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Australian Government
Australian Customs Service

CUSTOMS ACT 1901 - PART XVB

TRADE MEASURES BRANCH

TERMINATION OF AN INVESTIGATION

Report No 118A

**Transparent bi-axially oriented polypropylene
exported from the Republic of Indonesia**

August 2007

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1. HISTORY OF THIS INVESTIGATION

On 24 August 2006, an anti-dumping investigation was commenced into transparent bi-axially oriented polypropylene (BOPP) film exported to Australia from the Republic of Indonesia (Indonesia). The investigation followed an application by Shorko Australia Pty Ltd (Shorko), an Australian manufacturer of BOPP films.

Customs is required to place on the public record within 110 days of initiation a statement of essential facts (SEF) on which it proposes to base its recommendations in relation to the application. The Minister may extend the due date.

In this case an SEF was due to be placed on the public record by 12 December 2006 and the Minister extended the deadline for the SEF to 23 January 2007.

1.1 Termination of original investigation

On 23 January 2007, the Chief Executive Officer of Customs (CEO) terminated the investigation as the CEO was satisfied that there had been no dumping by the Indonesian exporter PT Trias Sentosa Tbk (Trias) of any of the goods. The investigation was terminated in accordance with s. 269TDA(1) of the *Customs Act 1901* (the Act) so far as it related to Trias.

The CEO was also satisfied that the total volume of goods the subject of the application that had been, or may have been, exported to Australia over a reasonable examination period from Indonesia and that had been, or may have been, dumped was negligible. The investigation was terminated in accordance with s. 269TDA(3) of the Act so far as it related to Indonesia.

Customs published a notice in *The Australian* on 23 January 2007 containing the reasons for the decision, and published Trade Measures Report No. (TM) 118 on the same date notifying the CEO's decision to terminate the investigation.

1.2 Revocation of the CEO's decision to terminate

On 16 February 2007, Shorko applied to the Trade Measures Review Officer (Review Officer) for review of the CEO's termination decision.

The Review Officer revoked the CEO's decision on 13 April 2007. That decision was notified in the *Australian Financial Review* on 20 April 2007.

The Review Officer gave the following explanation for revoking the CEO's termination decision:

"The principal reason for this (the decision to revoke the CEO's termination decision) is that the investigation dealt with a wider range of goods than the goods in relation to which Shorko sought imposition of dumping duties. Customs noted that plain film sold domestically in Indonesia is the most closely matching type to the film exported to Australia. However, plain film is not substitutable for

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heat sealable film and would probably be incapable of use in Australia in food packaging applications because of food packaging standards and relevant legislative requirements. In my view there are significant differences between the two types of film, and in any event, the investigation should have focussed on the narrower category of goods in respect of which Shorko made the application."

The Review Officer's report is available at www.ag.gov.au (follow the link to international trade law).

As soon as practicable after the Review Officer has revoked the decision the CEO must publish an SEF in relation to the application.

1.3 Resumption of investigation

The investigation was resumed on 27 July 2007 following publication of SEF No. 118.

The SEF included consideration of a submission from Shorko subsequent to the Review Officer's revocation decision. The SEF also included consideration of submissions from other interested parties in response to Customs' invitation to provide submissions prior to the publication of the SEF.

Customs advised interested parties of the 20 day response date to the SEF, i.e. no later than 16 August 2007.

1.4 The SEF

In the SEF Customs advised the following in relation to dumping by the exporter and dumped volumes from Indonesia:

- the product dumping margin indicates that BOPP exported by Trias from Indonesia to Australia over the investigation period was not exported at dumped prices. The CEO must terminate the investigation under s. 269TDA(1) so far as it relates to a particular exporter if its dumping margin is negligible; and
- exports from Indonesia at dumped prices during the investigation period were less than 3% of the total Australian import volume. The CEO must terminate the investigation under s. 269TDA(3) so far as it relates to a particular country if the volume of dumped goods is negligible.

1.5 Submissions to the SEF

Only one submission - by Trias - was received in response to the SEF and a copy is at **attachment 1** to this report. Trias submitted that, having already found that exports of the goods under investigation by Trias during the investigation period were not dumped and that the volume of exports of those goods to Australia from Indonesia at dumped prices during the investigation period was negligible,

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Customs is obliged by paragraph 8 of Article 5 of the Agreement to immediately terminate this investigation.

