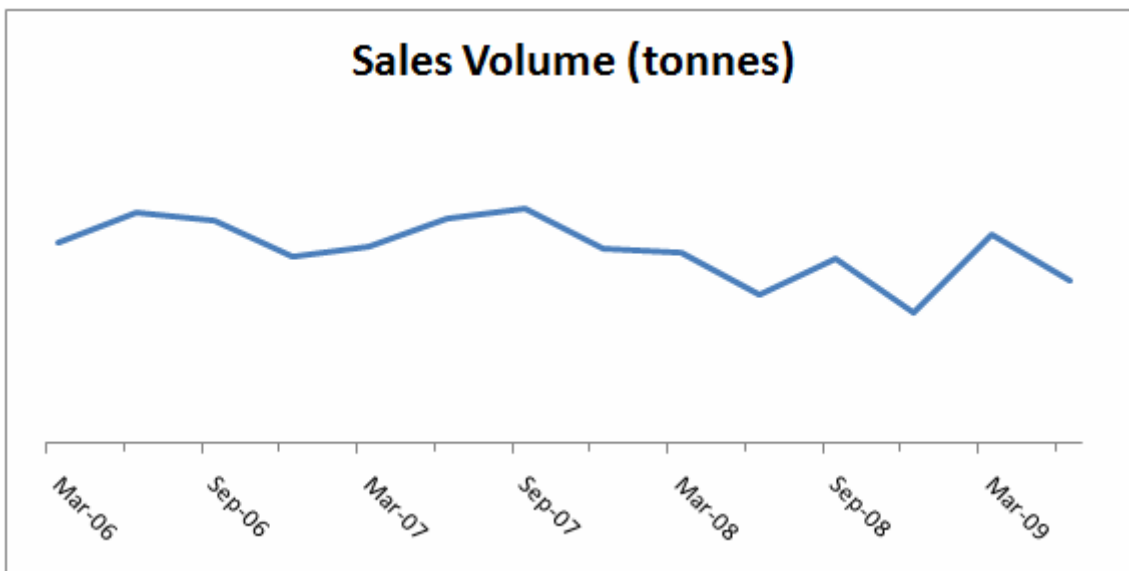
Customs and Border Protection examined the performance of AVC from 1 January 2006 to 30 June 2009 (the examination period).

9.2 Volume trends

Customs and Border Protection examined AVC's sales of imported and local PVC in its analysis of volume trends.

Sales volumes

Movements in AVC's quarterly total sales volume (local production and imported PVC) are illustrated in the following chart. Customs and Border Protection is aware of, and has taken into account in its analysis, the relative trends in sales volume for AVC's local production and its imports, however, only total sales volume is shown for confidentiality reasons (see **confidential appendix 1**).



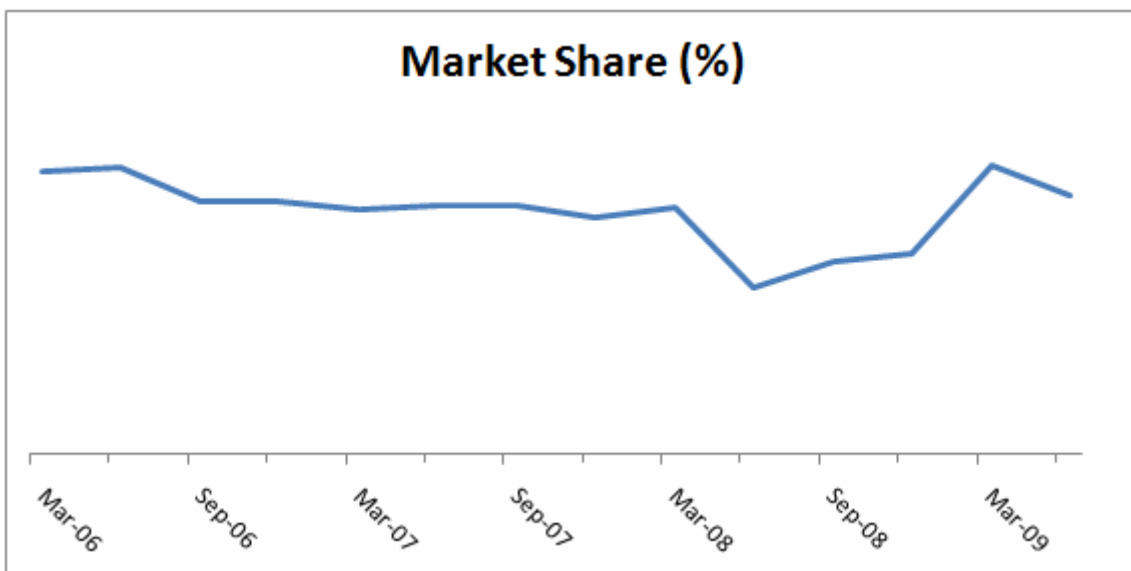
The above chart indicates that sales volume fluctuated throughout the examination period. Customs and Border Protection notes that sales volume:

- declined in the June 2008 and December 2008 quarters below levels previously reached following a plant shutdown in the March 2008 quarter and the impact of the GFC which began being felt in the September 2008 quarter;

- the plant shutdown in March 2008 was followed by a fall in overall sales in the June 2008 quarter made up of a decrease in sales of local production and an increase in sales of imported PVC;
- the impact of the GFC in September 2008 was followed by a decrease in overall sales in the December 2008 quarter (made up of a decrease in sales of both local production and imported product);
- increased in March 2009 quarter to previous levels; and
- declined again in the June 2009 quarter to a similar low level achieved in June 2008 quarter.

