

AUSTRALIAN CUSTOMS SERVICE
Customs Act 1901 - Part XVB

TRADE MEASURES BRANCH

Statement of Essential Facts No 46

CONTINUATION INQUIRY

**POLYVINYL CHLORIDE HOMOPOLYMER
(PVC) RESIN**

**EXPORTED FROM THE
UNITED STATES OF AMERICA**

24 September 2001

CONTENTS

1	SUMMARY	1
1.1	Background	1
1.2	Economic condition of the industry	1
1.3	Customs' assessment	2
1.4	Conclusion	3
2	PURPOSE	4
3	BACKGROUND	5
3.1	Inquiry process	5
3.2	Public notification	5
3.3	Goods under consideration	6
3.4	Current anti-dumping measures	7
3.5	Previous investigations into PVC	7
4	THE AUSTRALIAN INDUSTRY AND MARKET	8
4.1	Like Goods	8
4.2	The Australian industry	8
4.1.1	Company background	8
4.1.2	Production process	8
4.1.3	Conclusion	9
4.4	The Australian market	9
5	THE ECONOMIC CONDITION OF THE INDUSTRY	10
5.1	The applicant's claims	10
5.2	Previous findings in relation to material injury	10
5.3	AV's current performance	10
5.3.1	Volume trends	10
5.3.2	Market share	12
5.3.3	Price trends	12
5.3.4	Profit and profitability	15
5.4	Conclusions on the economic condition of the industry	15
6	CUSTOMS' ASSESSMENT	17
6.1	The applicant's claims	17
6.2	Submissions to the current inquiry	18
6.3	Other factors affecting the market for PVC in Australia	20
6.3.1	PVC/VCM price cycle	20
6.3.2	Demand for PVC products	20
6.3.3	Market supply	21
6.4	PVC prices in general	22
6.5	USA export and domestic prices	22
6.5.1	Export volumes	24
6.5.2	Exports of PVC to New Zealand	25
6.5.3	Capacity	26
6.5.4	Import activity	27
6.5.5	Distribution channels for PVC	28

6.5.6	Anti-dumping action by other countries	28
6.5.7	Presence of low-priced imports of PVC in the Australian market	29
6.5.8	Currency movements and PVC pricing	31
6.6	Analysis of the economic condition of the industry	32
6.6.1	Volume trends	32
6.6.2	Market share	32
6.6.3	Price trends	32
6.6.4	Profits and profitability	33
6.7	Likelihood of dumping causing material injury	33
6.8	Conclusion	34
7	LIST OF APPENDICES	35
7.1	Non-confidential appendices	35
7.2	Confidential appendices	35

ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
ADA	Anti-Dumping Authority
AV	Australian Vinyls Corporation
CEO	Chief Executive Officer of Customs
Chemiplas	Chemiplas Australia Pty Ltd
CMAI	Chemical Market Associates Inc.
CTMS	cost to make and sell
Customs Act	<i>Customs Act 1901</i>
FOB	free-on-board
Innua	Innua Australia Pty Ltd
Minister	Minister for Justice and Customs
minister	minister formerly responsible for Customs
NIFOB	non-injurious free-on-board price
NIP	non-injurious price
Nylex	Nylex Industrial Products
Olex	Olex Australia
Orica	Orica Australia Pty Ltd
PVC	polyvinyl chloride (homopolymer) resin
SEF	statement of essential facts
Shin-etsu	Shin-etsu Chemical Company Japan
Shintech	Shintech USA
the Act	<i>Customs Act 1901</i>
TMRO	Trade Measures Review Officer
US / USA	the United States / United States of America
Vinidex	Vinidex Pty Ltd

1 SUMMARY

1.1 Background

This statement of essential facts (SEF) sets out the essential facts that will form the basis of Customs' recommendations to the Minister on the continuation inquiry into polyvinyl chloride homopolymer resin (PVC) from the United States of America (USA).

Interested parties are given 20 days to comment on this SEF (i.e. by 15 October 2001).

On 7 March 2001, Customs announced that anti-dumping measures currently applying to imports of PVC from Brazil, Mexico and the USA were due to expire on 21 January 2002 and invited interested parties to apply for the continuation of those measures.

On 7 May 2001 Australian Vinyls Corporation Limited (AV), the sole Australian producer of PVC, lodged an application requesting that the Minister continue anti-dumping measures in respect of polyvinyl chloride homopolymer resin (PVC) exported to Australia from Brazil, Mexico and the United States of America.

Customs rejected that part of the application relating to Brazil and Mexico, as it concluded that in the absence of the anti-dumping measures, dumped exports from Brazil or Mexico were unlikely to recur in sufficient quantities to cause material injury to AV in the foreseeable future.

Customs initiated that part of the application relating to the USA only on 6 June 2001 (ACDN No. 2001/35).

Customs will make a report and recommendation to the Minister on or before 8 November 2001 as to whether the anti-dumping measures should be continued.

1.2 Economic condition of the industry

Customs found that:

- the Australian market for PVC grew by about 20 per cent in the period 1995 to 1999, and declined by about 15 per cent in 2000;
- changes in AV's sales were consistent with the changes in the Australian market for PVC;
- the volume of imports increased by about 10 per cent in the period 1995 to 1999, and declined by about 13 per cent in 2000;

- 1 • AV's market share has declined by about 7 per cent in the period 1997 to
2 2000;
- 3 • AV's average unit selling prices increased in the period 1997 to 2000;
- 4 • AV's average unit costs rose faster than its unit selling prices in the period
5 1997 to 2000, exceeding its prices in the last three quarters of 2000; and
- 6 • AV's profits and profitability have declined during 1999 and 2000, and
7 remain negative despite a recent recovery.

8 Customs notes that the Australian market for PVC in 1999 was unusually high
9 due to increased construction activity prior to the introduction of the GST and
10 the Olympic Games. The subsequent drop in construction demand
11 contributed significantly to the fall in the PVC market in 2000.

12 **1.3 Customs' assessment**

13 On the one hand, Customs found that the following factors favour the
14 continuation of the measures applying to PVC from the USA.

- 15 • The USA is likely to have surplus PVC in the near future:
 - 16 – US capacity for PVC production has increased steadily from 1995
17 to 1999, and this increase is forecast to continue to 2005;
 - 18 – economic indicators suggest that the growth of the US economy is
19 slowing—this is likely to result in decreased domestic demand in the
20 construction sector, which in turn could lead to decreased domestic
21 demand for PVC;
 - 22 – given the cost structure of PVC, producers are reluctant to reduce
23 throughput, even where domestic demand is reduced; and
 - 24 – the increased production capacity in the USA, combined with the
25 predicted decrease in domestic demand, could lead to a surplus of
26 PVC in the USA—this surplus is likely to be exported.
- 27 • Exports of such a surplus of PVC from the USA are likely to be at dumped
28 prices:
 - 29 – export prices of PVC from the USA have generally been lower than
30 US domestic prices since at least 1997;
 - 31 – international PVC prices are usually lower than domestic prices in
32 the country of export; and
 - 33 – several countries currently have anti-dumping measures in place
34 against exports of PVC from the USA.

35

- 1 • Other factors:
- 2 – exports of PVC to New Zealand from the USA currently hold around
3 60 per cent of the New Zealand PVC market, and the export prices
4 are below US domestic prices;
- 5 – at least two importers of PVC from the USA into New Zealand are
6 also established importers of PVC in the Australian market from
7 other sources; and
- 8 – PVC is recognised as a commodity product with few distinguishing
9 features to differentiate product from different sources, and PVC
10 prices are governed largely by supply and demand—price is
11 therefore a determining factor in the purchase of PVC.

12 On the other hand, Customs found that the following factors do not favour the
13 continuation of the measures applying to PVC from the USA.

- 14 • Imports of PVC from the USA to Australia were negligible during 1999 and
15 2000.
- 16 • Imports from the USA are unlikely to be price competitive against imports
17 from other sources:
- 18 – US export prices for PVC worldwide are comparable with (and at
19 times higher than) Asian export prices—imports from Asian
20 countries are already present in the Australian market; and
- 21 – imports of PVC from the USA would incur higher freight costs than
22 imports from Asian countries.
- 23 • The anti-dumping measures against the USA were first imposed in 1992,
24 and were extended for five years in 1996:
- 25 – hence if the measures were to be continued for a further five years
26 until 2006, they would have been in place for fifteen years; and
- 27 – the longer the measures are in place, the more difficult it is for the
28 CEO of Customs to be satisfied that the dumping and injury would
29 be likely to recur.

30 **1.4 Conclusion**

31 Customs is satisfied, on balance, that PVC from the USA would be likely to be
32 exported to Australia at dumped prices, in quantities significant enough to
33 cause material injury to AV, if the measures were not continued.

34 **Note: all references to years in this report are to calendar years, unless**
35 **otherwise indicated.**

2 PURPOSE

The purpose of this SEF is to set out the essential facts that will form the basis of Customs' recommendation to the Minister, thus allowing interested parties the opportunity to comment before a recommendation is made. Interested parties are given 20 days to comment on this SEF (i.e. by 15 October 2001).

Customs must:

- issue an SEF in relation to the investigation within 110 days; and
- make a recommendation to the Minister within 155 days of the initiation of an investigation as to whether anti-dumping duties should be continued.

Submissions made in response to this SEF should be limited to the issues of fact as outlined in this document. Because of the statutory time limit to make a report to the Minister it would generally not be possible for Customs to consider new issues or facts raised at this stage.

Submissions should be sent to:

Director Operations 4
Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601.

Customs is not obliged to have regard to any submissions made in response to the SEF that are received after the end of the 20 day period if to do so would prevent the timely preparation of the report to the Minister. Submissions in response to the SEF should include a non-confidential version for the public file.

As well as the SEF, the public file contains non-confidential versions of submissions made by interested parties and other reports by Customs on matters relevant to this investigation. This SEF should be read in conjunction with these other publicly available documents.