2. THE GOODS

2.1 Goods the subject of the application

Shorko originally described the imported goods as:

“Bi-axially Oriented Polypropylene (BOPP) of 3-layer co-extrusion manufacture. Thickness from 15 – 50 microns (0.015 – 0.050mm) Transparent in quality. (Physical Density = 0.91g/cm³) Treated one-side, 2-side heat-sealable. Supplied in reel form of varying widths from 150mm to 2100mm for domestic packaging market.”

During consideration of the application Customs contacted Shorko about the technical nature of the goods description. Customs discussed with Shorko the possibility that the narrow technical description potentially raised difficulties were anti-dumping measures to be imposed e.g. if the physical density of the exported product was 0.905g/cm³ or 0.915g/cm³ it would not fall within the goods being investigated (0.91g/cm³).

Customs suggested that Shorko consider a broader description of the goods and provided a suggested description. Shorko confirmed its agreement to an amended description of the goods by return email prior to initiation. This agreement by Shorko amended the description of the goods the subject of the application.

The amended description of the goods was the subject of Customs consideration whether to initiate an investigation and was reflected in the initiation notice and in Australian Customs Dumping Notice 2006/36 published on 24 August 2006, both of which described the imported goods as:

“Goods the subject of the application are transparent bi-axially oriented polypropylene (BOPP), between 0.015mm and 0.050mm in thickness.”

Correspondence showing Shorko’s agreement to the change in the goods description was inadvertently not on file and hence was not before the Review Officer at the time of his review. The correspondence shows that the investigation did not deal with a wider range of the goods than described in the application because the application had been amended by Shorko’s agreement to a change in the goods description.

The Review Officer’s stated principal reason to revoke the CEO’s termination decision i.e. that the investigation dealt with a wider range of goods than described in the application – is therefore not supported. In any event, the description of the goods in the initiation notice defines the investigation and therefore this description must be the subject of any decisions made in relation to the investigation.

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2.2 Tariff classification and rate of duty

The goods are classified to tariff subheading 3920.20.00 in Schedule 3 of the Customs Tariff Act 1995. The goods from Indonesia are subject to a 5 percent rate of duty.

3. AUSTRALIAN INDUSTRY

3.1 Introduction

Shorko advised that it was the sole Australian manufacturer of the goods under investigation. In the application it provided information in relation to another Australian manufacturer, Innovia Films (Asia-Pacific) Pty Ltd (Innovia), which it stated produced a speciality grade of BOPP but did not produce the standard packaging grade BOPP products the subject of the application.

Customs also visited importers and end-users of the goods and found no evidence to indicate that there were Australian producers of the goods, other than Shorko.

3.2 Production process

BOPP can be produced using two production processes – stenter and bubble. There are distinct differences between the processes and the finished product from each process. Shorko uses the stenter process. Innovia, the Australian manufacturer of speciality grade BOPP, uses the bubble process.

The BOPP covered by this investigation is used to produce wrappings for food packaging and is produced using the stenter process. Food products that typically use BOPP packaging are biscuits, sugar and chocolate confectionery, snack food, pet food, baked goods and fresh produce. BOPP produced by the bubble process is not used for the manufacture of wrappings for food packaging.

BOPP covers a range of films with varying construction, opacity and coatings. The main features of the stenter production process are:

- raw materials are melted to a resinous state in multiple extruders (at least one extruder for each layer) - the material in the extruders is determined by computer controlled hoppers;
- the resins are extruded and the three layers are brought together via one horizontal slot known as a die;
- if the film is to be corona treated - this treatment occurs next. As the film passes through the next stage of the production line a continuous electric charge (or corona) is applied across the entire width of the film. Film is most commonly corona treated on one side only;
- the extrusion is chilled to about 90°C; and
- it is stretched, slit to customer requirements and packed and despatched.

Differences between grades are achieved by varying the raw materials and in-line treatments.

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In film of 25 micron thickness the skin layers are generally only about 1 micron thick each.

3.3 Australian industry

Customs visited Shorko to verify information submitted in the application. Customs was satisfied that the sales and cost data presented by Shorko represented the revenue and costs associated with the production and sales of BOPP.

Customs observed BOPP production at Shorko and is satisfied that Shorko manufactures BOPP in Australia.

