



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

R E P O R T

**INTERNATIONAL TRADE REMEDIES BRANCH
STATEMENT OF ESSENTIAL FACTS NO. 174**

**INQUIRY INTO THE CONTINUATION OF
ANTI-DUMPING MEASURES**

**POLYVINYL CHLORIDE HOMOPOLYMER RESIN
EXPORTED FROM
THE UNITED STATES OF AMERICA**

12 September 2011

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2 SUMMARY AND RECOMMENDATIONS

This continuation inquiry is in response to an application by Australian Vinyls Corporation Pty Ltd (Australian Vinyls) seeking the continuation of the anti-dumping measures applying to polyvinyl chloride homopolymer resin (PVC) exported to Australia from the United States of America (USA).

This statement of essential facts sets out the facts on which the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) proposes to base his recommendation to the Minister for Home Affairs (Minister).

2.1 Preliminary findings and conclusions

Based on the evidence currently available, Customs and Border Protection's preliminary view is that the following factors support a finding that the expiration of the 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 or countervailing measures were intended to prevent:

- in the absence of anti-dumping measures exports from the USA would resume; and
- in the absence of anti-dumping measures dumping of PVC from the USA would recur and would cause material injury to the Australian industry to recur.

Based on these preliminary findings and subject to any submissions received in response to this statement of essential facts, the CEO proposes to recommend that the Minister take steps to secure the continuation of anti-dumping measures applying to PVC exported from the USA from the expiry date of 22 January 2012.

2.2 Final report

The final report to the Minister which outlines Customs and Border Protection's findings and recommendation is due on or before 25 October 2011.

3 INTRODUCTION

3.1 Continuation inquiry process

Dumping duty notices (that have not been revoked) automatically expire five years after the date on which they were published, unless the Minister decides to continue them.

Not later than nine months before a dumping duty notice expires, Customs and Border Protection must publicly announce that anti-dumping measures are due to expire and invite certain interested parties to apply within 60 days for continuation of the anti-dumping measures. If no application for continuation is received by Customs and Border Protection within the period allowed, the anti-dumping measures expire on the specified date.

If an application for continuation of anti-dumping measures is received, and not rejected, Customs and Border Protection has up to 155 days, or such a longer period as the Minister allows, to inquire and report to the Minister on whether continuation of the anti-dumping measures is justified. Within 110 days of the initiation notice, or such longer period as the Minister allows, Customs and Border Protection must place on the public record a statement of essential facts on which it proposes to base its recommendation to the Minister.

Before recommending the continuation of the anti-dumping measures, Customs and Border Protection must be 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 were intended to prevent.

Where the Minister decides to continue anti-dumping measures, the dumping duty notice will remain in force after the specified date for a further period of five years (unless the relevant notice is revoked before the end of that period).

In making recommendations in its final report to the Minister, Customs and Border Protection must have regard to:

- the application for continuation of the anti-dumping measures;
- any submission relating generally to the continuation of the anti-dumping measures to which the CEO has had regard for the purpose of formulating the statement of essential facts;
- this statement of essential facts; and
- any submission made in response to this statement of essential facts that is received by Customs and Border Protection within 20 days of being placed on the public record.

Customs and Border Protection may also have regard to any other matter that it considers to be relevant to the inquiry.

Following the Minister's decision, a notice will be published advising interested parties of the decision.

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3.2 The application

The current anti-dumping measures applying to PVC from the USA are due to expire on 22 January 2012.

On 4 March 2011, Customs and Border Protection published a notice in *The Australian* newspaper inviting certain persons to apply for the continuation of anti-dumping measures that apply to PVC exported to Australia from the USA. On 3 May 2011, Australian Vinyls, the sole manufacturer of PVC in Australia, lodged an application for the continuation of the anti-dumping measures.

Following consideration of the application, the inquiry was initiated on 23 May 2011. Public notification of initiation of the inquiry was made in *The Australian* on 23 May 2011. Australian Customs Dumping Notice No. 2011/20 provides further details of this investigation and is available at www.customs.gov.au.

The final report to the Minister which outlines Customs and Border Protection's findings and recommendation is due on or before 25 October 2011.

3.3 Responding to the statement of essential facts

Interested parties may wish to make submissions in response to this statement of essential facts. However Customs and Border Protection is not obliged to have regard to any submissions received after **30 September 2011** if to do so would prevent the timely preparation of the report to the Minister.

Submissions should be sent to:

The Director
International Trade Remedies Branch Operations 1
Australian Customs and Border Protection Service
5 Constitution Avenue
CANBERRA ACT 2601
AUSTRALIA

Submissions can also be faxed to 02 6275 6990 or emailed to tmops1@customs.gov.au.