Market Share

Movements in AVC's market share (for sales of local production and imported PVC) are illustrated in the following chart.



The above chart indicates that AVC's market share has remained relatively stable between the September 2006 and March 2008 quarters (see **confidential appendix 1**). Customs and Border Protection notes that AVC's market share:

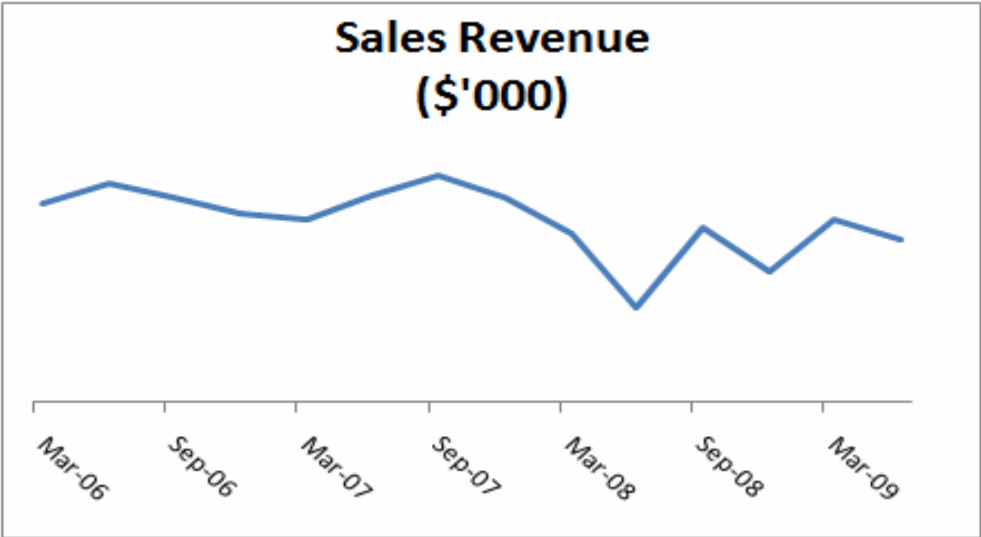
- reduced in the June 2008 quarter then increased in the next two quarters but not to the same level as achieved in the March 2008 quarter; and
- increased in the March 2009 quarter back to a similar level achieved in June 2006 quarter followed by a decline in the June 2009 quarter to a similar level to that achieved before the June 2008 quarter decline.

AVC stated that its poor results in 2008 were due to problems experienced with the installation of a new Distributed Control System in the plant in March 2008 which resulted in a plant shutdown and disruption in production for three months. AVC advised that it lost business due to the shutdown which it has since been trying to regain. This is reflected in the above graph.

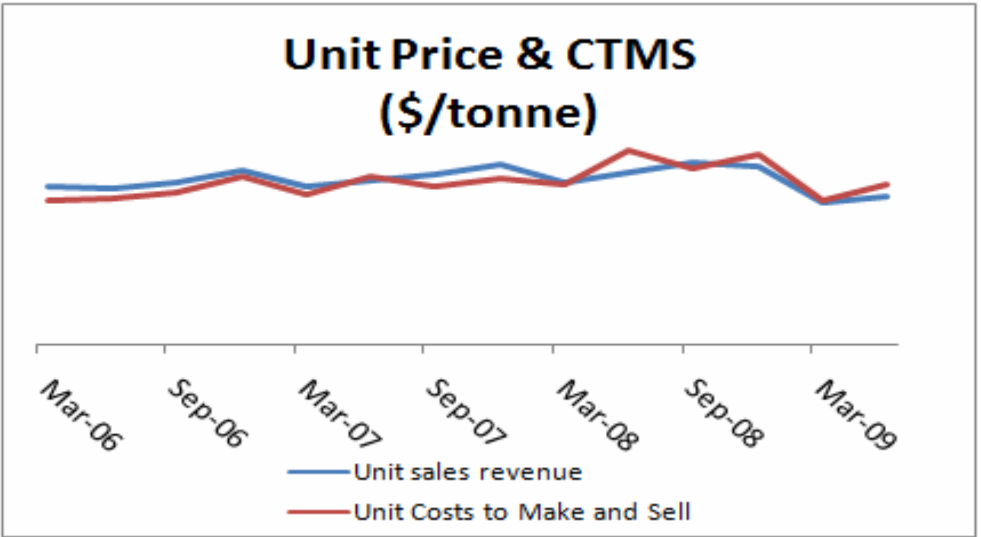
9.3 Revenue, price and cost trends

Customs and Border Protection examined revenue, price and cost trends over the examination period using data relating only to local production.