Interested parties intending to respond to the SEF must include a non-confidential version of their submission for placement on the public record.

Any party wishing to examine the public file before lodging a submission in response to this SEF should contact the Trade Measures Office Management staff on 61 2 6275 6547.

All Customs dumping notices and this SEF are available on the internet at <http://www.customs.gov.au/notices/index.htm>.

3 BACKGROUND

3.1 Inquiry process

Under section 269TM of the Act, dumping and countervailing duty notices automatically expire five years after the date on which they were published, unless they are revoked earlier. Similarly, price undertakings expire five years after their date of acceptance by the Minister, unless provision is made for an earlier expiry date.

Section 269ZHB of the Act stipulates that not later than nine months before an anti-dumping or countervailing measure expires, Customs must announce that the notice is due to expire on a specified day and invite interested parties to apply to Customs within 60 days for the continuation of the measures. If no application for the continuation of the measures is received by Customs within the period allowed in the notice, the measures will automatically expire on the specified date.

If an application for continuation of an anti-dumping or countervailing measure is lodged and it complies with the legislative requirements, Customs must initiate an inquiry. Customs then has up to 155 days to inquire and report to the Minister on whether the measures should be continued.

Section 269ZHF(2) of the Act provides that:

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.

Where the Minister decides to continue anti-dumping or countervailing measures, the notice will remain in force after the specified date for a period of five years (unless the relevant notice is revoked before the end of that period). In the case of a price undertaking, provision can be made for it to expire after a period of less than five years.

Unlike the Minister's decision in relation to an investigation or a review of measures, the decision of the Minister in a continuation inquiry is not subject to review by the Trade Measures Review Officer (TMRO).

3.2 Public notification

By a notice in *The Australian Financial Review* on 7 March 2001, Customs announced that the dumping measures currently applying to PVC from Brazil, Mexico and the USA were due to expire on 21 January 2002. The notice invited interested parties to apply for continuation of the measures within 60 days from the date of the notice.

1 On 7 May 2001 Customs received an application from AV, the sole Australian
2 producer of PVC, for the continuation of the measures until the year 2006.

3 Customs rejected that part of the application relating to Brazil and Mexico.
4 Customs concluded that in the absence of the anti-dumping measures,
5 dumped exports from Brazil or Mexico were unlikely to recur in the
6 foreseeable future in quantities sufficient to cause material injury to AV.
7 Therefore Customs decided to initiate that part of the application relating to
8 the USA only. Customs initiated this inquiry on 6 June 2001 (ACDN
9 No. 2001/35).

10 Customs visited the following companies during the inquiry:

- 11 • AV (the applicant)
- 12 • Vinindex Pty Ltd (importer of PVC and customer of AV)
- 13 • Nylex Industrial Products (importer of PVC and customer of AV)
- 14 • Chemiplas Australia Pty Ltd (importer of PVC)
- 15 • Innua Australia Pty Ltd (importer of PVC)

16 Customs also visited the consultant representing Olex Australia, an end-user
17 of PVC.

18 **3.3 Goods under consideration**

19 The goods under consideration are described as polyvinyl chloride
20 homopolymer resin. It is a white free flowing powder, which is used in
21 combination with other chemicals to produce a variety of products.

22 The main input into the production of PVC is vinyl chloride monomer (VCM).
23 PVC is made in a batch process in which VCM droplets are polymerised,
24 while suspended in water, in the presence of an initiator and other additives.

25 PVC is sold to end-users who convert the powder to plastic. The major end-
26 user of PVC-based products is the building and construction sector where
27 they are used for pipes and fittings, cables, house cladding, gutters,
28 downspouts, flooring and window frames. PVC-based products are also used
29 in packaging, upholstery and domestic appliances.

30 The goods under consideration do not include PVC compounds, paste or
31 emulsion grades.

32 PVC is classified under Tariff item 3904.10.00 (statistical code 18) in
33 Schedule 3 to the *Customs Tariff Act 1987*. The rate of duty is 5%.

1 **3.4 Current anti-dumping measures**

2 The anti-dumping measures against Brazil, Mexico and the USA were initially
3 imposed in 1992 by the then minister following consideration of Anti-Dumping
4 Authority (ADA) Report no. 52. The measures were continued in 1996 for a
5 further five years following consideration of ADA Report no. 160. The current
6 measures are scheduled to expire on 21 January 2002.

7 The measures apply to polyvinyl chloride homopolymer resin, and are subject
8 to specified normal values and a NIFOB. Terms are FOB, packed and cash.

9 **3.5 Previous investigations into PVC**

10 Customs and the ADA have conducted numerous inquiries and reviews of
11 normal values and NIFOBs in relation to the alleged dumping of PVC from a
12 number of countries. There have also been court cases in relation to PVC
13 investigations. Details of these are summarised at **appendix 1**.

4 THE AUSTRALIAN INDUSTRY AND MARKET

4.1 Like Goods

Subsection 269T(1) of the Customs Act defines 'like goods' as follows:

"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.

On the basis of the evidence available from the current inquiry and previous investigations, Customs remains satisfied that AV produces like goods to the goods exported from USA to Australia in terms of subsection 269T(1) of the Customs Act.

4.2 The Australian industry

Subsection 269T(4) of the Customs Act provides that the Australian industry consists of the producer, or producers, of like goods in Australia.

AV is the sole producer of PVC in Australia.

4.1.1 Company background

Australian Vinyls is a joint venture formed in August 1997 between:

- ICI Vinyls (now Orica Australia Pty Ltd); and
- Auseon Limited (now Polyone).

AV produces PVC at its plants in Altona and Laverton, Victoria. The Altona plant has a capacity of approximately 90,000 tonnes, and the Laverton plant approximately 130,000 tonnes.

Sales of PVC account for a large proportion of AV's sales revenue. AV sells PVC to end-users, who use PVC in the manufacture of PVC pipes, fittings and cabling for use in the building and commercial construction industries.

The main raw material used in the manufacture of PVC is VCM. All of the VCM that AV uses in the manufacture of PVC is imported. The majority of other raw materials used by AV in the production of PVC are also imported.

AV currently employs over 300 people in the manufacture of PVC resins and other areas such as PVC compounds and specialty products.

4.1.2 Production process

Subsections 269T(2) and 269T(3) of the Act specify that for goods, other than unmanufactured raw products, to be regarded as produced in Australia:

- 1 • they must be wholly or partly manufactured in Australia; and
- 2 • where the goods have been partly manufactured in Australia, then at least
- 3 one substantial process in the manufacture of the goods must be carried
- 4 out in Australia.

5 On the basis of the evidence available from the current inquiry and previous

6 investigations, Customs remains satisfied that AV manufactures PVC in

7 Australia.

8 **4.1.3 Conclusion**

9 Customs is satisfied that the industry requirements set out in the Act have

10 been met.

11 **4.4 The Australian market**

12 Customs estimates that the total market for PVC in Australia in 1999–2000

13 was close to 200,000 tonnes.

14 The Australian market for PVC is supplied by AV and by imports from a large

15 number of countries, including the USA (although imports of PVC from the

16 USA were negligible in 1999 and 2000 – see **section 5.3.2**).

5 THE ECONOMIC CONDITION OF THE INDUSTRY

5.1 The applicant's claims

The Australian industry claimed that the termination of the measures would cause significant material injury to it through:

- price suppression;
- loss of market share; and
- loss of profitability.

The following sections summarise Customs' analysis of industry's injury claims and other relevant injury indicators.

5.2 Previous findings in relation to material injury

In each of the 7 inquiries into PVC completed since 1991, Customs and/or the ADA found that AV had suffered material injury.

In the previous continuation inquiry by the ADA (Report no. 160), the ADA found that material injury to the Australian industry (caused by dumping) would be likely to recur if the measures were not continued.

5.3 AV's current performance

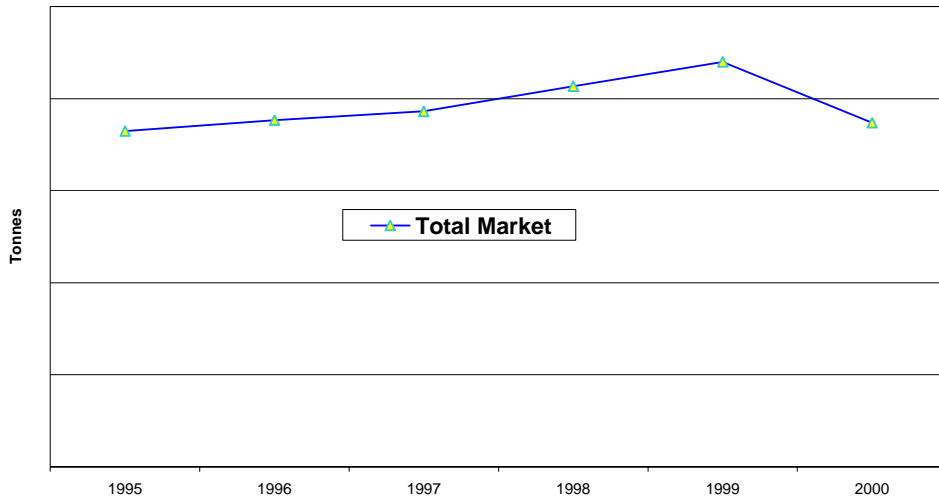
5.3.1 Volume trends

Market size

Customs calculated the size of the Australian market for PVC using sales information from AV and import data from Customs' commercial database.

Customs found that the market grew by about 20 per cent in the period 1995 to 1999, then declined by about 15 per cent in 2000.

