



Australian Government

**Australian Customs and
Border Protection Service**

AUSTRALIAN CUSTOMS DUMPING NOTICE NO.2010/38

Biodiesel

Exported from the United States of America

Preliminary Affirmative Determination and Imposition of Securities

CUSTOMS ACT 1901 – PART XVB

On 22 June 2010, the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) initiated an investigation following an application lodged by Biodiesel Producers Limited, an Australian biodiesel manufacturer. The application requested the publication of a dumping duty notice and a countervailing duty notice in respect of biodiesel exported to Australia from the United States of America (USA).

The goods the subject of the application (the goods) are fuel manufactured by chemically altering non-fossil origin feedstocks (including recycled materials from these sources) through a process of transesterification and/or esterification to form mono-alkyl esters (commonly known as 'biodiesel') whether in pure form (B100) or in a blend with a biodiesel percentage in excess of 20 (B20) exported from the USA.

In accordance with s.269TD(4)(a) of the *Customs Act 1901* (the Act), the CEO has given public notice that he is satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods exported to Australia from the USA. A preliminary affirmative determination has been made to that effect.

The CEO has also given public notice, in accordance with s.269TD(5) of the Act, that the officer of Customs and Border Protection taking dumping securities is satisfied that it is necessary to require and take dumping securities to prevent material injury to the Australian industry occurring while the investigation continues.

Customs and Border Protection will require and take dumping securities under s.42 of the Act in respect of any interim dumping duty that may become payable in respect of the goods from the USA entered for home consumption on or after 18 October 2010. Provisional countervailing duties are not required at this stage.

Customs and Border Protection compared a normal value calculated having regard to all relevant information with a weighted average export price for the shipments exported to Australia from the USA during the investigation period and calculated a preliminary dumping margin of 40%. Customs and Border Protection then applied the lesser duty provision and calculated a USA-wide provisional dumping duty rate.

In reaching this preliminary decision, the CEO is satisfied that the dumped and subsidised goods appear to have caused material injury to the Australian industry producing like goods. The considerations relevant to his determination of material injury to the Australian industry caused by dumping and subsidisation are the size of the dumping and subsidy margins, the level of price undercutting by the dumped and subsidised imports, and the consequent impact on the Australian industry including loss of sales volume, loss of market share and reduced profits and profitability.

The preliminary affirmative determination report is available online at www.customs.gov.au.

The CEO is due to report to the Minister for Home Affairs (the Minister) with recommendations on or before 22 December 2010. The Minister will then decide whether to publish a dumping duty notice and, if relevant, the level of the measures to be imposed. Depending on the Minister's decision, dumping securities taken may be converted to interim dumping duty or acquitted.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6544, fax number (02) 6275 6990 or email tmops3@customs.gov.au.

Justin Wickes
A/g National Manager
Trade Measures Branch
CANBERRA ACT

18 October 2010