Movements in AVC's revenue, unit prices and costs are illustrated in the following charts (see **confidential appendix 2**).



The above chart indicates that AVC quarterly sales revenue declined after the December 2007 quarter and, despite subsequent quarterly fluctuations, did not return to that level.



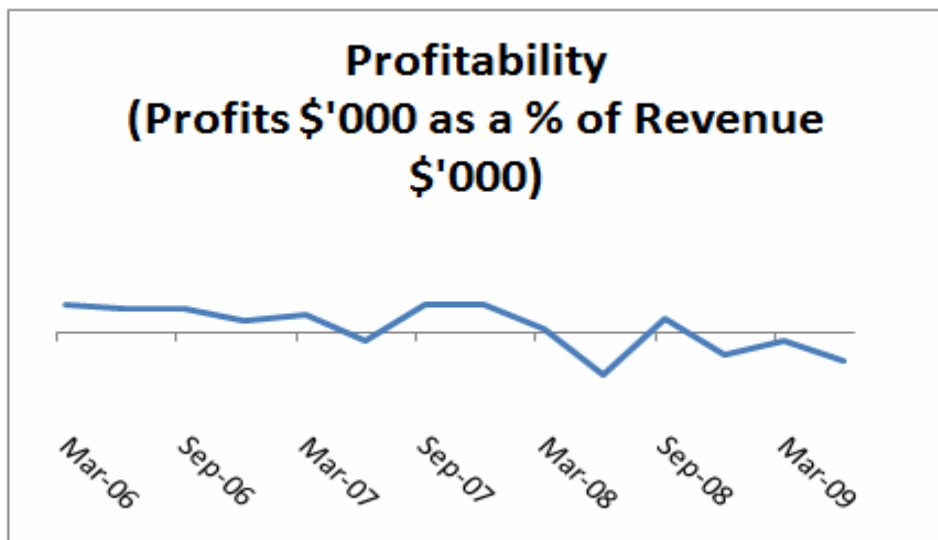
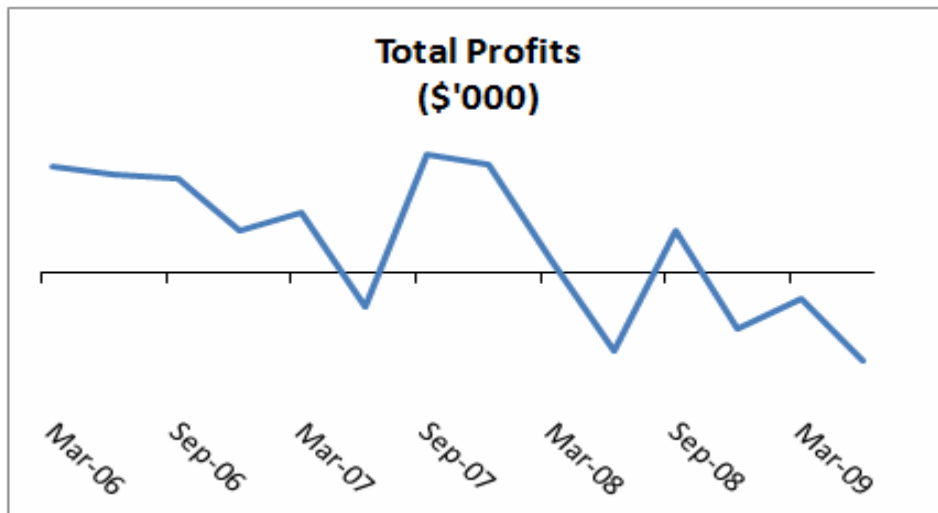
The above chart shows that average unit CTMS and average unit price have fluctuated throughout the examination period. Customs and Border Protection notes:

- average unit CTMS increased in June 2008 quarter following the plant shutdown to be above average unit revenue and has generally remained above average unit revenue since then; and

- both average unit CTMS and average unit revenue declined in the last two quarters of the examination period with average unit revenue declining to levels lower than that achieved previously. The start of the decline coincides with the start of the impact of the GFC.

9.4 Profits and profitability

Movements in AVC's total profits and profitability (profit measured as a percentage of revenue) are illustrated in the following charts (see **confidential appendix 2**).



The above charts indicate that AVC's total profit and profitability have fluctuated throughout the examination period but generally in a downwards direction. Customs and Border Protection notes that total profits and profitability:

- declined in June 2007 quarter and then again in June 2008 to negative values. AVC has been operating at a loss since the December 2008 quarter; and

- the significant decline in the June 2008 quarter coincided with the plant shutdown and its subsequent impact on production and the negative results in the last three quarters coincided with the impact of the GFC.

