



Australian Government

Australian Customs and
Border Protection Service

AUSTRALIAN CUSTOMS DUMPING NOTICE **NO. 2009/12**

Linear low density polyethylene **exported from Canada and the United States of America** **Initiation of an investigation into alleged dumping**

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation following an application lodged by Qenos Pty Ltd the sole manufacturer of linear low density polyethylene (LLDPE) in Australia, for the publication of a dumping duty notice in respect of LLDPE exported to Australia from Canada and the United States of America (USA).

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- lost sales volume;
- lost market share;
- price undercutting;
- price suppression;
- price depression;
- reduced profits and profitability; and
- return on investment.

The public version of the application, available on request to interested parties, as defined by subsection 269T(1) of the *Customs Act 1901* (the Act), contains the basis of the alleged dumping.

A notice under subsection 269TC(4) of the Act advising initiation of this investigation was published in *The Australian* newspaper on 28 May 2009.

The goods

The goods the subject of the application (the goods) is LLDPE, in a pelletised form, with a density of less than 0.94 grams per cubic centimetre. The LLDPE usually incorporates one of three co-monomers: butene (C₄), hexene (C₆), or octene (C₈).

The goods are classified to tariff subheading 3901.10.00, statistical code 01, or tariff subheading 3901.90.00, statistical code 06 in Schedule 3 of the *Customs Tariff Act 1995*, depending on the polymer content. The rate of duty for the goods from Canada and the USA are free.

Investigation process

The investigation period is 1 January 2008 to 31 March 2009. Customs and Border Protection will examine exports to Australia of the goods during that period to determine whether dumping has occurred. Customs and Border Protection will examine details of the Australian market from 1 January 2006 for injury analysis.

Where the Minister is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Lodgement of submissions

Interested parties are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application no later than the close of business on 7 July 2009, addressed to:

Director Operations 3
Trade Measures Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Or by email:
tmops3@customs.gov.au

Interested parties wishing to participate in the investigation must ensure that submissions are lodged promptly. Interested parties may be granted an extension of time for lodgement of a submission, provided the request is in writing and is reasonable and practical given the circumstances. Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

Interested parties should note that the CEO is not obliged to have regard to a submission received by Customs and Border Protection after the end of the period mentioned above if to do so would, in the CEO's opinion, prevent the timely placement of the statement of essential facts on the public record.

The CEO must maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties (letters and electronic mail are generally regarded as "submissions" if they contain information relevant to the inquiry).

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- satisfy the CEO that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "In-Confidence".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

Documents included in the public record are available at <http://adpr.customs.gov.au/Customs/>
Alternatively, the public record may be examined at the office address below during business hours by contacting Trade Measures Branch on telephone number (02) 6275 6547.

Trade Measures Branch
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Provisional measures

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping duty that may become payable on the goods, may be imposed where a preliminary affirmative determination has been made.

Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable Customs and Border Protection to report to the Minister for Home Affairs (the Minister) within the legislative timeframe. A statement of essential facts will be placed on the public record by 15 September 2009, or by such later date as the Minister may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which the CEO proposes to base a recommendation to the Minister. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

Report to the Minister

Submissions received in response to the statement will be taken into account in completing the report and recommendation to the Minister. A recommendation to the Minister will be made in a report on or before 30 October 2009 (or such later date as the Minister may allow), unless the CEO terminates the investigation.

Review Officer

Certain parties will have the right to seek review in accordance with Division 9 of Part XVB of the Act of either a decision by the CEO to terminate the investigation, or a decision of the Minister after considering the CEO's report.

Customs and Border Protection contact

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6245 5433, fax number (02) 6275 6990 or e-mail tmops3@customs.gov.au.

Geoff Johannes
National Manager
Trade Measures Branch
CANBERRA ACT

28 May 2009