Customs is satisfied that there is an Australian industry that produces the goods and that Shorko is the sole Australian manufacturer. Customs is satisfied the criteria set out in ss. 269T(2), (3) and (4) of the Act in relation to Australian manufacture and the Australian industry are met.

3.4 Like goods

Section 269T(1) of the Act defines 'like goods' as:

Like goods, in relation to goods under consideration, means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

3.4.1 Australian industry's claim

Shorko produces a range of BOPP products – the particular BOPP products that are like goods to the imported product were described by Shorko as:

- *Bi-axially Oriented Polypropylene (BOPP) of 3-layer co-extrusion manufacture.*
- *Thickness from 15 – 50 microns. (0.015 – 0.050mm)*
- *Transparent in quality. (Physical Density = 0.91g/cm³)*
- *Treated one-side, 2-side heat-sealable.*
- *Supplied in reel form of varying widths from 150mm to 2100mm for domestic packaging market.*
- *Shorko does not produce pre-printed or perforated BOPP film.*

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3.4.2 Customs' assessment

In assessing whether the goods produced by the Australian industry are like goods to the goods under investigation, Customs first had regard to the physical characteristics. If the locally produced goods are not identical in all respects, Customs considers whether they have closely resembling physical characteristics to the imported goods.

Customs will also have regard to other characteristics that may include commercial and functional substitutability, manufacturing processes, distribution channels, marketing, tariff classification or additional factors raised by interested parties.

No one characteristic, is of itself, normally sufficient to ascertain if goods are 'like'. Customs generally gives greater weighting to physical characteristics and commercial and functional substitutability, although the importance of any characteristic will inevitably vary depending on the goods.

During the investigation Customs obtained documentation and discussed the claims concerning like goods with the Australian industry, importers, end-users and exporters.

Customs considers that, while there are certain differences in the physical characteristics of the imported and the locally manufactured product, the BOPP produced by the Australian industry is a sub-set of the imported goods and has physical characteristics closely resembling the BOPP imported from Indonesia.

Customs recognises that the imported and locally produced BOPP are made using the same manufacturing processes. Customs also found that specific grades of domestically produced BOPP are commercially and functionally substitutable and that they compete in the market with the BOPP imported from Indonesia.

After considering the views of interested parties, Customs is satisfied that the BOPP produced by the Australian industry is a like good to the goods under investigation. Customs is also satisfied that the Australian industry manufactures BOPP in Australia and Shorko constitutes the Australian industry producing like goods.

4. AUSTRALIAN MARKET

4.1 Market structure

The goods subject to this investigation form part of the food packaging sector of the total BOPP market.

The Australian market for BOPP can be segmented into food packaging and non-food packaging applications. BOPP films used in the food packaging sector include:

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- high value BOPP products offering high technical competence, eg, high barrier metallised and high performance multi-layer white films. These products are typically of western European or USA origin, and
- standard “commodity” products, eg, transparent and metallised films for non-high barrier decorative applications. These products are primarily supplied by Shorko and by imports from Indonesia.

The non-food sector comprises applications such as bank notes, board lamination and florist.

Shorko produces a range of BOPP films primarily for food packaging applications. Products include metallised, transparent and white opaque films, films for label applications and customised performance films.

The goods under investigation are transparent films of a thickness from 15 to 50 microns. These films are used to manufacture food packaging materials.

The Australian market comprises converters and end-users that use BOPP film to manufacture the finished material. The market is supplied by Shorko and imports from Indonesia. There were small amounts of imports from other sources but not in commercial quantities. Sales by Shorko account for the majority of sales in the market.

Three major converters account for around three-quarters of sales. The remaining one-quarter is made up of numerous smaller buyers. Both Shorko and imports service similar customer profiles – a mix of large converters and numerous smaller customers. The converters print, laminate, slit and bag-make BOPP products for sale to end-users.

4.2 Market size and share

The Australian market was examined over the injury analysis period 1 January 2004 to 30 June 2006. The market was compiled from verified sales data provided by Shorko and importers. The market has remained relatively steady over the period examined.

Customs has used both quarterly and 12-month data in examining the market due to its seasonal nature. Sales in the September quarter are significantly higher than other quarters. The increase in demand in the September quarter appears due to increased summer demand for products that use BOPP wrapping.

Customs calculation of the Australian market is at **confidential attachment 2** to this report.

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5. THE DUMPING INVESTIGATION

Dumping occurs when a product of one country is exported to another country at a price less than its normal value. Export price and normal value of goods are determined under s. 269TAB and s. 269TAC of the Act respectively.