10 LIKELIHOOD OF DUMPING AND MATERIAL INJURY CONTINUING OR RECURRING

Customs and Border Protection found that, if anti-dumping measures expire:

- it is likely that exports of PVC from Korea to Australia will recur in small volumes;
- it is likely exports of PVC from Korea will be at dumped prices; and
- it is not likely that exports of PVC from Korea to Australia at dumped prices will lead to a recurrence of material injury.

10.1 Information relied on

In considering the likelihood of dumping or material injury continuing or recurring, Customs and Border Protection has relied on the following sources of information:

- AVC's application;
- LG Chem's exporter questionnaire response;
- 2005 continuation inquiry report; and
- open source PVC global market material accessed on the internet from a variety of sources.

Customs and Border Protection noted that information provided in AVC's application:

- in relation to Korean export prices to third countries, is based on trade data for tariff classification 39041000. This is an aggregated heading which includes goods other than PVC resin e.g. PVC paste which are not the goods under consideration; and
- in relation to Korean domestic prices, is based on a price at the lower end of a monthly price range published by a company that provides global PVC marketing and pricing data. The monthly price range provided in the reports is therefore only indicative of market prices. Customs and Border Protection also noted that the Korean domestic price data includes commentary on the Korean domestic market and the Korean export markets which has also been considered by Customs and Border Protection.

Customs and Border Protection noted that information provided by LG Chem in its exporter questionnaire response is based on the manufacture and sale of PVC only. Customs and Border Protection also noted:

- LG Chem is the leading chemical company in Korea and is one of the world's top 30 chemical makers. Customs and Border Protection is aware of only one other PVC manufacturer in Korea: Hanwha Chemical Corporation; and
- LG Chem's monthly sales volume of PVC to third countries represents approximately 50 percent of total Korean sales volume to third countries of all products classified to subheading 39041000 (taken from AVC's application).

Customs and Border Protection therefore considers that findings and conclusions based on LG Chem's data reasonably reflect Korean domestic and export sales.

10.2 Are exports likely to continue or resume?

Exporter dependence on export markets

Customs and Border Protection noted in the 2005 continuation inquiry that Korea continues to have a strong focus on export markets, China in particular. Customs and Border Protection in this inquiry noted:

- from the information provided by LG Chem, the company had a strong focus on export markets during the 2008-09 financial year exporting to a large number of export markets, in particular India and China; and
- from the information provided by AVC:
 - o Korea is one of the largest producers and exporters of PVC in the world. Exports are to a large number of countries with a total annual volume of around 500,000 tonnes;
 - o During the 2008-09 financial year:
 - Korean domestic market was influenced by regional market conditions;
 - A sluggish Korean domestic market and the depreciation of the Korean Won against the dollar continued to encourage producers to increase exports to destinations such as India, China, Middle East and Turkey since the start of 2009 because of demand and price; and
 - Hanwha indicated its intension to resume full production of its 200,000 MT/year facility following a rebound in export prices.

Customs and Border Protection remains of the view that Korean producers continue to have a strong focus on export markets, particularly markets with a strong demand and higher prices such as India, China and the Middle East. It is therefore unlikely Korean producers will export PVC to Australia in significant volume if measures expire.

Other sources of imported PVC

Customs and Border Protection examined its import database and found the Australian PVC market was supplied by 18 countries during the 2008-09 financial year, in particular, by imports from Taiwan, Indonesia and Thailand.

Customs and Border Protection compared the export prices to Australia from these other countries to LG Chem's export prices to third countries (**confidential appendix 3**). Customs and Border Protection considers the comparison indicated LG Chem export prices to third countries, if applicable to Australia, were unlikely to have been any more favourable on price than many other sources.

End-user preference

Customs and Border Protection found in the 2005 continuation inquiry and reaffirmed in this inquiry that the customer base for AVC and importers is a mature one that does not change greatly in the short term i.e. it is not common to change supply chains once secured. This finding was tested during the examination period by the shutdown of AVC's plant in March 2008 and the extended impact it had on production. AVC stated that it took some time to win back the volume lost due to loss of confidence in AVC's ability to maintain supply.

Supply channels to Australia

AVC claimed in its application that the relatively small volume of product classified to subheading 39041000 exported from Korea is evidence that Korean exporters and importers continue to retain distribution links for supply to the Australian market and on past history it is reasonable to assume that in the absence of the measures the volume from Korea would likely resume and at a significant level.

Customs and Border Protection noted from its import data that:

- there have been negligible volumes of imported PVC from Korea since measures were imposed in 2000;
- previous Korean exporters of PVC continue to export other products to Australia including to current importers of PVC;
- previous importers of PVC from Korea have switched sources to suppliers in other countries, including countries that are not subject to measures; and
- PVC is being exported from a large number of countries and imported by a large number of importers i.e. there is significant import competition from a number of sources.

Customs and Border Protection is of the view that although there are existing supply channels to Australia for Korean exporters of PVC, it is not likely in the absence of measures PVC will be exported from Korea in significant volume.