Interested parties intending to respond to the statement of essential facts must include a non-confidential version of their submission for placement on the public record¹. Submissions provided in confidence must be clearly marked "**IN-CONFIDENCE**".

The public record contains non-confidential submissions received from interested parties, non-confidential versions of Customs and Border Protection's visit reports and other publicly available documents such as Customs and Border Protection's initiation report. These documents should be read in conjunction with this statement

¹ In preparing a non-confidential version interested parties should take account of the requirements set out in Australian Customs Dumping Notice 2006/54.

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of essential facts. The public record may be viewed at Customs House Canberra by contacting Trade Measures Branch administration on 02 6275 6547.

All documents on the public record are available on Customs and Border Protection's electronic public record which may be accessed on the internet at www.customs.gov.au by following the prompts for "anti-dumping".

3.4 Previous PVC cases

Since 1992 there have been a number of anti-dumping investigations, continuation inquiries and reviews of anti-dumping measures by both the Anti-Dumping Authority (ADA) and Customs and Border Protection in respect of PVC. Anti-dumping measures have been imposed against Brazil, Canada, the Peoples' Republic of China (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. The current anti-dumping measures on imports from the USA are due to expire on 22 January 2012. These measures were first imposed in 1992. The history of anti-dumping measures applying to PVC is summarised at **attachment 1**.

4 THE GOODS AND LIKE GOODS

4.1 Preliminary finding

The Australian industry produces PVC that has characteristics closely resembling those of PVC manufactured in the USA and exported to Australia. Therefore PVC manufactured by the Australian industry are like goods.

4.2 The goods

The goods covered by the dumping duty notice are PVC. The goods subject to the anti-dumping measures do not include PVC compounds, pastes or emulsion grades.

Tariff classification

PVC is classified under sub-heading 3904.10.00, statistical code 18, in Schedule 3 to the *Customs Tariff Act 1995*. The rate of duty from the USA is free under the Australia-United States Free Trade Agreement.

4.3 Like goods

In previous investigations, inquiries and reviews in respect of PVC, Customs and Border Protection determined that Australian Vinyls was the Australian industry producing like goods. On the basis of information provided by Australian Vinyls during this visit and previous visits, Customs and Border Protection considers Australian Vinyls is a producer of like goods.

5 THE AUSTRALIAN INDUSTRY

5.1 Preliminary finding

There is an Australian industry that is producing like goods, consisting of Australian Vinyls.

5.2 Australian production

Australian Vinyls is the sole manufacturer of PVC in Australia. Its production facility is in Laverton North, Victoria. The company manufactures PVC and wood-plastic compounds, as well as supplying a range of imported chemicals including caustic soda, PVC processing additives, synthetic rubbers and speciality elastomers.

5.3 PVC production process

PVC is a white free flowing powder that is used in combination with other chemicals to produce a variety of products.

The main input into the production of PVC is vinyl chloride monomer (VCM). VCM is manufactured by combining ethylene and chlorine to form ethylene dichloride that is cracked in a furnace. PVC is made in a batch process in which VCM droplets are polymerised, while suspended in water, in the presence of an initiator and other additives.

6 AUSTRALIAN MARKET

6.1 Preliminary finding

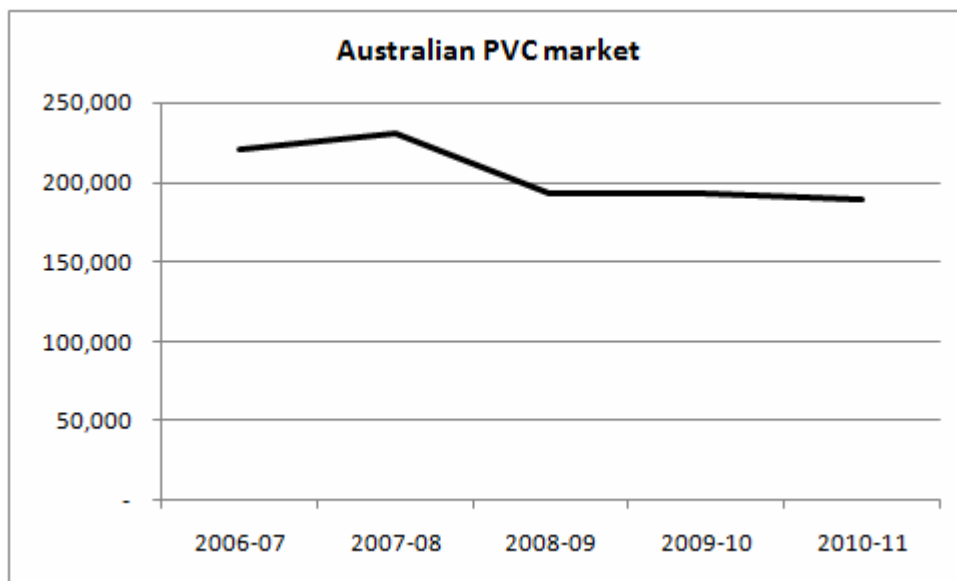
The size of the Australian market has fallen since 2008-09.