1 **Graph 1: Volume of Australian market for PVC**

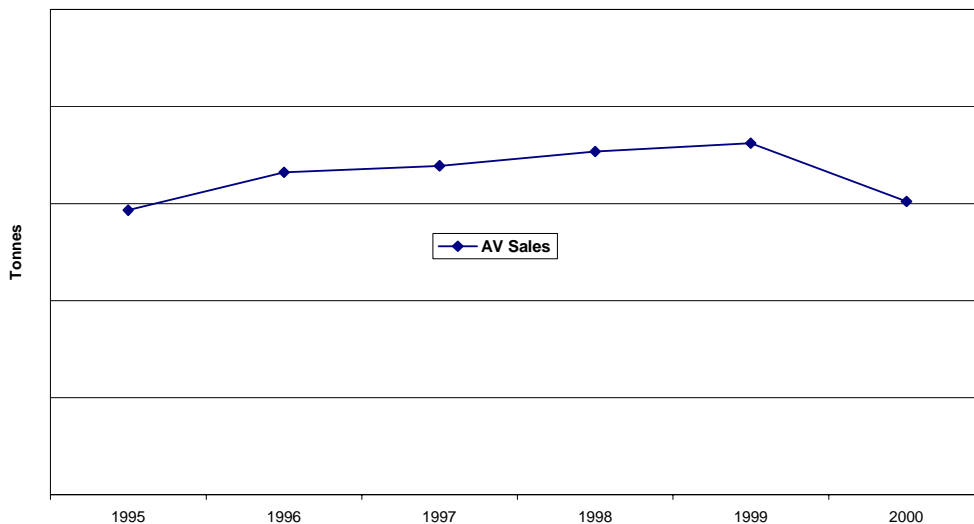


2 **Note: the y-axis values have been excluded for confidentiality reasons.**

3 **Sales by AV**

4 Changes in AV's sales were consistent with the changes in the Australian
5 market for PVC.

6 **Graph 2: AV's sales volumes**



7 **Note: the y-axis values have been excluded for confidentiality reasons.**

8 **Total imports**

9 PVC is imported to Australia from a large number of countries, including
10 countries to which anti-dumping measures currently apply.

1 Customs found that the volume of imports increased by about 10 per cent
2 from 1995 to 1999, and declined by about 13 per cent during 2000. In the
3 year ending December 2000, imports held about 19 per cent of the Australian
4 market for PVC.

5 5.3.2 Market share

6 AV's market share has declined by about 7 per cent in the period 1997 to
7 2000.

8 **Table 1: Approximate market shares (per cent)**

Source	1997	1998	1999	2000
USA	8	2	0*	0*
Other imports	4	13	18	19
Total imports	12	15	18	19
AV	88	85	82	81
Australian market	100	100	100	100

9 *Note: Imports from the USA were negligible during 1999 and 2000. The percentage of
10 imports from the USA appears as zero, due to rounding.

11 5.3.3 Price trends

12 Price trends are analysed under three sub-headings.

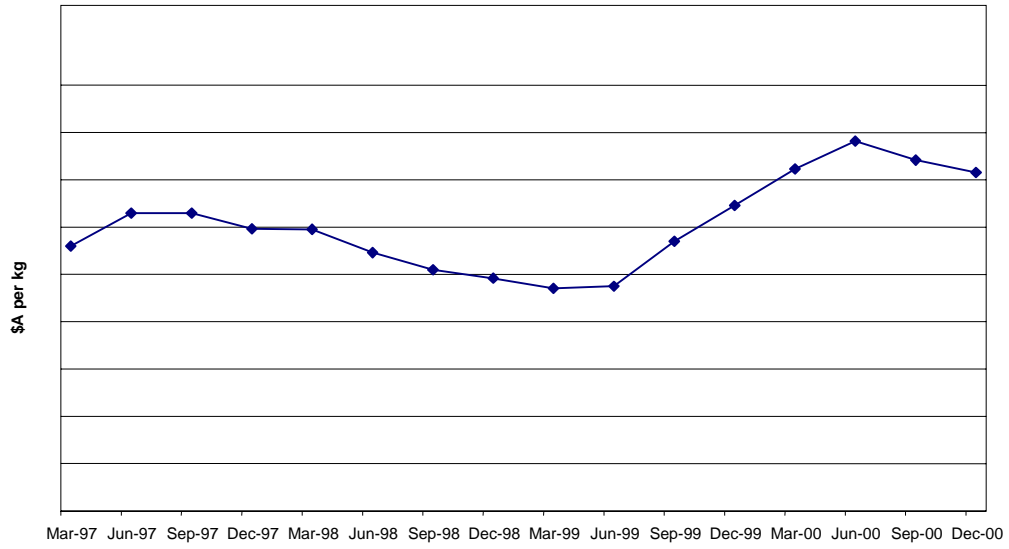
- 13 • **Price undercutting** occurs when the price of imports is lower than that of
14 the Australian industry's product.
- 15 • **Price depression** occurs when the Australian industry lowers its prices.
- 16 • **Price suppression** occurs when the Australian industry is unable to raise
17 prices in line with cost increases, that is the margin between the industry's
18 price and cost is reduced.

19 Customs notes that, as in other continuation inquiries, the value of a price
20 undercutting analysis in this inquiry is limited because:

- 21 • the PVC exported to Australia was at NIFOBs or non-injurious prices
22 (NIPs); and
- 23 • the volume of PVC imports from the USA during 1999 and 2000 was
24 negligible.

1 AV's average unit selling prices increased in the period 1997 to 2000.

2 **Graph 3: AV's selling prices**

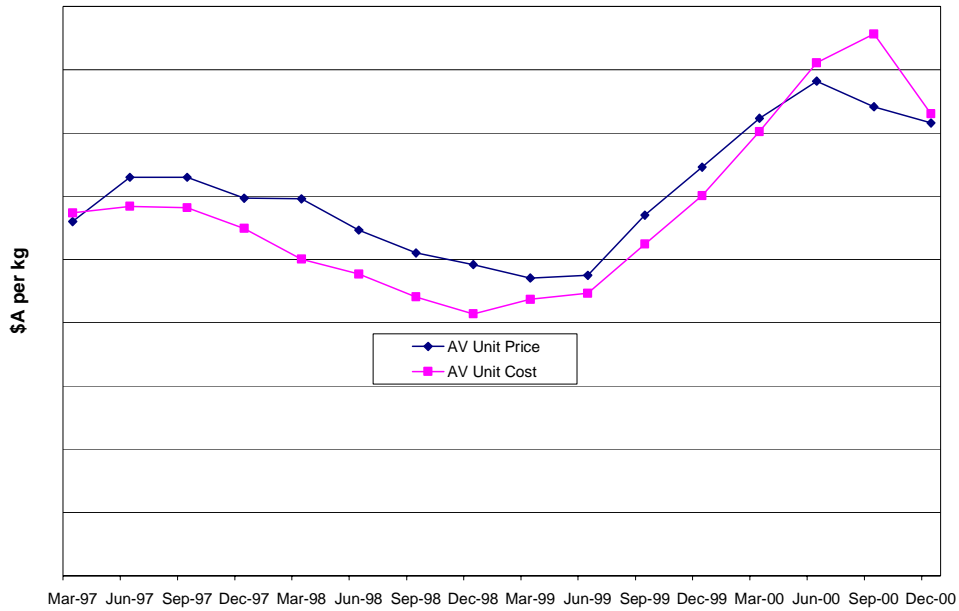


3 **Note: the y-axis values have been excluded for confidentiality reasons.**

4

1 AV's costs rose faster than its selling prices in the period 1997 to 2000. In the
2 last three quarters of 2000, AV's average unit costs exceeded its average unit
3 selling prices.

4 **Graph 4: AV's price suppression**



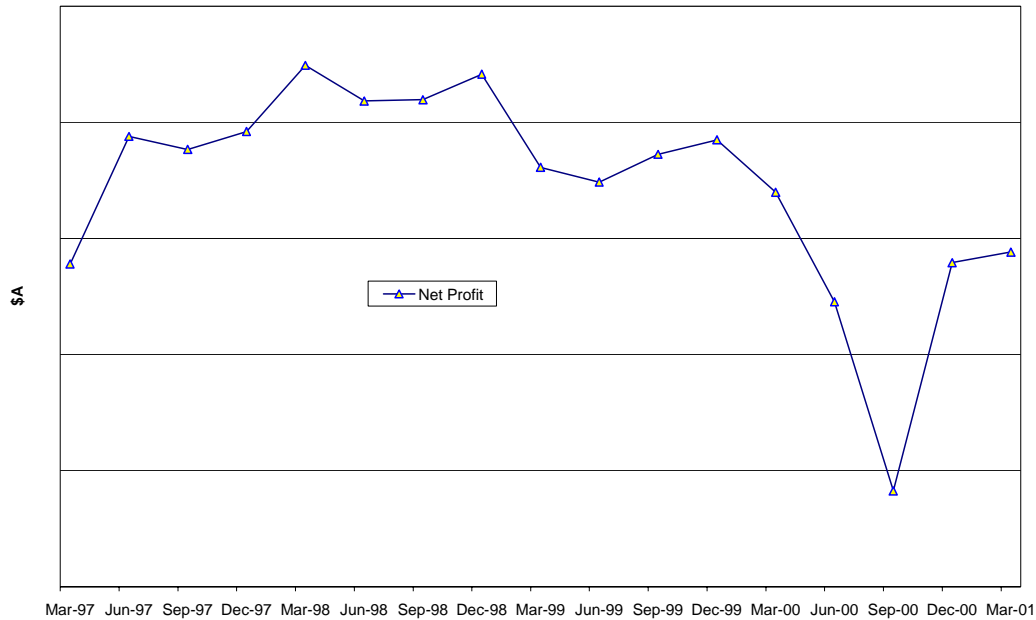
5 **Note: the y-axis values have been excluded for confidentiality reasons.**

6

1 **5.3.4 Profit and profitability**

2 AV's profit declined significantly during 1999 and 2000. Despite a recent
3 recovery, AV continues to make a loss on PVC.