PVC global market conditions

Customs and Border Protection examined data and commentary provided in a number of international sources about pricing, supply and demand, forecasts and activity in the global PVC market since 2006. Customs and Border Protection noted that the market has changed since the continuation inquiry of 2005, in particular:

- the GFC in 2008⁵ resulted in worldwide PVC demand declining by 8 percent and an expectation that the global PVC market would be oversupplied by almost 4 million metric tonnes by 2014;

⁵ Source: chemicalonline.com: CMAI Completes 2010 World Vinyls Analysis: PVC Demand is Rebounding 1 October 2009

- global demand for PVC from 2009⁶ was expected to grow annually by 4.1 percent;
- China will continue to be the principal driver for global PVC demand up to 2020 spurred on by the Chinese government \$600 billion investment program to develop infrastructure in interior China;
 - o Chinese PVC demand is expected to grow by 8 percent annually and is expected to reach 12 million tons by 2010 and account for 44 percent of the global PVC demand by 2020;
 - o Even with large capacity additions China will emerge as the largest importer of PVC in the world. The GFC has resulted in the decline in the cost competitiveness of the Chinese PVC industry. Calcium carbide producers account for 82 percent of China's local PVC supply. The shift in competitiveness is the result of ethylene based production becoming far more competitive than the calcium carbide or coal based route due to the fall in oil price;
- PVC demand growth during the last 10 years in the Middle East region was the second largest after the Asia Pacific region. The demand was driven by large scale construction projects in Iran, Saudi Arabia and UAE. These countries have undertaken large multi-billion dollar projects to develop infrastructure driving the demand for PVC; and
- Demand for PVC in construction applications in developing countries, particularly China, India and Brazil will compensate for the slowdown in the traditionally large markets in North America and Europe and account for 61 percent of the global PVC demand in 2020.

Customs and Border Protection notes that the majority of LG Chem's PVC sales are to export markets, in particular the growing markets in Asia, Africa, the Middle East and South America.

Customs and Border Protection also notes from the information provided by AVC in its application that Korean exporters are focussed on increasing their sales to the strong markets in India, China, Latin America and the Middle East.

10.3 What is the likelihood of dumping continuing or recurring?

Export price and normal value

Export price

⁶ Source: CENS.com: Taiwan Economic News: China Levies Anti-dumping Tax on the US, Japan, Korea and Taiwan 2 October 2009; globalmarketsdirect.com: Global PVC Market Analysis and Forecasts to 2020 18 September 2009; cbichina.com (ICIS): China Meets Flood of Methanol, PE, PVC Imports 12 April 2009

As stated previously, there have been negligible volumes of imported PVC from Korea since measures were imposed in 2000. In its exporter questionnaire response, LG Chem stated that it had not exported PVC to Australia during the 2008-09 financial year. Customs and Border Protection import records confirm that there were no exports of PVC from Korea in 2008-09.

Customs and Border Protection considered third country sales information provided by AVC in its application and by LG Chem in its exporter questionnaire response for the purpose of calculating an export price for Korea.

The information provided by AVC relates to data reported by an independent source based on Korean export statistics. The data relates to goods classified to tariff sub-heading 39041000 which is an aggregated classification that includes PVC resin (the goods) and other goods such as PVC paste which are not regarded as the goods.

LG Chem provided sales data by quarter for the financial year 2008-09 data relating specifically to sales of PVC to its customers in third countries.

Given the above and the fact that LG Chem's sales of PVC to third countries represent a significant proportion of total Korean sales to third countries of all goods classified to 39041000, Customs and Border Protection considers it reasonable to use the data provided by LG Chem as the basis for calculating export prices for Korea.

Customs and Border Protection calculated an export price for Korea using the weighted average free on board (FOB) price of all third country sales by LG Chem.

Normal Value

Customs and Border Protection considered Korean domestic sales information provided by AVC in its application and LG Chem in its exporter questionnaire response for the purpose of calculating a normal value for Korea.

AVC provided Korean PVC domestic price information obtained from a market research company. The information was in the form of a monthly market analysis that included monthly domestic price range for PVC for countries in the region including Korea. AVC used the low figure in the range as its estimate of the Korean domestic price for each month from January 2007 to April 2009.

LG Chem provided a spreadsheet of its domestic sales transactions during the 2008-09 financial year. Customs and Border Protection analysed the data in the spreadsheet and found the data to be not sufficiently reliable as the sales volume and value in the spreadsheet could not be reconciled to either the Sales Summary or CTMS Domestic Sales data provided by LG Chem in its response.

Customs and Border Protection then considered other relevant information provided by LG Chem and information provided by AVC for the purposes of calculating a

normal value⁷. LG Chem provided in its response domestic and export CTMS data for PVC for each month of the 2008-09 financial year.