6.2 Market size, condition and servicing of market sectors

The Australian market for PVC is supplied through local production and imports from a number of sources. Australian Vinyls imports PVC from Taiwan to supplement domestic production.

PVC is sold to a range of processors who either extrude, inject, mould or blow mould the PVC to make a wide variety of goods. The major end-use of PVC based products is in the building and construction sector (such as pipes and fittings, cables, house cladding, gutters, down pipes, flooring and window frames). PVC based products are also used in packaging, upholstery and domestic appliances.

Customs and Border Protection estimated the size of the Australian market using information from its import database and information supplied by Australian Vinyls. The size of the Australian market was slightly over 190,000 tonnes in 2009-10 and slightly below 190,000 tonnes in 2010-11. Movements in the size of the Australian market are illustrated in the following chart.



Australian Vinyls stated that the market was typically 200,000 tonnes per annum, plus or minus 20,000 tonnes.

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Preliminary finding

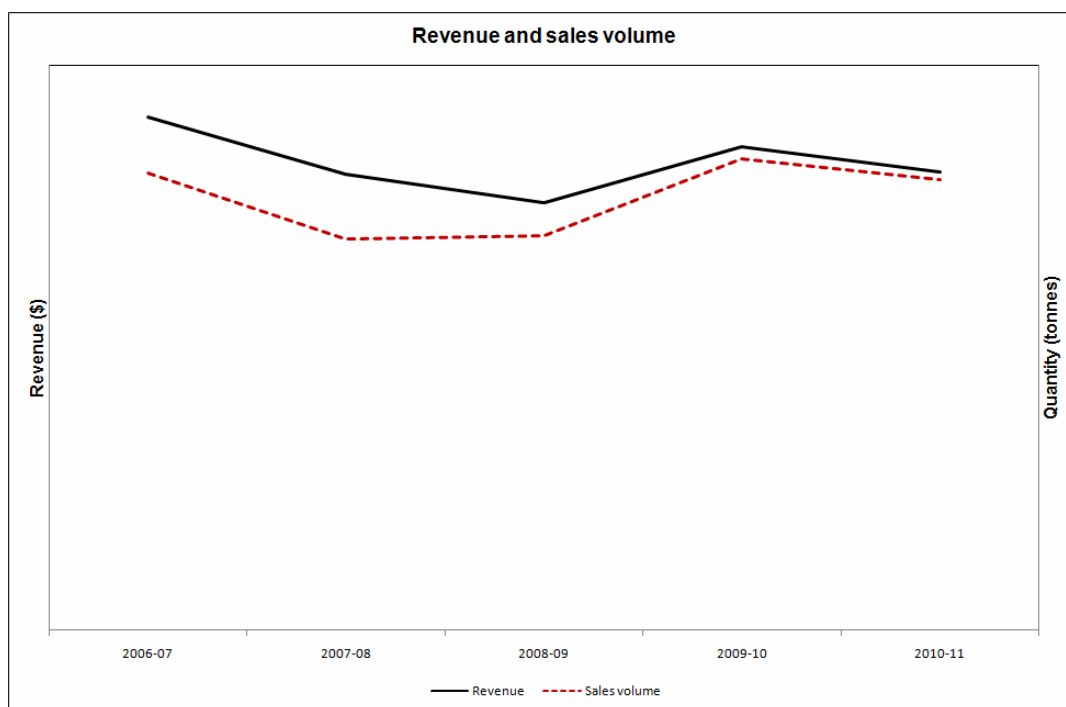
The major injury factors indicate that the economic performance of the Australian industry deteriorated in 2010-11. Revenue, volume, prices, profits and profitability fell while costs rose. Customs and Border Protection considers that this indicates that Australian Vinyls is susceptible to further injury should the Australian PVC market deteriorate further or if other market pressures emerge.