The period of investigation for determining if dumping occurred was 1 July 2005 to 30 June 2006.

Trias and PT Argha Karya Prima Industry Tbk were nominated as the manufacturers and exporters of the goods from Indonesia to Australia.

Customs is satisfied that PT Argha Karya Prima Industry Tbk did not export the goods under consideration during the investigation period. Trias was the sole manufacturer and exporter of Indonesian origin BOPP to Australia during the investigation period. Indonesian origin BOPP was imported by Primaplas and Amcor Limited (Amcor).

5.1 PT Trias Sentosa Tbk

Customs visited Trias in November 2006. Trias had responded in full to a questionnaire sent by Customs and cooperated in the investigation. Customs also visited companies in Australia who had purchased Trias product.

5.1.1 Export price

Trias exported the goods under investigation to Australia during the investigation period. The majority of the exports were of 2-sided co-extruded heat sealable transparent (co-ex) BOPP with small quantities of other grades of BOPP.

Customs considers that Trias is the manufacturer and exporter of the goods sold to Australia during the investigation period. Some sales were arranged through agents of the exporter. Customs is satisfied that the export sales were arms length transactions.

For those sales where the goods were purchased by the importer from the exporter, Customs considers that export price can be established under s. 269TAB(1)(a) of the Act using the export price calculated at the free-on-board (FOB) level.

For those sales where the goods were not purchased by the importer from the exporter, Customs considers that the FOB export price can be determined under s. 269TAB(1)(c) of the Act having regard to all the circumstances of the exportation.

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5.1.2 Normal value

For the purposes of s. 269TAC(1) of the Act the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

Trias sold various grades of BOPP on the domestic market, e.g., base (metallisable) and plain BOPP (general packaging wrapping).

Customs compared the domestic sales and the export sales grades and found that there were no sales of the co-ex BOPP grade on the domestic market in Indonesia. There were, however, domestic sales of the remainder of the grades exported to Australia. The co-ex BOPP grade comprised the majority of export sales to Australia by Trias.

The method of establishing the normal value for the co-ex grade BOPP was referred to in:

- Shorko's submission in response to the Trias visit report;
- Shorko's request to the Review Officer for review of the CEO's termination decision;
- the Review Officer's report;
- a submission from Shorko subsequent to the Review Officer's revocation decision; and
- submissions Trias, Amcor and Aperio Group Pty Ltd in response to Customs' invitation to provide submissions prior to publication of the SEF.

Copies of the submissions by Shorko, Trias, Amcor and Aperio are at **confidential attachment 3** to this report.

Summary of normal value issues

Shorko stated:

- that domestic sales of the goods in Indonesia had focussed on a grade described as 'plain BOPP' and that this grade differed to the grade exported to Australia;
- the manufacture and sale of co-ex BOPP domestically by Trias is a long standing practice;
- Trias do have available domestic grades of heat-sealable film which fit the definition of the goods under consideration in the application; and
- the market price for heat sealable films in Indonesia is considerably higher than non-heat sealable grades and offers a considerable additional margin above any increased manufacturing cost.

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Shorko also requested that Customs contact converter customers of Trias and other Indonesian manufacturers of like goods to obtain domestic pricing information.

The Review Officer stated:

- plain film is not substitutable for heat sealable film and would probably be incapable of use in Australia in food packaging applications because of food packaging standards and relevant legislative requirements; and
- there are significant differences between the two types of film.

Trias stated:

- Trias did not sell co-extruded, transparent, 2-side heat sealable BOPP for printing and lamination purposes in the domestic market of Indonesia during the period of the investigation;
- the only co-extruded, transparent, 2-side heat sealable BOPP film sold by Trias in the domestic market is for cigarette overwrapping purpose which is not a like product to printing and lamination film;
- Trias did not sell [co-ex BOPP] film types PHI/PSI grade or PHL/PSL grade in the domestic market during the period of the investigation;
- in the absence of domestic sales of PSL, or other like co-extruded, transparent, 2-side heat sealable film, the normal value of Trias' exports of PSL film is properly determined on the basis of Trias' domestic selling prices of PL film, adjusted by the difference in the costs of production of PSL and PL film;
- if normal value was determined based on the price paid for like goods sold by other sellers in the Indonesian domestic market, such prices must be verified;
- it was highly unlikely that any Indonesian party would have sufficient domestic sales to be used as a basis for normal value;
- Shorko's claims concerning meeting with Trias in 1987, 1994 and 1997 are irrelevant to domestic sales activities in 2005/2006; and
- it is Trias' recollection that the discussions (at previous meetings) concerning domestic sales volume and price of co-extruded films related to just cigarette film.