Customs and Border Protection therefore considered it reasonable to use LG Chem's CTMS data as the basis for calculating a normal value for Korea. Customs and Border Protection calculated a normal value for Korea per quarter using the sum of LG Chem's exports CTMS and domestic SG&A and profit. The amount for profit for each quarter was determined using the difference between the quarterly weighted average domestic selling price and the quarterly CTMS for domestic sales.

Dumping Margin

To ascertain the likelihood of a recurrence of dumping of PVC from Korea if anti-dumping measures expired, Customs and Border Protection calculated an indicative dumping margin for the 2008-09 financial year by comparing quarterly weighted average export prices with the corresponding quarterly weighted average normal values⁸. Customs and Border Protection then calculated an overall dumping margin for the 2008-09 financial year and found it was not negligible (see **confidential appendix 4**).

Customs and Border Protection noted that the majority of LG Chem's export sales were to China and India. Customs and Border Protection therefore examined the impact of excluding sales to these countries and found that the dumping margin remained as not negligible.

AVC claimed in its application, and again in its submission, that Customs and Border Protection's usual methodology of assessing dumping on the basis of a weighted average analysis is the wrong approach to take in a continuation inquiry for the following reasons:

- the aim in analysis of export data in continuation cases is to assess behavioural patterns and whether Korean exporters would be likely to dump and cause material injury;
- as Korean export prices show a regular variance between countries each month, weight averaging export prices masks a significant number of low, dumped export prices and the predatory and opportunistic nature of this pricing; and
- weight averaging has the effect of reducing the likelihood of finding signs of dumping. Taking a mean export price on this basis ignores consideration and focus on all exports at prices below the mean which might be dumped (and injurious).

Customs and Border Protection considered the above arguments advanced by AVC but found no reason to depart from its usual practice of using the weight averaged

⁷ Under subsection 269TAC(6)

⁸ In accordance with subsection 269TACB(2)(a)

method. Weighted averages take into account variations in prices for many reasons including different pricing by customer, seasons, volumes and grades. In any case, Customs and Border Protection noted that the overall dumping margin that resulted from the weight averaged method was not negligible and has therefore not masked any propensity for dumping. In addition, even if the weight averaged method had resulted in an overall dumping margin that was negligible, Customs and Border Protection would have considered the relevance of any sales to third countries that were dumped during its analysis.

Anti-dumping action by other countries

AVC stated in its application that it understood that China and Pakistan had imposed anti-dumping measures on Korean PVC imports in 2003 and 2004 respectively.

Customs and Border Protection in the continuation inquiry of 2005 examined semi-annual returns to the World Trade Organisation (WTO) and conducted internet based research to see if Korea had been the subject of any PVC anti-dumping investigations conducted by other jurisdictions. At that time, Customs and Border Protection found that:

- Pakistan had finalised an investigation and imposed definitive antidumping duties on PVC exports from one specific exporter in Korea;
- In 2003, China imposed anti-dumping measures on PVC exports from Korea; and
- In 2001, South Africa imposed anti-dumping measures on PVC exports from Korea.

During this inquiry Customs and Border Protection examined the most recent semi-annual returns to the WTO and open source information downloaded from the internet and noted:

- Pakistan initiated a sunset review on 24 October 2009 of anti-dumping measures on PVC exported from Korea imposed on 26 October 2004;
- China continued anti-dumping measures on imports of PVC from a range of countries including Korea, imposed on 29 September 2003 for a further five years effective from 29 September 2009;
- South Africa allowed anti-dumping measures imposed on PVC from Korea to expire in 2008; and
- India imposed anti-dumping measures on PVC (suspension grade) from Korea on 23 January 2008.

10.4 What is the likelihood of material injury continuing or recurring?

Current state of the Australian industry

In the 2005 continuation inquiry, Customs and Border Protection found that:

- PVC is a cyclical commodity market;
- The prevalence of American dollar PVC and VCM import contracts mean AVC prices are sensitive to exchange rate fluctuations; and
- The market has been affected by imports of goods from different countries at dumped prices at varying times and at differing degrees over the past 20 years and is therefore difficult to conclude at which point in time AVC's profits would be unaffected by dumping.

In this inquiry, Customs and Border Protection noted:

- AVC's economic condition in 2008-09 was weaker than that of preceding years due to the prolonged impact of a plant shutdown in March 2008 and the GFC which began impacting the market in September 2008;
- this weaker economic condition occurred at a time anti-dumping measures applied to exports of PVC from Korea; and
- AVC is operating at full capacity and is itself a significant importer of PVC from Taiwan. Claims were made by importers in the 2005 continuation inquiry that if measures were allowed to expire and exports resumed from Korea, AVC may lose some sales volume to Korean product but it was likely the lost sales volume would be AVC's imported product rather than local product. Customs and Border Protection noted that these claims are supported by more recent data which shows that the impact of the GFC resulted in AVC experiencing two poor quarters in which AVC's overall sales volume declined due to a loss of sales of imported product.