4 **Graph 5: AV's profit**



5 **Note: the y-axis values have been excluded for confidentiality reasons.**

6 Similarly, AV's profitability declined significantly during 1999 and 2000.
7 Despite a substantial recovery during the December quarter 2000 (which has
8 continued into the March quarter 2001), AV's profitability remains negative.

9 **5.4 Conclusions on the economic condition of the industry**

10 Customs found that:

- 11 • the Australian market for PVC grew by about 20 per cent in the period
12 1995 to 1999, and declined by about 15 per cent in 2000;
- 13 • changes in AV's sales were consistent with the changes in the Australian
14 market for PVC;
- 15 • the volume of imports increased by about 10 per cent in the period 1995 to
16 1999, and declined by about 13 per cent in 2000;
- 17 • AV's market share has declined by about 7 per cent in the period 1997 to
18 2000;
- 19 • AV's average unit selling prices increased in the period 1997 to 2000;

- 1 • AV's average unit costs rose faster than its unit selling prices in the period
2 1997 to 2000, exceeding its prices in the last three quarters of 2000; and
- 3 • AV's profits and profitability have declined during 1999 and 2000, and
4 remain negative despite a recent recovery.

5 Customs notes that the Australian market for PVC in 1999 was unusually high
6 due to the increased construction activity prior to the introduction of the GST
7 and the Olympic Games. The subsequent drop in construction demand
8 contributed significantly to the fall in the market in 2000. These factors are
9 discussed at **section 6.3.2**.

6 CUSTOMS' ASSESSMENT

The purpose of this inquiry is to establish whether the anti-dumping duties currently applying to imports of PVC from the USA should be continued for a further five years.

Subsection 269ZHF(2) of the Customs Act states that:

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.

It is important to note that the test to be applied by Customs is a positive one. That is, Customs must be satisfied that the material injury caused by dumping would be likely to continue or recur. Customs cannot recommend the continuation of the measures on the basis that it cannot be satisfied that these events will not occur (i.e. a negative test).

Therefore the central issue to be addressed by Customs in this continuation inquiry is whether the expiration of the anti-dumping measures would lead, or would be likely to lead, to a recurrence of:

- the dumping of exports of PVC from the USA; **and**
- the material injury to the Australian industry by such dumping that the anti-dumping measures were intended to prevent.

6.1 The applicant's claims

AV claimed that:

- the decline of exports from the USA showed the effectiveness of the measures and the exporters' inability to participate in the Australian market at undumped prices;
- while PVC imports from the USA have declined during 1996–2000, they have previously held a high percentage of imports;
- the volume of imports from other sources has increased in the same period;
- PVC is a commodity product with no distinguishing features to differentiate product from different sources; and
- price is a large determinant of PVC supply source and importers have shown in the past that sources of supply can be easily switched.

1 AV also claimed that expiration of the measures would cause material injury
2 to it through:

- 3 • price suppression
- 4 • loss of market share; and
- 5 • loss of profitability.

6 **6.2 Submissions to the current inquiry**

7 Chemiplas, an importer of PVC, provided a submission to the current inquiry.
8 Chemiplas has the exclusive agency in Australia, New Zealand and
9 Singapore for the marketing and sale of PVC manufactured by Shintech USA
10 (Shintech) and Shin-etsu Chemical Company Japan (Shin-etsu).

11 Chemiplas stated in its submission:

12 It is our contention that, whilst the resin is dumped, AV will not suffer
13 material injury due to the international cyclical nature of the PVC resin
14 business. The financial and logistical barriers to entry into the Australian
15 market should be too high for a US manufacturer to bear if AV is in any
16 way internationally competitive.

17 Chemiplas' response to AV's claim that it would suffer material injury if the
18 measures expired was as follows:

19 The Act defines 'material injury' as 'injury greater than that likely to occur in
20 the normal ebb and flow of business'. It is Chemiplas' contention that the
21 cyclical nature of the global PVC market means that the normal ebb and
22 flow of business includes good profit margins when there is a tight
23 international supply/demand balance, and slim profits when there is a
24 surplus of international volume. For example, last year Shintech in the
25 USA made good profits but this year they will actually lose money due to
26 the weak supply/demand balance. This is the current international trend in
27 PVC manufacturing and it is naïve for AV to expect protection from the
28 international market forces by the imposition of a legislative barrier to
29 trade: they must be allowed to compete on a commercial basis alone, as
30 only then will Australian industry be truly competitive. Historical examples
31 prove beyond doubt that the model of a government-protected monopoly
32 has never been a particularly effective method of protecting the generic
33 National interest.

34 The prices paid by Australian domestic customers for AV resin over the
35 past 18 months should mean that AV has made very good profits up until
36 November / December 2000, however, realistically a company cannot then
37 expect to continue to make higher-than-industry profits through legislative
38 protection when the supply/demand balance reverses. Therefore, in fact,
39 significant material injury will not occur as defined by the Act.

40 Chemiplas also claimed that the Australian domestic PVC market price was
41 one of the highest in the world, and:

42 the current imposition of the NIFOB against PVC resin imported from the
43 US means that Australian users of AV resin have historically paid artificially

1 high prices, which has had a significant impact upon their international
2 (and at times, domestic) competitiveness.

3 Shintech also provided a submission in relation to the current inquiry.
4 Shintech is a major exporter of PVC from the USA, and is a wholly owned
5 subsidiary of Shin-etsu.

6 Shintech claimed that AV should be able to compete against imports of PVC
7 from the USA without losing market share and profitability as US imports incur
8 a 5 per cent duty and substantial freight costs. Shintech stated that if AV is
9 unable to compete despite the import costs incurred, it is either making very
10 high profits or is internationally uncompetitive.

11 Shintech also submitted arguments similar to those made by Chemiplas in
12 relation to the cyclical nature of the PVC market, and the effect of high
13 domestic prices on downstream users of PVC in Australia.

14 **Olex Australia**

15 Olex Australia (Olex), also provided a submission to Customs. Olex is an end-
16 user who uses PVC in the manufacture of PVC-coated cables. It purchases
17 the majority of its PVC from AV.

18 Olex stated in its submission that the anti-dumping measures currently in
19 place had 'effectively "locked in" price levels for PVC resin which has inflated
20 the cost of PVC resin for end users in Australia'.

21 Olex estimates that it could reduce the cost of its PVC resin purchases by
22 at least 10%, if dumping duties were removed from PVC resin exported
23 from the USA and market prices prevailed. Under the current dumping
24 arrangements for PVC resin, the price of cables sold by Olex is being
25 undercut by overseas competitors who have access to PVC resin at world
26 market prices.

27 In relation to AV's claim of loss of profitability, Olex stated that:

28 In our opinion, the use of the anti-dumping system by AV has been a
29 strategic device to establish a 'floor price', in order to reduce price
30 competition from imports (which already bear the additional costs of
31 international freight from the USA, as well as Customs duty and an
32 'inflated' GST on importation into Australia) and preserve its profit levels.

33 AV's apparent reliance on the anti-dumping system to 'underpin' its prices
34 and profits raise questions about its ability to compete internationally in the
35 PVC resin market.

36 Olex also commented that PVC resin is a commodity product that is traded at
37 world prices, based on supply and demand, and:

38 the anti-dumping system should not be used to ensure that AV is immune
39 to the cyclical nature of commodity markets, nor should governmental
40 protection be given to the disadvantage of downstream industries
41 dependent upon the PVC resin.

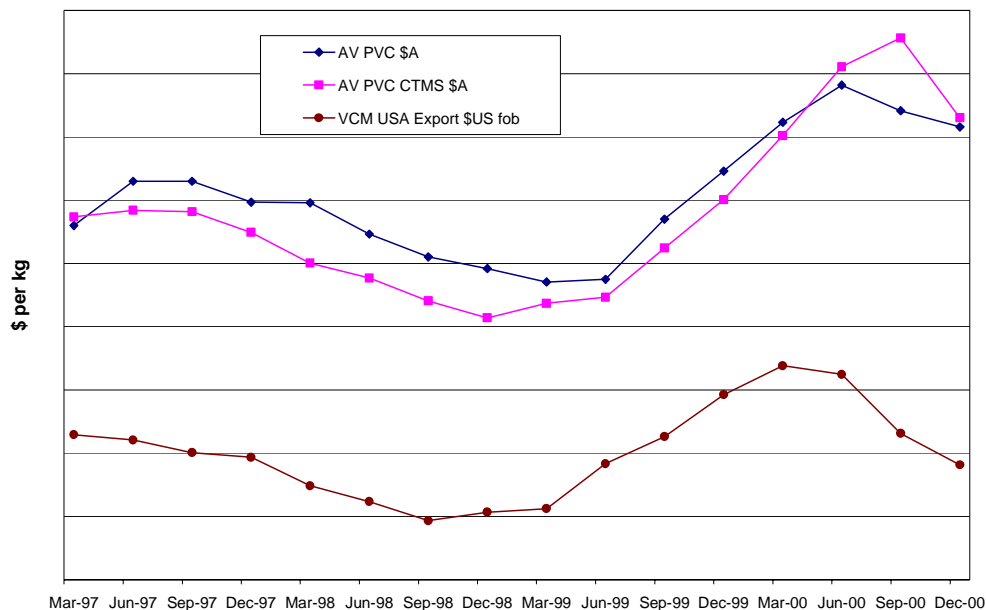
6.3 Other factors affecting the market for PVC in Australia

6.3.1 PVC/VCM price cycle

VCM is the major raw material input into PVC, accounting for about 70 to 80 per cent of the total cost to make.

Graph 6 shows that PVC and VCM prices generally move in tandem.

Graph 6: PVC and VCM price movements



Note: the y-axis values have been excluded for confidentiality reasons.