7.2 Introduction

The economic performance of the Australian industry was examined from 2006-07 to 2010-11. Australian Vinyls also imports and sells PVC and this analysis only examined trends in respect of sales of local production.

7.3 Revenue and volume effects

Movements in revenue and sales volume are illustrated in the following chart.



The lower sales volume in 2007-08 and 2008-09 were attributable to a plant shutdown in March 2008. Sales volume in 2010-11 was below the volume achieved in both 2006-07 and 2009-10.

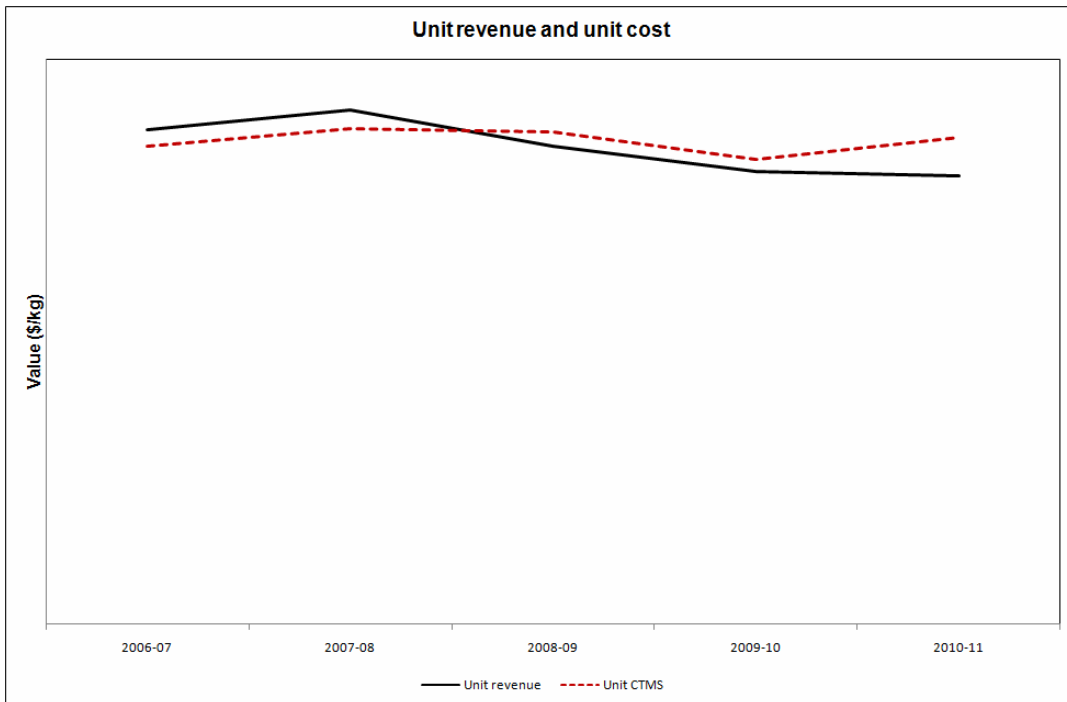
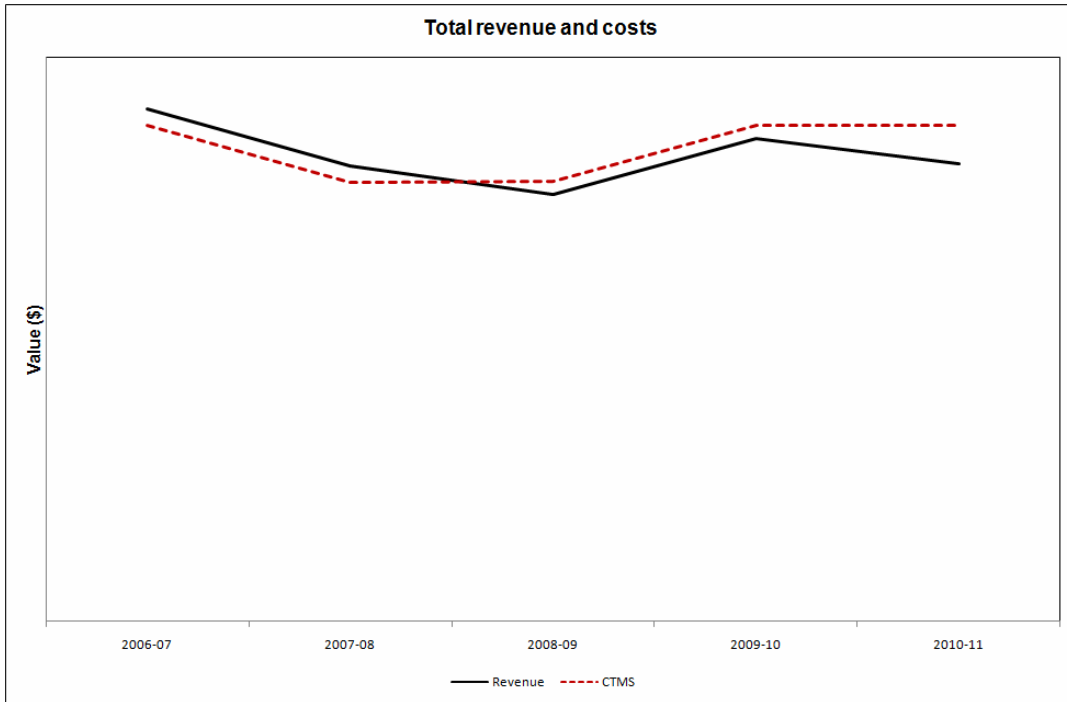
Movements in revenue reflect movements in sales volumes. Revenue in 2009-10 was below revenue in 2006-07 and it fell further in 2010-11.