Other import competition

Customs and Border Protection compared LG Chem's FOB prices for PVC exported to third countries with FOB prices of PVC sales to Australia by suppliers from countries not subject to measures during the financial year 2008-09 (see **confidential appendix 3**). Customs and Border Protection noted that LG Chem's export prices were higher or lower at different times of the year but in general were not dissimilar.

AVC in its application and submission claimed that PVC is a commodity product which means the locally produced PVC can easily be replaced by imported product as demonstrated by the range of import sources. AVC also claimed that the fungible nature of PVC and its sensitivity to price would ease resumption of supply to the Australian market of dumped Korean PVC. AVC claimed that traders have in the past been quick to switch sources of supply to gain a price advantage.

Customs and Border Protection noted the findings in the 2005 continuation inquiry that:

- the customer base for AVC and importers is a mature one that does not change greatly in the short term i.e. it is not common to change supply chains once secured;
- supply quantities and prices are negotiated on a regular basis; and
- Asian PVC pricing and foreign exchange rates are often taken note of when prices are being negotiated.

During this inquiry, Customs and Border Protection found these observations remain valid. Importers⁹ visited during this continuation inquiry also claimed:

- Australian PVC market is integrated into the Asian regional market i.e. the prices in the Australian PVC market follow Asian prices, with supplier prices to Australia on par with regional prices. Australian selling prices are typically set with reference to the Asia prices published by Harriman Chemsult Ltd and Chemical Industry News and Intelligence (ICIS.com);
- AVC takes account of Asian regional prices, generally pricing to parity, once adjusted for differential delivery and other costs;
- PVC price information is extremely transparent;
- Current dumping duties exert an artificial influence on prices; and
- Australian PVC market is very price sensitive.

Customs and Border Protection considered the above arguments advanced by AVC in the context of the findings in the 2005 continuation inquiry and the observations made in the current continuation inquiry. Customs and Border Protection considers that the Australian PVC market is part of a much larger regional market and Australian prices are heavily influenced by regional pricing. In addition, it is unlikely major AVC customers are likely to change suppliers in the short term.

Customs and Border Protection considers that any future Korean exports, even if at dumped prices, would need to compete in Australia with a range of other well-established import sources, and with the Australian PVC industry. The examination of market structure, supply channels and relative price points in 2008-09 does not suggest to Customs and Border Protection that Korean PVC would necessarily become a favourable supply option for Australian importers if anti-dumping measures applying to PVC from Korea expired.

Other factors affecting the economic condition of the Australian industry

Customs and Border Protection noted that the market has been affected by the following events since the continuation inquiry of 2005:

⁹ Vinidex Pty Ltd and Primaplas Pty Ltd

- AVC's plant shutdown in March 2008 and resulting disruption to production resulted in AVC increasing the volume of sales of imported PVC for a short period to make up for the shortfall in supply of local production and other importers increasing their purchases of imported product to ensure continuity of supply; and
- GFC impacting the market from September 2008 resulting in reduced demand for PVC. Customs and Border Protection noted that the global economic crisis led to a reduction in AVC's sale of imported rather than local product.

Comparison of non-injurious prices and export prices

Customs and Border Protection considers that it is not essential to calculate a non-injurious price (NIP) in a continuation inquiry. However, Customs and Border Protection accepts that the comparison between export price and NIP can be a useful indicator of whether dumped export prices are likely to be injurious to the Australian industry.

In this context, Customs and Border Protection calculated quarterly unsuppressed selling prices (USP) for PVC sales in Australia by AVC during the 2008-09 financial year (see **confidential appendix 5**). This was done in the same manner as that explained in TM Report number 100¹⁰ i.e. USP was determined based on a constructed price using AVC's weighted average cost of VCM plus an amount representing a reasonable gap between the VCM cost per tonne of PVC and the selling price of PVC.

AVC provided calculations for a USP in its application. Customs and Border Protection used the information provided by AVC in its calculation of a USP.

Customs and Border Protection then calculated quarterly non-injurious prices (NIPs) by deducting from the USP's amounts for importer expenses and profit, into-store costs, port and clearance charges, delivery expenses, customs duty, and overseas freight and insurance (see **confidential appendix 5**). Customs and Border Protection used amounts for these deductions that were established for the purposes of TM Report No. 100. Although these amounts are not contemporaneous, Customs and Border Protection has compared them with similar types of expenses that were incurred by AVCT for its imported PVC (albeit from different countries) and considers that the figures from TM Report No. 100 are not unreasonable.

Customs and Border Protection compared the quarterly weighted average NIPs for the 2008-09 financial year with the corresponding quarterly weighted average LG Chem export prices to third countries. Customs and Border Protection observed that the LG Chem export prices were, for each quarter, significantly lower than the NIPs.

¹⁰ In TM Report No.100, Customs and Border Protection constructed a USP having regard to AVC's VCM cost in the review period plus the difference between the VCM cost per tonne of PVC and PVC selling prices, as verified for financial year 1998-99. In this case, Customs and Border Protection used the verified VCM costs for the 2008-09 financial year and the difference between VCM costs and PVC prices for 1998-99.