6.3.2 Demand for PVC products

AV identified a number of other factors that had affected domestic demand for PVC over the last two years. In particular, the introduction of the GST in July 2000 and (to a lesser extent) the Olympic Games in September 2000 were extraordinary factors that affected the Australian market for PVC over the last few years.

The GST

The high demand in the construction sector prior to the introduction of the GST was a significant factor in the increase of the market for PVC during 1999. However the subsequent downturn in construction following the introduction of the GST was a major factor in the sharp decline of the PVC market during 2000.

1 **The Olympic Games**

2 Construction work for the Olympic Games contributed to the increase in
3 demand for PVC from the mid-1990s to 1999. The end of construction work
4 for the Olympics prior to September 2000 may also have contributed to the
5 decline in the PVC market in 2000.

6 **Technological developments in PVC**

7 Technological developments in PVC over the past few years, such as
8 recycling and new forms of PVC, may also have contributed to the recent
9 decline in the market for 'virgin' PVC.

10 Recycling

11 AV is a major participant in an industry-funded program for the recycling of
12 household PVC bottles. In a media statement in October 2000, Mr Rob
13 Faulkner, General Manager Corporate and Environmental Affairs, said, "the
14 program will divert more than 20 million bottles from landfill and save the
15 need to manufacture the equivalent quantity of virgin PVC resin".

16 A media release by the Vinyl Council of Australia on 31 May 2000 described
17 the recycling activities of one company, Cryogrind, which recycles around
18 3000 tonnes of PVC each year.

19 New forms of PVC

20 Vinidex Pty Ltd (Vinidex), a major pipe manufacturer in Australia, has recently
21 developed a product called 'Supermain OPVC', a different form of PVC.
22 Vinidex believes this product will lead to the use of less virgin PVC resin in the
23 manufacture of PVC pipe.

24
25 Another similar development in the market is PVC-M pipe, manufactured from
26 'modified PVC'. PVC-M pipe is manufactured with a thinner wall than
27 traditional PVC pipe, because of its enhanced strength and ductility. The
28 manufacture of PVC-M pipe therefore requires less virgin PVC than standard
29 PVC pipe.

30
31 However, in the long-term such developments in PVC could potentially lead to
32 increased demand for PVC products as they continue to gain acceptance in a
33 wider range of applications.

34
35 Chemiplas also believed that global demand for PVC would increase in the
36 next few years to 2005. It said that developments in the use of stabilisers
37 other than lead in the manufacture of PVC had helped to address
38 environmental concerns about the use of PVC.

39 **6.3.3 Market supply**

40 There are several factors that can affect AV's ability to supply the market at
41 any given time:

- 1 • AV has limited storage capacity for both VCM and PVC;
- 2 • AV needs to forecast sales three months ahead due to the required lead-
3 time for VCM; and
- 4 • AV's plants in Altona and Laverton are small by world standards.

5 However, AV claimed that the combined capacity of their plants could
6 meet demand in Australia and also provided for some export volume.

7 Several interested parties advised Customs that they maintained a second
8 source of supply through imports, to allow continued production in the event
9 that AV was unable to supply their PVC requirements for any length of time.

10 AV has acknowledged that there are times when demand exceeds supply and
11 that PVC end-users need to maintain a second source of supply through
12 imports of PVC.

13 However, AV believes that it should be able to compete against imports of
14 PVC at non-dumped prices.

15 **6.4 PVC prices in general**

16 PVC is recognised as a commodity product, and is traded globally in high
17 volumes at world market prices. PVC prices are cyclical, and governed largely
18 by supply and demand.

19 There are many drivers that govern the demand for PVC. The major driver is
20 the building and construction sector, as the main use of PVC is in the
21 manufacture of pipe, fittings and cables. The construction industry is
22 seasonal—PVC consumption drops off in the winter months as building
23 activity slows down. It can also be affected by extraordinary factors such as
24 the introduction of the GST in Australia in 2000 (see **section 6.3.2** above).

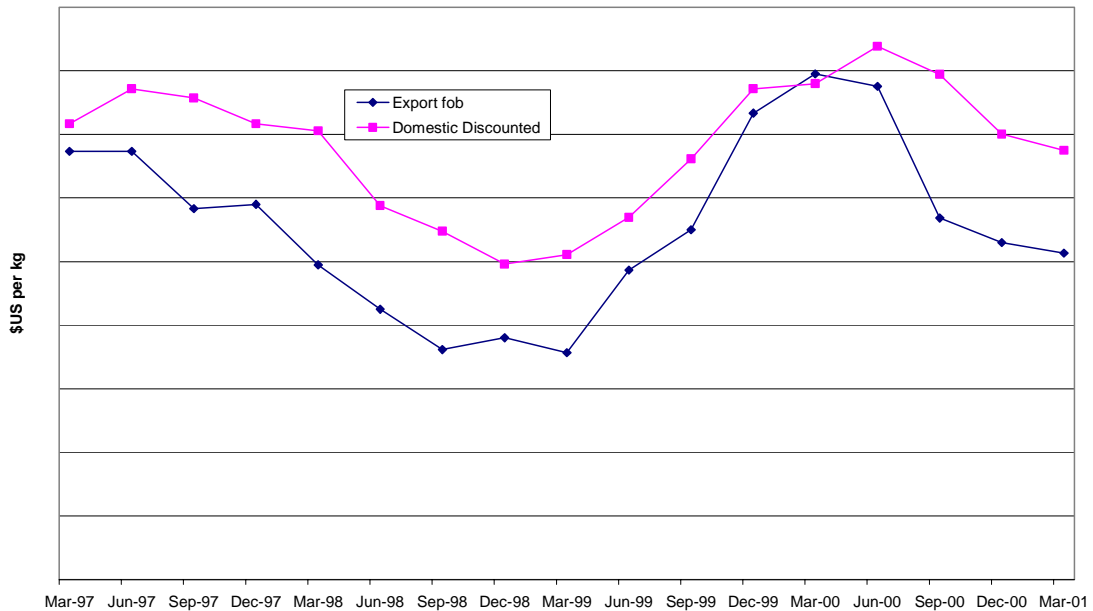
25 There are also many factors affecting the supply, and consequently the price,
26 of PVC. Production of PVC is strongly affected by the cost and availability of
27 raw materials, such as oil.

28 **6.5 USA export and domestic prices**

29 AV provided confidential data from a market research company on USA
30 domestic and export prices for PVC for 1999 and 2000. Customs also had
31 access to information from the same market research company from previous
32 investigations, as well as information from other market research companies.

33 Customs' analysis of this data indicates that the export price of PVC from the
34 USA has generally remained lower than the domestic PVC price in the USA
35 since 1997.

1 **Graph 7: Comparison of USA export and domestic PVC prices**



2 **Note: the y-axis values have been excluded for confidentiality reasons.**

3 During the course of the inquiry, Customs obtained prices of PVC from
 4 market research companies other than those used by AV. Customs found
 5 that the prices quoted for PVC in the USA varied considerably between
 6 research companies. Customs understands that this variation is based on
 7 whether the information on market prices was obtained from producers or
 8 buyers.

9 It appeared that the information submitted by AV was based on quoted
 10 domestic prices in the US retail market—hence it was higher than the
 11 information from other sources. During the later stages of the inquiry,
 12 Customs found that the same company that provided the information to AV
 13 had published a quoted price and a discounted price. The discounted price
 14 was close to prices provided by other sources.

15 The situation in the USA domestic market appears to be similar to that in
 16 Australia. That is, buyers of large quantities are able to obtain substantial
 17 discounts over those that buy small quantities.

18 However, the export prices were still lower than the domestic prices in the
 19 USA. Customs is therefore satisfied that exports of PVC from the USA are
 20 likely to be at dumped prices.

21 In the 1996 continuation inquiry, the ADA found that export prices from the
 22 USA fell below domestic prices during the second half of 1995 and remained
 23 so at the time of writing the report (see ADA Report 160, November 1996).

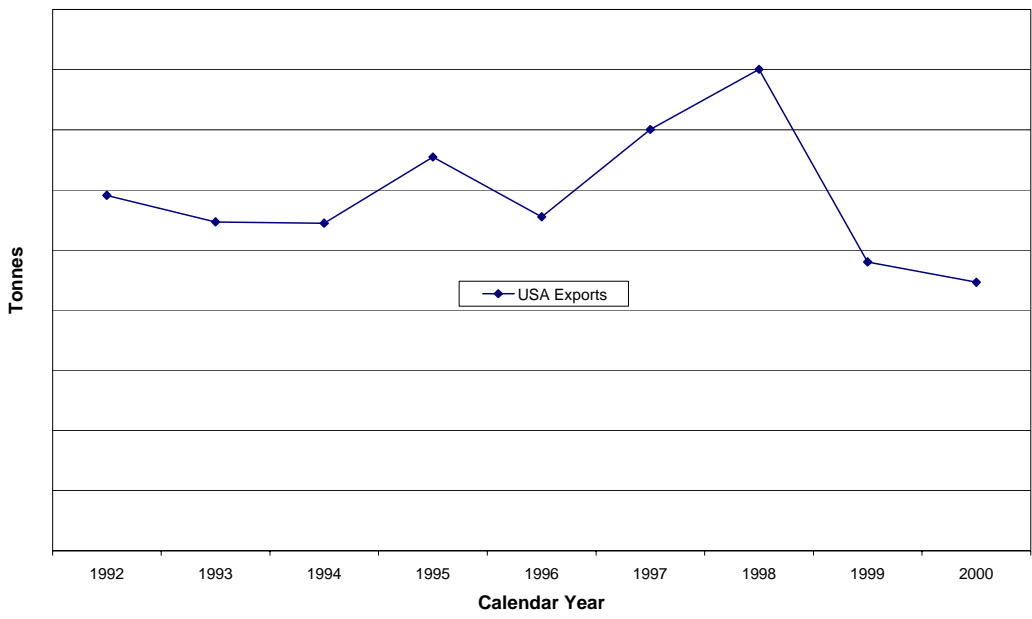
1 Chemiplas, an importer of PVC to Australia and New Zealand, stated in its
2 submission that:

3 There is little doubt that if the NIFOB on US PVC resin into Australia is not
4 renewed, the majority of resin imported from the States will be 'dumped' as
5 defined by the Customs Act 1901.