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7.4 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases for the applicant's product, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Movements in total and unit revenues and costs are illustrated in the following charts.



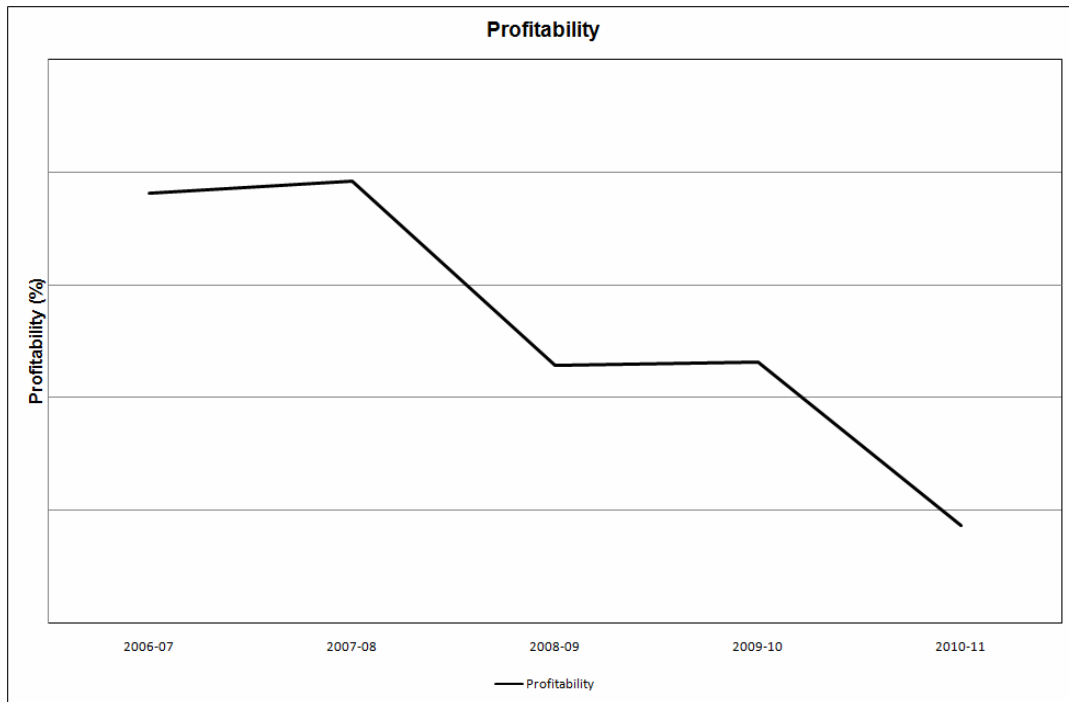
Australian Vinyl's average price rose in 2007-08, the year before the global financial crisis, but has fallen each year since. Prices have been depressed. Movements in

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both total and unit revenue and costs indicate that costs exceeded prices in 2008-09. The negative margin between revenue and costs remained about the same in 2009-10, but increased in 2010-11. Prices have been suppressed.

7.5 Profit and profitability effects

Profitability is profit expressed as a percentage of revenue. Movements in profitability are illustrated in the following chart.



Profitability rose slightly in 2007-08, fell in 2008-09, rose slightly in 2009-10 then fell in 2010-11. Movements in profits followed a similar trend.