Given that the LG Chem exports to third countries in the 2008-09 financial year were considered to be dumped (discussed earlier in this report), Customs and Border Protection considers that the comparison of export prices with NIPs suggests that, had the Korean PVC been exported to Australia at the level of the LG Chem third country sales prices, then such exports may have been injurious to the Australian industry. However, this would depend on import volumes and relativity of Korean prices to those of other imported PVC available in the Australian market.

11 EVIDENCE RELIED UPON BY CUSTOMS

In formulating the recommendations to the Minister in this report, Customs and Border Protection had regard to:

Topic	Evidence relied upon
Like goods	Information provided by interested parties and previous Trade Measures Reports.
Australian market	Information provided by interested parties, Trade Measures Reports and data held on Customs and Border Protection commercial database. Data is held on confidential appendix 1.
Exporter activity since the measures were imposed	Information provided by interested parties and Customs and Border Protection commercial database.
Economic condition of the industry	Information provided by interested parties, Trade Measures Reports and data held on Customs and Border Protection commercial database. Data is held on confidential appendix 2.
Likelihood of dumping and material injury continuing or recurring	Information provided by interested parties, Trade Measures Reports and data held on Customs and Border Protection commercial database. Data is held on confidential appendices 3, 4 and 5.

12 CONFIDENTIAL APPENDICES

- Confidential Appendix 1 Australian market
- Confidential Appendix 2 Economic condition of the Australian industry
- Confidential Appendix 3 Comparison of LG Chem Ltd's export price to third countries with other countries' export price to Australia
- Confidential Appendix 4 Calculation of dumping margin
- Confidential Appendix 5 Calculation of unsuppressed selling price and non-injurious price

13 Addendum to Trade Measures Report No. 151

Purpose

This addendum to Trade Measures Report No. 151 (“the Report”) has been made in response to a request for clarification from the office of the Minister for Home Affairs. The content of this addendum, and the conclusions contained herein, do not draw on any evidence, facts or findings other than those already contained in the Report. The addendum comprises merely a clarification of matters discussed in the Report.

The structure of this addendum follows that of sections 10.2, 10.3 and 10.4 of the Report. Each of the following sections provides a clarification of Customs and Border Protection’s assessment based on the material discussed in the Report.

10.2 Are exports likely to continue or resume?

Customs and Border Protection found that, if anti-dumping measures expire, it is likely that exports of PVC from Korea to Australia will recur in small volumes because:

- Korean exporters of PVC continue to have a strong focus on export markets, although this is particularly with respect to the markets of India, China and the Middle East;
- exports of PVC from Korea are unlikely to be any more favourable, in terms of price, than many other sources of imports;
- secured supply chains for PVC do not change greatly in the short term; and
- the global market for PVC is expanding since the GFC, although this is principally in relation to the markets of China, the Middle East, India and Brazil.

Customs and Border Protection acknowledges that there are existing supply channels for Korean PVC to be exported to Australia. It also acknowledges that Korea is one of the largest producers and exporters of PVC in the world and the imposition of anti-dumping measures by the authorities of other countries may encourage Korean exporters to seek new markets. However, given the Korean PVC export prices are no more attractive than other well-established sources, and the Korean exporters are focussed on large expanding markets elsewhere, it does not consider that these observations detract from its assessment that, if anti-dumping measures expire, it is likely that exports of PVC from Korea to Australia will recur, but only in small volumes.

10.3 What is the likelihood of dumping continuing or recurring?

Customs and Border Protection found that, if anti-dumping measures expire, it is likely that exports of PVC from Korea to Australia will be at dumped prices because:

- LG Chem, a representative exporter of PVC from Korea, exported PVC to third countries in the 2008-09 financial year at dumped prices; and

- anti-dumping actions in relation to PVC from Korea have been taken by the authorities of other countries, which supports a view that Korean exporters have a propensity to export PVC at dumped prices.

10.4 What is the likelihood of material injury continuing or recurring?

Customs and Border Protection found that, if anti-dumping measures expire, it is not likely that exports of PVC from Korea to Australia at dumped prices will lead to a recurrence of material injury because:

- the volume of PVC exported from Korea (if anti-dumping measures expire) is likely to be small;
- the market structure, supply channels and relative price points do not indicate that the PVC from Korea would necessarily be a favourable supply option for Australian importers;
- where the Australian industry does lose sales volume to imported PVC, this is reflected primarily in the loss of its sales of imported PVC; and
- the relative weakness of the Australian industry's economic condition was due to the effects of its own plant shutdown, and the GFC.

Customs and Border Protection acknowledges that the comparison of export prices and NIP indicated that PVC exported from Korea at dumped prices may have been injurious. However, in the context of a likelihood that export volumes would be small, and that Korean PVC is unlikely to be any more attractive than other imports on price, Customs and Border Protection considers the NIP comparisons do not detract from its finding that if anti-dumping measures expire, it is not likely that exports of PVC from Korea to Australia at dumped prices will lead to a recurrence of material injury.