6 **6.5.1 Export volumes**

7 AV provided information on the volume of exports of PVC from the USA.
8 Customs compared this information to information from other sources and
9 found it to be reasonable. This data shows that exports of PVC from the USA
10 worldwide have declined by about 25 per cent from 1992 to 2000 (Graph 8).
11 However Graph 9 shows that the volume of US exports has increased
12 significantly in the second half of 2000 and first quarter of 2001.

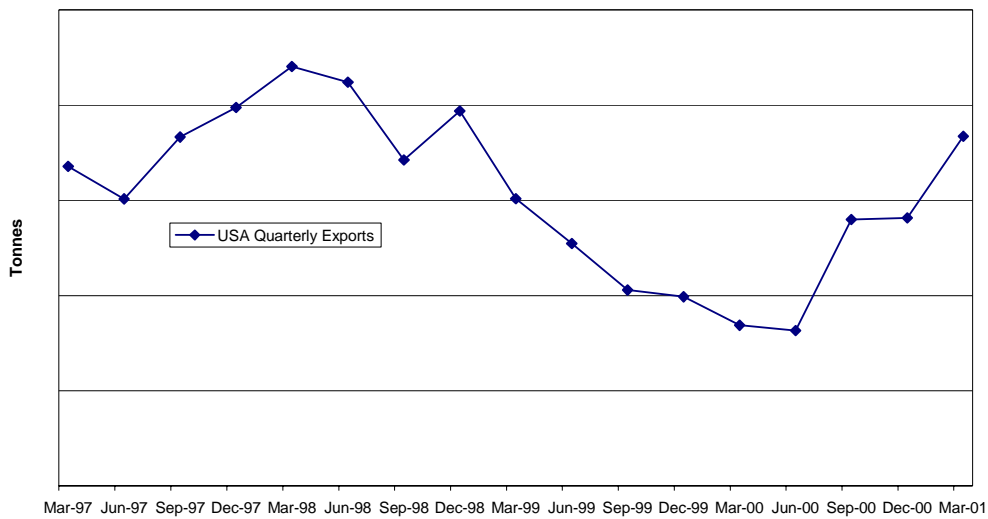
13 **Graph 8: Exports worldwide of PVC from the USA (yearly)**



14 **Note: the y-axis values have been excluded for confidentiality reasons.**

15

1 **Graph 9: Exports worldwide of PVC from the USA (quarterly)**



2 **Note: the y-axis values have been excluded for confidentiality reasons.**

3 This data supports information provided by AV in its application from a US-
4 based commentator on the chemical industry, Chemical Market Associates
5 Inc. (CMAI). CMAI forecast that in 2001, PVC exports would increase by over
6 80 per cent, and expected 'producers to remain active in international markets
7 in order to maintain higher operating rates'.

8 **6.5.2 Exports of PVC to New Zealand**

9 AV claimed that the ability of the USA to compete in the Australian market
10 was demonstrated by its presence in the New Zealand market. It also claimed
11 that US exports of PVC to New Zealand were substantial, and accounted for
12 32 per cent and 39 per cent of the New Zealand PVC market in 1999 and
13 2000 respectively. Chemiplas confirmed that US imports of PVC currently
14 hold around 60 per cent of the New Zealand market.

15 AV stated in its application that:

16 USA has exported a substantial volume of PVC to New Zealand at prices
17 which are significantly lower than domestic prices in the USA. If the USA
18 were to export PVC to Australia at similar prices it would be dumped.

19 AV provided information on imports of PVC from the USA into New Zealand
20 from import statistics published by the New Zealand Government. AV also
21 provided information on the market share and prices of PVC suppliers in New
22 Zealand (see **appendix 2**). AV claimed this data demonstrated that the USA
23 could compete against countries such as Korea, Indonesia, Taiwan and
24 Thailand regardless of the strength of the US dollar.

1 This data shows that the export price of PVC from the USA was significantly
2 lower than USA domestic prices. If exports of PVC to Australia were at these
3 prices, they would be dumped.

4 This is supported by Chemiplas's statement that 'there is little doubt that if the
5 NIFOB on US PVC resin into Australia is not renewed, the majority of resin
6 imported from the States will be "dumped" as defined by the Customs Act
7 1901' (see **section 6.5**).

8 Chemiplas provided confidential information in its submission that was said to
9 explain the reasons for the low prices of US PVC imports into New Zealand.
10 In assessing this information, Customs notes that the situation in New
11 Zealand is similar to that in Australia, in that at least two importers of PVC are
12 well-established participants in both markets (see **section 6.5.5**).

13 It should also be noted that there is no local industry producing PVC in New
14 Zealand, therefore imports of PVC to New Zealand are not subject to anti-
15 dumping action by New Zealand.

16 **6.5.3 Capacity**

17 The USA is the largest producer and exporter of PVC worldwide. Information
18 provided by AV in its application from industry commentator CMAI shows that
19 US capacity has grown steadily from 5.7 million tonnes per annum in 1995 to
20 7.4 million tonnes in 2000 (**appendix 3**). CMAI has forecast a continued
21 increase in capacity of about 3.3 per cent to 2005.

22 The CMAI report indicates that PVC production in the USA is currently
23 operating at around 80 per cent of total capacity, and is expected to increase
24 to around 86 per cent during 2001.

25 Shin-etsu, the world's largest producer of PVC, has recently built a new plant
26 in the USA for the production of PVC, with a capacity of around 600,000
27 tonnes per year. Information provided by Chemiplas shows that Shintech is
28 now the largest producer of PVC in the USA (**appendix 4**). The new Shintech
29 plant has also contributed to the overall increase in capacity for PVC
30 production in the USA.

31 Economic indicators suggest that the growth of the US economy is slowing.
32 This is likely to show up in the lessening of domestic demand in the
33 construction sector. This could in turn be expected to result in reduced
34 domestic demand for PVC products (see **section 6.4** above).

35 The increased capacity for PVC production combined with reduced domestic
36 demand for PVC in the USA could be expected to result in a surplus of PVC,
37 which the USA could then export at international market prices. This is
38 supported by the statement in Chemiplas' submission that:

39 Often raw or primary-processed commodities are in fact dumped due to
40 the nature of commodity economics: these being that product not be [sic]
41 sold domestically, due to demand supply equilibrium, is exported at a price
42 that is able to be reached on the international market. Sometimes this

1 price is below the cash costs of production because continual production at
2 a loss is often more optimal than shutting down the processing plant due to
3 a) the ability to write-off losses against tax, and b) the need to reduce the
4 per-unit fixed costs of all manufactured product.

5 However industry commentator CMAI also stated in its report that the higher
6 operating rate it predicted is the result of improving demand in the domestic
7 market to rebuild depleted inventories and strong export sales from the US in
8 2001. It also stated that:

9 CMAI has added a significant amount of hypothetical capacity in the U.S.
10 in order to support the domestic market and maintain an export position
11 through the forecast period. If these hypothetical additions to capacity do
12 not come to fruition, U.S. producers will be forced to withdraw from
13 international markets and may have difficulty meeting their domestic
14 customers needs.

15 This is consistent with information provided by Chemiplas that Shintech USA
16 has forecast increased production due to an increase in domestic demand in
17 late 2001. Customs notes that this is inconsistent with other information which
18 forecast a decrease in US domestic demand.

19 **6.5.4 Import activity**

20 As noted above, the imports of PVC to Australia from the USA were negligible
21 during 1999 and 2000 (see **section 5.3.2** above). However, Customs notes
22 from ADA Report no. 160 that imports from the USA have previously held a
23 higher percentage of the market (5 per cent in 1994–95).

24 AV claimed that if the current anti-dumping measures were to expire, the USA
25 would come into the Australian market at low prices to re-establish its
26 presence. Traders would have access to significant volumes of PVC from the
27 USA.

28 Several interested parties said they believed that imports of PVC from the
29 USA would occur in substantial quantities if the anti-dumping measures were
30 to expire.

31 However, another interested party believed that the expiration of the
32 measures would not have a significant effect on the Australian market for
33 PVC. The reasons for this were as follows:

- 34 • Any surplus of PVC in the USA is likely to be exported to Asia or Europe
35 rather than to Australia, due to the small size of the Australian market.
- 36 • China is the largest buyer of PVC worldwide. It tends to buy in bulk when
37 PVC prices are low. Korea and Indonesia are other major buyers of PVC.
- 38 • Imports of PVC from the USA incur substantially higher freight and
39 insurance costs than imports from Asia.

- 1 • US producers of PVC would have to be exporting PVC at extremely low
2 prices to be competitive in the Australian market.

3 **6.5.5 Distribution channels for PVC**

4 AV claimed in its application that, because PVC is a globally traded
5 commodity product with no distinguishing features, importers can readily
6 change sources according to price.

7 Several importers in New Zealand are traders and customers who are also
8 active in the Australian market. AV provided a list of customers who operate
9 in Australia and New Zealand (**confidential appendix 1**).

10 AV named Chemiplas as one company operating in Australia and New
11 Zealand. AV claimed that they had lost business in New Zealand to
12 Chemiplas due to dumped imports from Shintech USA. AV also claimed that
13 if the measures were discontinued then Chemiplas would import PVC from
14 Shintech USA into Australia.

15 Chemiplas has the exclusive agency in Australia, New Zealand and
16 Singapore for the marketing and sale of PVC manufactured by Shintech USA
17 and Shin-etsu Japan. Chemiplas currently imports PVC into Australia from
18 Shin-etsu in Japan. However, it has not imported PVC from the USA into
19 Australia since 1998.