8 WILL DUMPING AND MATERIAL INJURY RECUR

8.1 Preliminary finding

Customs and Border Protection found that:

- Australian Vinyls is susceptible to further injury should the Australian PVC market deteriorate or if other market pressures emerge;
- US producers currently have a greater reliance on export markets;
- US PVC exports to New Zealand are being sold at dumped prices;
- the size of the Australian market has fallen since 2008-09;
- the PVC-VCM spread is at the bottom of the cycle; and
- US exports have influenced prices in Asian markets,

Customs and Border Protection considers that the evidence currently available suggests that in the absence of anti-dumping measures dumping and material injury would recur.

8.2 Will dumping recur

8.2.1 Will exports from the USA resume

Customs and Border Protection's import database indicates that there were no imports of PVC from the USA in 2009, 2010 and to June 2011. However, it is noted that exports from the USA accounted for nearly 50% of all imports into New Zealand in the period from January 2010 to February 2011. This tends to indicate that the current measures have contributed to the cessation of imports from the USA into the Australian market.

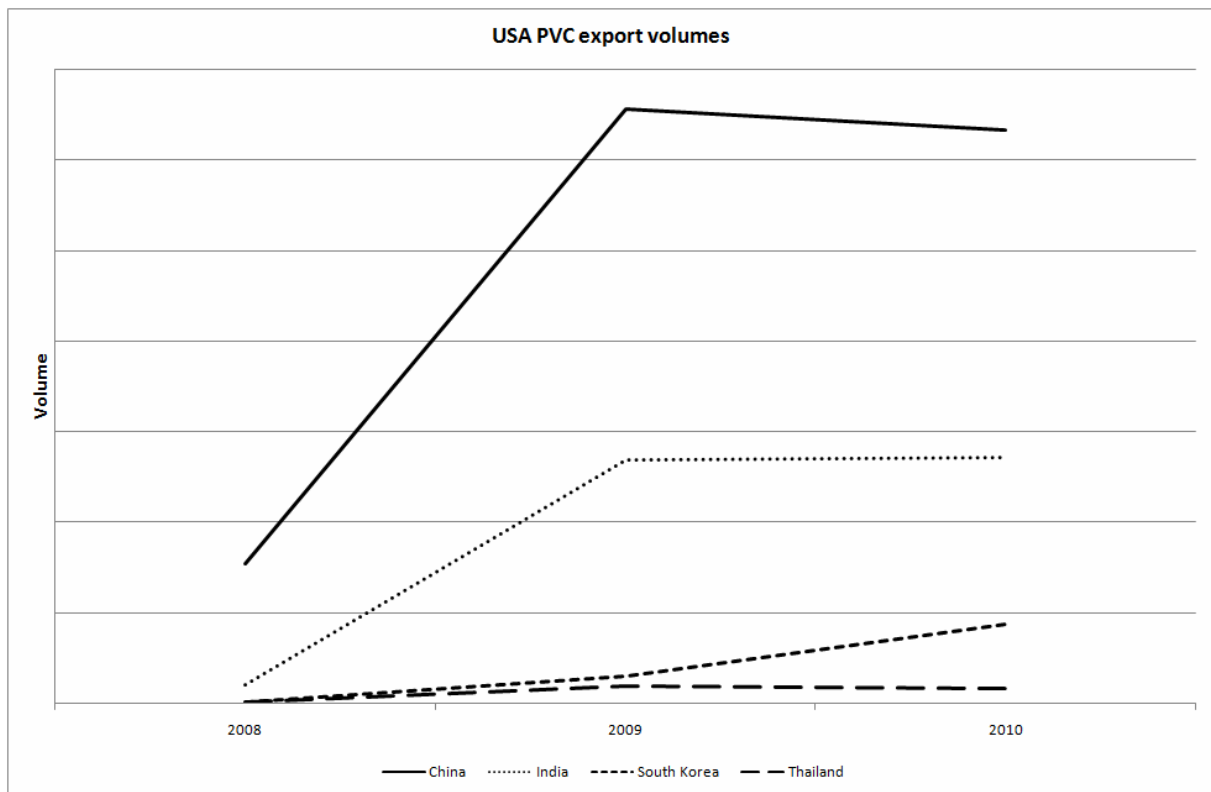
The following articles provide further evidence that exports to Australia are likely to resume in the absence of measures. Some of these were provided by Australian Vinyls and Customs and Border Protection found others while researching this matter.