Amcor stated:

- the Review Officer's appreciation of the information is wrong and Customs original decision [to terminate the investigation] is the correct one;
- PL (plain grade) film and PSL (co-ex grade) film are used for the same purpose in Indonesia and Australia respectively
- PL film is like goods to the PSL film exported to Australia; and
- the Review Officer's statements that "plain film is not substitutable for heat sealable film and would probably be incapable of use in Australia in food packaging applications because of food packaging standards and relevant legislative requirements" is incorrect.

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Aperio Group Pty Ltd stated:

- plain BOPP film can be used in place of 2 sided heat sealable film (co-ex BOPP);
- plain films can be printed using “modern” solvent ink technology; and
- the original findings in respect to dumping notice 2007/03 (termination of the investigation) are correct.

Customs assessment:

- Customs agrees that plain BOPP and co-ex BOPP are not identical;
- Customs has verified sales information in relation to BOPP sold by Trias.
- Customs verification confirmed the statement by Trias that it had not sold co-ex BOPP on the Indonesian domestic market during the investigation period;
- the Indonesian domestic quotation provided by Shorko did show a price differential between plain BOPP and co-ex BOPP. There are however numerous factors that drive differences between manufacturers’ costs and prices – the information was not suitable to substantiate a significant adjustment to Trias’ domestic sales of plain grade BOPP; and
- Customs does not have any evidence that would support the use of BOPP selling prices other than those verified at Trias; and
- the statements by the Review Officer in relation to substitutability of plain BOPP and co-ex BOPP have been refuted by Australian converters.

Assessment of normal value

Customs examined the domestic sales in Indonesia during the investigation period and found there was a sufficient quantity of domestic sales of like goods in the ordinary course of trade for home consumption in sales that were arms length transactions.

Customs compared the domestic sales and the export sales grades and found that there were no sales of the co-ex BOPP grade on the domestic market in Indonesia by Trias. There were domestic sales of the remainder of the grades exported to Australia.

In the absence of verified domestic sale prices for a particular grade/type of the goods by the exporter concerned an alternative is to base the normal value on the verified sales prices by another domestic seller of that particular grade/type.

Customs does not have any information in relation to sales by other sellers of BOPP in the Indonesian domestic market.

Accordingly, the normal value for co-ex BOPP must be based on domestic sales by Trias of the closest matching type/grade of BOPP.

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Customs examined Trias' domestic sales to determine if there were sales of any other grade which closely resembled the export sales of co-ex grade BOPP. Plain grade was the closest matching grade, confirmed by small cost difference.

The primary differences between plain grade BOPP and co-ex grade BOPP, as explained by Trias, are:

- plain grade BOPP has one layer prepared for vinyl based ink (which is used by converters in Indonesia) whereas co-ex BOPP is prepared for alcohol based inks; and
- plain BOPP is not heat sealable whereas co-ex grade BOPP is heat sealable on one or both sides.

The volume of domestic sales of plain BOPP grade was the only grade with a domestic sales volume greater than 5 percent of the volume of co-ex grade BOPP exported to Australia. As the volume of domestic sales of each of the remaining grades of BOPP were significantly less than 5 percent of the volume of co-ex grade BOPP exported to Australia, no other grade was considered to have a volume large enough to permit a proper comparison for the purposes of assessing a dumping margin under s. 269TACB of the Act.

Customs is satisfied that, in the absence of verified sales of co-ex grade BOPP on the Indonesian domestic market, normal value for co-ex grade BOPP can be based on sales of plain grade BOPP, being a grade having characteristics closely resembling the co-ex grade under consideration.

Customs considers that normal value can be established under s. 269TAC(1) of the Act using domestic sales between Trias and its customers.

To ensure a fair comparison of normal values and export prices at FOB cash terms, Customs considers that adjustments are required in accordance with s. 269TAC(8) of the Act. Adjustments to domestic selling prices are required to take account of the differences in inland freight, duty drawback on imported raw materials included in exported finished product, export expenses, credit terms and the physical characteristics between the goods sold domestically and those exported.