20 Chemiplas has offices in New Zealand and Australia, and bases its
21 Australasian purchases in New Zealand. Chemiplas said this was because
22 anti-dumping actions by AV in Australia had made the New Zealand market
23 for Shintech and Shin-etsu PVC bigger than the Australian market.

24 Customs understands that another importer of PVC into Australia and New
25 Zealand currently imports PVC into New Zealand from Oxy Vinyls, the
26 second-largest producer of PVC in the USA (**appendix 4**).

27 This information indicates that there are established distribution channels in
28 Australia for at least two companies that import PVC from the USA into New
29 Zealand.

30 **6.5.6 Anti-dumping action by other countries**

31 A number of other countries currently have measures in place against exports
32 of PVC from the USA. These are set out in Table 2.

33

1 **Table 2: Measures against PVC exported from the USA.**

Country	Date measures imposed	Comments
Argentina	24.4.00	Duration of measures: 3 years
Brazil	22.12.98	
Colombia	5.3.99	
Mexico	14.8.95	Review commenced 22.12.00 to determine the consequences of eliminating the measures.
South Africa	27.3.97	

2 Chemiplas noted in relation to these anti-dumping measures that:

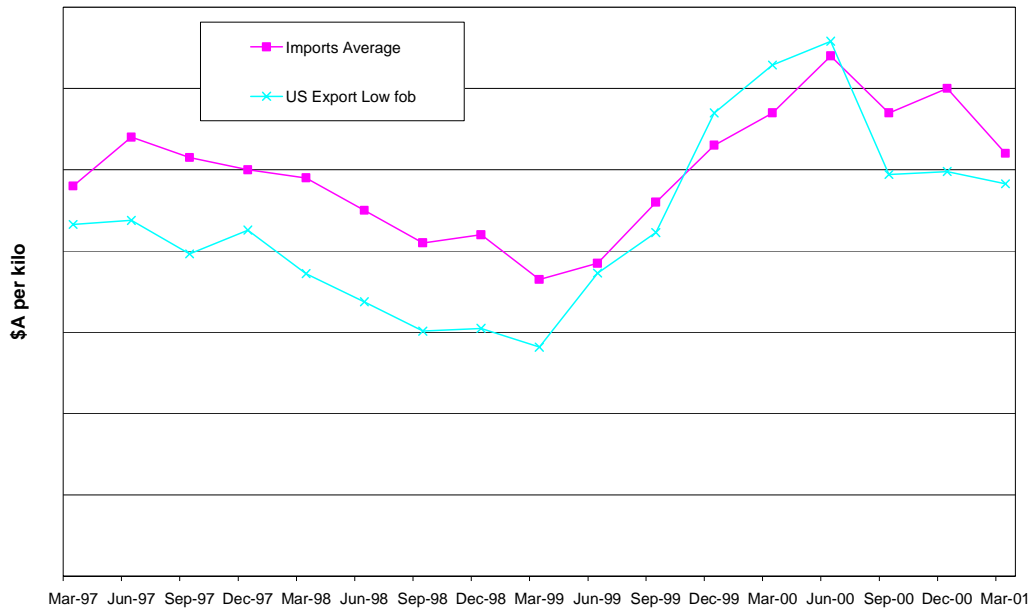
3 The majority of countries that have anti-dumping actions against the US
4 are geographically very close to America hence the ocean freight costs
5 associated with transporting resin from the US are significantly lower than
6 the freight costs of transporting PVC resin from the US to Australia. An
7 educated guess would suggest that these costs differ by around USD60-
8 80/mt.

9 **6.5.7 Presence of low-priced imports of PVC in the Australian market**

10 Customs found that imports of PVC currently hold about 19 per cent of the
11 Australian market for PVC. Therefore exports of PVC from the USA would
12 have to compete with other imports in the Australian market.

13 On the one hand, Customs found that FOB export prices of PVC from the
14 USA to all countries (based on data provided by AV from a market research
15 company) are generally lower than FOB export prices of imports from other
16 sources into the Australian market. This is perhaps due to the anti-dumping
17 measures that apply to some imports from Asia. This suggests that exports of
18 PVC from the USA could be competitive in the Australian market, even
19 allowing for the higher freight costs from the USA.

1 **Graph 10: Comparison of FOB export prices - USA and other imports**



2 **Note: the y-axis values have been excluded for confidentiality reasons.**

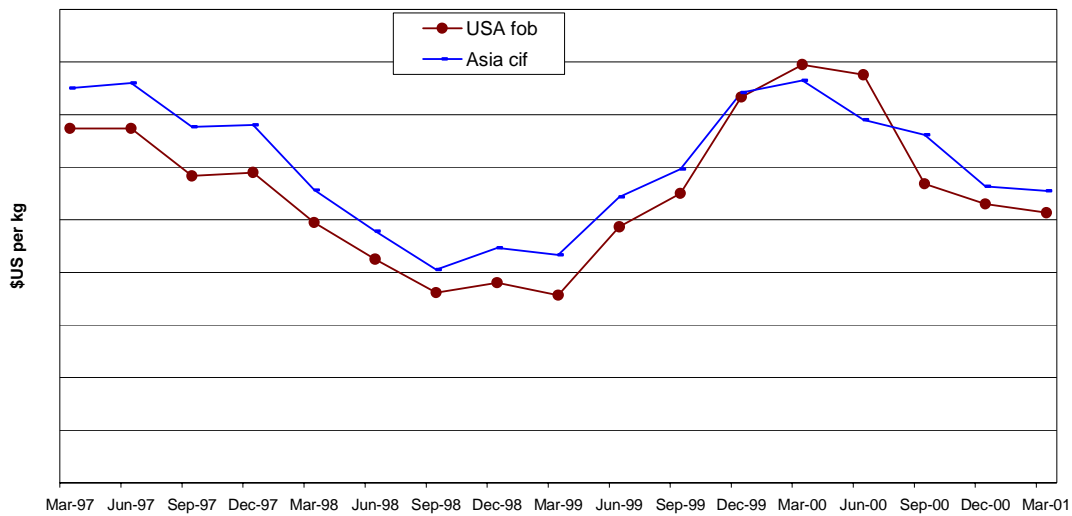
3 On the other hand, import parity comparisons provided by one interested
 4 party (based on US domestic price information from a different market
 5 research company) indicate that the price of PVC imports from the USA
 6 would be similar to imports from Europe, and well above imports of PVC from
 7 Asia. This suggests that imports of PVC from the USA would not be
 8 competitive against imports of PVC from Asia.

9 However, Customs notes that these import parity comparisons do not include
 10 anti-dumping duties, which apply to imports of PVC to Australia from several
 11 Asian countries. If these duties were added, the Asian export prices would be
 12 higher, thus making the US prices more competitive in the Australian market.

13 Customs found that data provided by AV from a market research company
 14 also indicated that US export prices for PVC were generally competitive with
 15 Asian export prices of PVC. In Graph 11, the Asian export prices are at CIF,
 16 whereas US export prices are at FOB. If the average cost of freight from the
 17 US were added, the export prices of PVC from the US would be comparable
 18 with, and at times higher than, export prices of PVC from Asia. This suggests
 19 that imports of PVC from the USA are unlikely to be competitive in the
 20 Australian market.

21

1 **Graph 11: Comparison of export prices worldwide from the USA and Asia**



2 **Note: the y-axis values have been excluded for confidentiality reasons.**

3 However, Customs notes that the US export prices used in Graph 10 and
4 Graph 11 are the low-range quoted FOB prices from data collected by a
5 market research company (provided by AV). Information provided by AV from
6 a different market research company and from US Government export
7 statistics suggests that PVC can be exported at lower prices than the quoted
8 prices shown in Graph 11. This is supported by information provided to
9 Customs by other interested parties.

10 Customs also notes Chemiplas's claim that one US exporter has entered into
11 a contract for the supply of PVC to New Zealand at lower than international
12 market prices (see **section 6.5.2**). As Australia is a similar distance to New
13 Zealand from the USA, and there are at least two importers in New Zealand
14 who are also active in the Australian market, Customs considers it is
15 reasonable to assume that such contracts could also be made with importers
16 in Australia.

17 **6.5.8 Currency movements and PVC pricing**

18 Customs sought information from interested parties on how the strength of
19 the US dollar compared to Asian and Australian currencies might affect the
20 ability of US exporters of PVC to compete in the Australian market.

21 AV said that currency movement was largely immaterial in this context as
22 VCM, the major cost in the manufacture of PVC, was traded in US dollars.
23 This was confirmed by comments from other interested parties.

1 **6.6 Analysis of the economic condition of the industry**

2 **6.6.1 Volume trends**

3 Customs found in **section 5.3.1** that changes in AV's sales volume were
4 consistent with changes in the Australian market for PVC. Customs found that
5 the market grew by about 20 per cent in the period 1995 to 1999, and
6 declined by about 15 per cent in 2000. Customs also found that imports had
7 decreased in 2000, but by a smaller percentage than AV's sales.

8 However, Customs also found that the total market for PVC in Australia had
9 increased from 1995 to 1999 and declined in 2000 by similar proportions to
10 AV's sales. The decline in the PVC market during 2000 largely reflected the
11 drop in demand following the peak created in 1999 by extraordinarily high
12 levels of construction activity prior to the introduction of the GST and the
13 commencement of the Olympic Games.

14 Disregarding this unusual peak in the market during 1999, the Australian
15 market for PVC has increased by about 10 per cent from 1992 to 2000, and
16 AV's sales have increased by about 2 per cent over the same period.

17 The most recent economic data suggests that there has been a revival of
18 construction activity. This could result in an increase in demand for PVC in
19 2001.