- An article in ICIS dated 24 June 2011 stating that the overall yearly PVC production capacity in the USA was 8.12 million tonnes in 2010 and is expected to grow to 10.2 million tonnes.
- An article in Plastic News dated 11 October 2010 stating that North American PVC exports are expected to remain robust for the foreseeable future. The article stated that the collapse of the US housing market was "stunning". In 2005 the USA recorded almost 2.1 million housing starts, but this fell to less than 600,000 in 2009 and was on track to be near that level in 2010.
- An article in ICIS dated 17 March 2011 which stated that the USA had seen a seven fold increase in exports over the last five years.
- An article in Plastic News dated 5 April 2011 which stated that exports had saved the day for the USA and Canadian PVC market in 2010 and that story might repeat itself in 2011. The article stated that the reason that North

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America has so much excess capacity is the collapse in the US housing market.

- The June 2011 Harriman Chemsult commentary on the Asian PVC market stated that Japanese output had recovered and this was having a ripple effect on the market with Chinese and US exporters looking to place orders in other markets. It added that there was a downward price trend due, in part, to mounting competition from US material.
- US export data for PVC from a supplier of trade statistics from January 2008 to April 2011 showing that total US PVC export volumes rose by 55% in 2009 and a further 28% in 2010. The increase from 2008 to 2010 was 100%. The data indicates that USA's main markets are the Americas and the Middle East. However, export volumes to China, India, South Korea, New Zealand, Singapore, Thailand and Vietnam rose by over 400% in 2009 and a further 4% in 2010. The increase from 2008 to 2010 was almost 450%. Movements in export volumes to China, India, South Korea and Thailand are illustrated in the following chart (trends for New Zealand, Singapore and Vietnam were similar to Thailand).



Therefore, Customs and Border Protection considers that there is ample evidence which points to a strong likelihood that in the absence of anti-dumping measures exports from the USA would resume.

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8.2.2 Will dumping recur

Customs and Border Protection calculated a dumping margin by comparing US domestic and export prices from Harriman Chemsult from April 2010 to June 2011. The average dumping margin is 60%.

Customs and Border Protection calculated a dumping margin by comparing US domestic prices from Harriman Chemsult with FOB export prices for PVC from the USA to New Zealand from April 2010 to February 2011. The average dumping margin is 65%.

Customs and Border Protection considers that the evidence currently available shows that in the absence of anti-dumping measures, dumping of PVC from the USA would likely recur.

8.3 Will material injury recur

Australian Vinyl's profitability was positive in 2006-07 and 2007-08, but was negative in 2008-09. Profitability fell in 2009-10 and 2010-11. However, the volume of imports from the USA in this period was small.

Two years ago the Australian PVC market was affected by the global financial crisis. In the last year the market has been affected by global pricing and the US dollar Australian dollar exchange rate. Australian Vinyls explained that pricing is driven by the USA and it considered the US market will not recover for two or three years.

PVC is a commodity product and the price in Australia was influenced by global factors. The price in Australia was particularly influenced by the price of PVC in Asia, as listed in industry publications such as Harriman Chemsult. The publications ensured that prices in the market were quite transparent.

The following extracts from Harriman Chemsult discuss the Asian PVC market.

- The January 2011 edition stated that prices declined because of a slump in demand in China over winter. It stated that some suppliers in Northeast Asia had achieved desired prices, but some material from Southeast Asia and North America was offered at more competitive prices.
- The February 2011 edition stated that one of the factors behind price increases for March business was a decline in US exports which was a result of earlier over selling.
- The June 2011 edition stated that there was a downward price trend due, in part, to mounting competition from US material.

To be better understand the likely impact of dumped exports from the USA, Customs and Border Protection has undertaken a price comparison of New Zealand FOB import prices for PVC from all sources other than the USA with New Zealand FOB import prices for PVC from the USA from April 2010 to February 2011. The data shows that USA imports undercut import prices from other countries by an average of 22%.

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In the absence of measures, it is reasonable to expect that the likely exportation of dumped PVC from the USA would also undercut other imports in the Australian market and also significantly undercut Australian Vinyls' selling prices. This undercutting would likely lead to further pressure on industry's prices resulting in price depression and suppression. The resulting price effects would flow through to a further deterioration of Australian Vinyls' profit performance.