5.2 Dumping margins

A dumping margin is the amount by which the export price is less than the normal value. It is expressed as a percentage of the export price.

Customs matched domestically sold BOPP grades with the BOPP grades exported to Australia. Customs calculated a dumping margin for the investigation period by comparing quarterly weighted average export prices for BOPP from Trias with corresponding quarterly weighted average normal values for BOPP domestically sold by Trias as provided for in s. 269TACB(2)(a) of the Act.

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The product dumping margin indicates that BOPP exported by Trias from Indonesia to Australia over the investigation period was not exported at dumped prices.

Customs calculation of normal value, export price and dumping margins are at **confidential attachment 4** to this report.

6. CONCLUSION

Under s. 269TDA(1) of the Act, if the CEO is satisfied that there has been no dumping by the exporter of any of those goods, the CEO must terminate the investigation so far as it relates to the exporter.

Therefore, the CEO must terminate the investigation so far as it relates to Trias.

Where the total volume of goods the subject of the application that have been, or may be, exported to Australia over a reasonable examination period from the particular country of export and dumped, when expressed as a percentage of the total Australian import volume is less than 3%, there is taken to be a negligible volume of dumped goods.

Under s. 269TDA(3) of the Act, if the CEO is satisfied that the total volume of goods the subject of the application that have been, or may be, exported to Australia over a reasonable examination period from a particular country of export; and that have been, or may be, dumped is negligible, the CEO must terminate the investigation so far as it relates to that country.

The total volume of goods that have been exported to Australia over the investigation period from Indonesia and dumped is less than 3% of the total Australian import volume - a negligible volume of dumped goods.

Therefore, the CEO must terminate the investigation so far as it relates to Indonesia.

7. LIST OF ATTACHMENTS

Attachment No	Title
Attachment 1	Submission to the SEF
Confidential attachment 2	The Australian market
Confidential attachment 3	Submissions post termination and prior to the SEF
Confidential attachment 4	Export price, normal value and dumping margin

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Attachment 1

Submission to the SEF

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ROGER D. SIMPSON & ASSOCIATES PTY. LTD.

ANTI – DUMPING SPECIALISTS

ACN 056 514 213 ABN 87 056 514 213



2 August 2007

Ms Trish Bridge
Director Operations 1
Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Ave
Canberra ACT 2600

Dear Ms Bridge,

STATEMENT OF ESSENTIAL FACTS No 118: BOPP FROM INDONESIA

Our comments follow in response to Statement of Essential Fact No 118 ("the SEF") on behalf of PT Trias Sentosa Tbk ("Trias").

In para 5.2 of the SEF Customs states:

- *The product dumping margin indicates that BOPP exported by Trias from Indonesia to Australia over the investigation period was not exported at dumped prices; and*
- *Exports from Indonesia at dumped prices during the investigation period were less than 3% of the total Australian import volume.*

In para 5.2 of the SEF Customs also acknowledges that ss269TDA(1) and 269TDA(3) respectively require Customs to terminate an investigation if dumping margins or the volume of dumped goods are negligible.

Paragraph 8 of Article 5 of the WTO Anti-Dumping Agreement ("the Agreement") requires that –

- *an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case; and*
- *there shall be immediate termination in cases where the authorities determine that the margin of dumping is de minimis (less than 2%) or that the volume of dumped imports is negligible (less than 3% of imports).*

We submit that, having already found that exports of the goods under investigation by Trias during the investigation period were not dumped and that the volume of exports of those goods to Australia from Indonesia at dumped prices during the investigation period was negligible, Customs is obliged by paragraph 8 of Article 5 of the Agreement to **immediately** terminate this investigation.

The adverse affect of the resumption of this investigation on Trias' exports to Australia should not be allowed to continue. We note in this regard that in section 2.2 of the SEF Customs attributes the TMRO's revocation of Customs' earlier termination

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decision to the inadvertent non-inclusion of certain correspondence on Customs' record from the material before the TMRO when he made his decision. Customs went on to state that the correspondence on Customs' record and not before the TMRO negates the principal reason for the TMRO's revocation of Customs' termination decision. This circumstance should surely add to the obligation cast by Article 5.8 of the Agreement to immediately terminate the investigation.

Yours sincerely,

Roger Simpson

PS This letter may be considered non-confidential.