20 **6.6.2 Market share**

21 Customs found in **section 5.3.2** that AV's market share declined by about 7
22 per cent in the period 1997 to 2000.

23 The combined nameplate capacity of AV's two PVC plants at Altona and
24 Laverton is 220,000 tonnes. AV's website states that AV currently produces
25 about 185,000 tonnes of PVC annually. There is evidence that at times, AV is
26 unable to supply the Australian market for PVC (see **section 6.3.3**). Shortfalls
27 can result in increased imports, which in turn results in reduced market share.

28 **6.6.3 Price trends**

29 Customs found in **section 5.3.3** that AV's average unit prices increased in the
30 period 1997 to 2000. However, it also found that AV's average unit costs rose
31 faster than its unit prices in the period 1997 to 2000, exceeding unit prices in
32 the last three quarters of 2000. This would indicate that AV is suffering price
33 suppression from some cause or causes.

34

1 Chemiplas claimed in its submission that:

2 AV's costs increased faster than selling prices due to poor purchasing and
3 strategic decisions, and not the ebb and flow of the global PVC industry as
4 a whole.

5 However, Customs has no evidence to support this claim.

6 Customs also notes that information provided by other interested parties
7 indicates that AV's prices to its smaller customers are higher than its average
8 unit prices. Given that most imports of PVC are by AV's small customers,
9 those import prices undercut AV's prices.

10 **6.6.4 Profits and profitability**

11 Customs found in **section 5.3.4** that AV's profits and profitability have
12 declined during calendar years 1999 and 2000, and remain negative despite
13 a recent recovery. This would indicate that AV has suffered loss of profits and
14 profitability from some cause or causes.

15 **6.7 Likelihood of dumping causing material injury**

16 On the one hand, Customs found that the following factors favour the
17 continuation of the measures.

- 18 • The USA is likely to have surplus PVC in the near future:
 - 19 – US capacity for PVC production has increased steadily from 1995
20 to 1999, and this increase is forecast to continue to 2005;
 - 21 – economic indicators suggest that the growth of the US economy is
22 slowing—this is likely to result in decreased domestic demand in the
23 construction sector, which in turn could lead to decreased domestic
24 demand for PVC;
 - 25 – given the cost structure of PVC, producers are reluctant to reduce
26 throughput, even where domestic demand is reduced; and
 - 27 – the increased production capacity in the USA, combined with the
28 predicted decrease in domestic demand, could lead to a surplus of
29 PVC in the USA—this surplus is likely to be exported.
- 30 • Exports of such a surplus of PVC from the USA are likely to be at dumped
31 prices:
 - 32 – export prices of PVC from the USA worldwide have generally been
33 lower than US domestic prices since at least 1997;
 - 34 – international PVC prices are usually lower than domestic prices in
35 the country of export; and

1 – several countries currently have anti-dumping measures in place
2 against exports of PVC from the USA.

3 • Other factors:

4 – exports of PVC to New Zealand from the USA currently hold around
5 60 per cent of the New Zealand PVC market, and the export prices
6 are below US domestic prices;

7 – at least two importers of PVC from the USA into New Zealand are
8 also established importers of PVC in the Australian market from
9 other sources; and

10 – PVC is recognised as a commodity product with few distinguishing
11 features to differentiate product from different sources, and PVC
12 prices are governed largely by supply and demand—price is
13 therefore a determining factor in the purchase of PVC.

14 On the other hand, Customs found that the following factors do not favour the
15 continuation of the measures.

16 • Imports of PVC from the USA to Australia were negligible during 1999 and
17 2000.

18 • Imports from the USA are unlikely to be price competitive against imports
19 from other sources:

20 – US export prices for PVC worldwide are comparable with (and at
21 times higher than) Asian export prices—imports from Asian
22 countries are already present in the Australian market; and

23 – imports of PVC from the USA would incur higher freight costs than
24 imports from Asian countries.

25 • The anti-dumping measures against the USA were first imposed in 1992,
26 and were extended for five years in 1996:

27 – hence if the measures were to be continued for a further five years
28 until 2006, they would have been in place for fifteen years; and

29 – the longer the measures are in place, the more difficult it is for the
30 CEO of Customs to be satisfied that the dumping and injury would
31 be likely to recur, and the closer the measures appear to tariffs.

32 **6.8 Conclusion**

33 Customs is satisfied, on balance, that PVC from the USA would be likely to be
34 exported to Australia at dumped prices, in quantities significant enough to
35 cause material injury to AV, if the measures were not continued.

1

7 LIST OF APPENDICES

2

7.1 Non-confidential appendices

Appendix 1	Previous investigations into PVC
Appendix 2	USA PVC Exports to New Zealand
Appendix 3	CMAI information on US capacity
Appendix 4	Capacity of major US producers of PVC

3

7.2 Confidential appendices

Confidential appendix 1	AV's list of customers operating in Australia and New Zealand
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4

Appendix 1: Previous investigations into PVC

Table 1: PVC investigations by Customs and the ADA (to July 1998)

Report	Preliminary finding by Customs	ADA recommendations
91/11 Aug 91	<ul style="list-style-type: none"> Positive finding against Argentina, Brazil, Israel, Mexico, Taiwan & the United States of America (USA). Negative finding against Hungary, Poland, Korea & Singapore. 	<ul style="list-style-type: none"> Measures imposed against Brazil, Mexico & USA (Report no. 52 of Dec 91). ADA substituted a positive preliminary finding (Report no. 50 of Nov 91). After further inquiry no measures imposed (Report no. 62 of Mar 92)
92/9 May 92	<ul style="list-style-type: none"> Positive finding against Canada, China, France, Japan, Norway, Romania, Saudi Arabia & Thailand. Negative finding against the Netherlands and Sweden. 	<ul style="list-style-type: none"> Measures imposed against Canada, China, France, Japan, Norway, Saudi Arabia & Thailand (Report no. 82 of Sep 92). ADA not asked to review finding.
93/4 Sep 93	<ul style="list-style-type: none"> Review of NIFOBs for Brazil, Mexico & USA. 	
93/14 Aug 93	<ul style="list-style-type: none"> Positive finding against Finland. 	<ul style="list-style-type: none"> No measures (Report no. 115 of Dec 93).
94/1 May 94	<ul style="list-style-type: none"> Review of NIFOBs & normal values for Brazil, Mexico & USA and NIFOBs for Canada, China, France, Japan, Norway, Saudi Arabia & Thailand. 	
94/7 Apr 94	<ul style="list-style-type: none"> Negative finding against Korea. 	<ul style="list-style-type: none"> No measures (Report no. 131 of Jul 94).
95/4 Aug 95	<ul style="list-style-type: none"> Review of normal values & NIFOBs for Brazil, Canada, China, France, Japan, Mexico, Norway, Saudi Arabia, Thailand & USA. 	
96/1 Jan 96	<ul style="list-style-type: none"> Review of normal values & NIFOBs for Brazil, Canada, China, France, Japan, Mexico, Norway, Saudi Arabia, Thailand & USA. 	

Report	Preliminary finding by Customs	ADA recommendations
96/6 Jul 96	<ul style="list-style-type: none"> Positive finding against Belgium & Korea. 	<ul style="list-style-type: none"> No measures (Report no. 158 of Nov 96). Following consent orders by the Federal Court, this matter was reviewed. No measures (Report no. 174 of Jul 97). A legal challenge to this decision by the applicants was dismissed by the Federal Court.*
		<ul style="list-style-type: none"> Measures continued against Brazil, Mexico & USA (Report no. 160 of Nov 96).
		<ul style="list-style-type: none"> Measures continued against Japan. Measures not continued against Canada, China, France, Norway, Saudi Arabia & Thailand (Report no. 176 of Aug 97). The Minister did not accept the ADA's recommendations. Measures continued against Canada, China, France, Japan, & Thailand.
Sep 97	<ul style="list-style-type: none"> Termination of investigation against Indonesia, Iran and the United Arab Emirates. 	<ul style="list-style-type: none"> Termination decision supported (Report no. 180 of Dec 97).
97/4 Oct 97	<ul style="list-style-type: none"> Positive finding against Germany, Hungary, India, Israel & the Netherlands. 	<ul style="list-style-type: none"> No measures (Report no. 182 of Feb 98).
98/6 Apr 98	<ul style="list-style-type: none"> Review of normal values & NIFOBs for Thailand. 	

3 **Note: A 'positive' finding means that measures were recommended. A 'negative'**
4 **finding means that measures were not recommended.**

5 *In Report No. 174, the ADA undertook a reconsideration of its
6 recommendations in Report No. 158, after obtaining Orders by Consent from
7 the Federal Court requiring the ADA to reconsider the matter according to
8 law. The ADA reaffirmed its original recommendations, and no measures
9 were imposed. In March 1997, ICI Vinyls (now Orica Australia Pty Ltd (Orica))
10 and Auseon Limited challenged the ADA's recommendation not to impose
11 measures on PVC exported from Belgium and Korea, and the Minister's
12 acceptance of that recommendation. This application was dismissed by the
13 Federal Court.

1 **Table 2: PVC inquiries by Customs (from July 1998)**

Report	Customs recommendations	Final finding by Minister
10 Oct 99	<ul style="list-style-type: none"> • Positive finding against Hungary and Korea. • Negative finding against Singapore and Indonesia. 	<ul style="list-style-type: none"> • Measures imposed against Hungary and Korea. • No measures imposed against Singapore and Indonesia.
15 Jun 00	<ul style="list-style-type: none"> • Termination of review of normal values and NIFOBs for Japan, Thailand and USA due to limited cooperation from exporters. 	
36 Mar 01	<ul style="list-style-type: none"> • Review of normal values and NIFOBs for Thailand – recommended that normal values and NIFOBs be re-ascertained. 	<ul style="list-style-type: none"> • Dumping duty notice altered to reflect new levels of normal values and non-injurious prices.

2

3 **Note: A 'positive' finding means that measures were recommended. A 'negative'**
 4 **finding means that measures were not recommended.**