9 ATTACHMENT 1

HISTORY OF ANTI-DUMPING MEASURES APPLYING TO PVC

- Report no. 91/11. Positive preliminary finding against imports from Argentina, Brazil, Israel, Mexico, Taiwan and the USA. Negative preliminary finding against imports from Hungary, Poland, Korea and Singapore.
- ADA report no. 50 of 1991. The ADA substituted a positive preliminary finding against imports from Hungary, Poland, Korea and Singapore.
- ADA report no. 52 of 1991. Anti-dumping measures imposed against imports from Brazil, Mexico and the USA.
- ADA report no. 62 of 1992. After further inquiry no anti-dumping measures were imposed against imports from Hungary, Poland, Korea and Singapore.
- Report no. 92/9. Positive preliminary finding against imports from Canada, China, France, Japan, Norway, Romania, Saudi Arabia and Thailand. Negative preliminary finding against imports from the Netherlands and Sweden.
- ADA report no. 82 of 1992. Anti-dumping measures imposed against imports from Canada, China, France, Japan, Norway, Saudi Arabia and Thailand.
- Report no 93/4. Review of non-injurious prices for Brazil, Mexico and the USA.
- Report no 93/4. Positive preliminary finding against imports from Finland.
- ADA report no. 115 of 1993. No anti-dumping measures imposed against imports from Finland.
- Report no 94/1. Review of non-injurious prices² and normal values for Brazil, Mexico and the USA and non-injurious prices for Canada, China, France, Japan, Norway, Saudi Arabia and Thailand.
- Report no 94/7. Negative preliminary finding against imports from Korea.
- ADA report no. 131 of 1994. No anti-dumping measures imposed against imports from Korea.
- Report no 95/4. Review of normal values and non-injurious prices for Brazil, Canada, China, France, Japan, Mexico, Norway, Saudi Arabia, Thailand and the USA.
- Report no 96/1. Review of normal values and non-injurious prices for Brazil, Canada, China, France, Japan, Mexico, Norway, Saudi Arabia, Thailand and the USA.
- Report no 96/6. Positive preliminary finding against imports from Belgium and Korea.
- ADA report no. 158 of 1996. No anti-dumping measures imposed against imports from Belgium and Korea.
- ADA report no. 160 of 1996. Anti-dumping measures continued against imports from Brazil, Mexico and the USA.
- ADA report no. 174 of 1997. No anti-dumping measures imposed against imports from Belgium and Korea. Following a decision of the Federal Court in respect of the decision not to impose anti-dumping measures against

² The term non-injurious price also refers to the non-injurious free on board price.

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imports from Belgium and Korea, the matter was reviewed. No anti-dumping measures were imposed.

- ADA report no. 176 of 1997. Anti-dumping measures continued against imports from Japan. Anti-dumping measures not continued against imports from Canada, China, France, Norway, Saudi Arabia and Thailand. The Minister did not accept the ADA's recommendations. Anti-dumping measures continued against imports from Canada, China, France, Japan, and Thailand. Anti-dumping measures not continued against imports from Norway and Saudi Arabia.
- Termination report of 1997. Termination of investigation against Indonesia, Iran and the United Arab Emirates.
- ADA report no. 180 of 1997. Termination decision against Indonesia, Iran and the United Arab Emirates supported.
- Report no. 97/4. Positive preliminary finding against imports from Germany, Hungary, India, Israel and the Netherlands.
- ADA report no. 182 of 1998. No anti-dumping measures imposed against imports from Germany, Hungary, India, Israel and the Netherlands.
- Report no. 98/6. Review of normal values and non-injurious prices for Thailand.
- Trade Measures report no. 10 of 1999. Anti-dumping measures imposed against imports from Hungary and Korea. No anti-dumping measures imposed against imports from Indonesia and Singapore.
- Trade Measures report no. 36 of 2001. Review of normal values and non-injurious prices for Thailand.
- Trade Measures report no. 46 of 2001. Anti-dumping measures continued against imports from the USA. Anti-dumping measures not continued against imports from Brazil and Mexico.
- Trade Measures report no. 54 of 2002. Anti-dumping measures imposed against imports from Israel. No anti-dumping measures imposed against imports from Indonesia.
- Trade Measures report no. 57 of 2002. Anti-dumping measures continued against imports from Japan and Thailand. Anti-dumping measures not continued against imports from Canada, China and France.
- Trade Measures report no. 91 of 2005. Anti-dumping measures continued against imports from Hungary and Korea.
- Trade Measures report no. 100 of 2005. Review of normal values, export prices and non-injurious prices for Hungary, Korea, Israel, Japan, Thailand and USA.
- Trade Measures report no. 115 of 2006. Anti-dumping measures continued against imports from the USA.
- Trade Measures report no. 123 of 2007. Anti-dumping measures continued against imports from Japan. Anti-dumping measures not continued against imports from Thailand.
- Anti-dumping measures against imports from Israel expired in 2007.
- Trade Measures report no. 151 of 2010. Anti-dumping measures not continued against imports from Korea.
- Anti-dumping measures against imports from Hungary expired in 2010.