



CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT
NO. 317**

**APPLICATION FOR REVIEW OF
ANTI-DUMPING MEASURES IN RELATION TO**

POLYVINYL CHLORIDE HOMOPOLYMER RESIN (PVC)

**EXPORTED FROM
JAPAN, THE REPUBLIC OF KOREA AND THE UNITED
STATES OF AMERICA**

6 NOVEMBER 2015

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ABBREVIATIONS

<i>Abbreviation / short form</i>	<i>Full reference</i>
ABF	Australian Border Force
ACBPS	Australian Customs and Border Protection Service
ACDN	Australian Customs Dumping Notice
ADN	Anti-Dumping Notice
Australian Vinyls	Australian Vinyls Corporation Pty Ltd
Chemiplas	Chemiplas Australia Pty Ltd
CON 317	<i>Consideration Report No. 317</i>
Korea	Republic of Korea
PVC	Polyvinyl Chloride Homopolymer Resin
the Act	<i>Customs Act 1901</i>
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of the review application (also referred to as the goods under consideration or GUC)
USA	United States of America
VCM	Vinyl Chloride Monomer

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

Consideration Report No. 317 (CON 317) provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Chemiplas Australia Pty Ltd (Chemiplas) for a review of the anti-dumping measures applying to polyvinyl chloride homopolymer resin (PVC)¹ exported to Australia from Japan, the Republic of Korea (Korea) and the United States of America (USA).

Chemiplas is seeking a review of the anti-dumping measures on the basis that the measures are no longer warranted in relation to PVC exported to Australia from Japan, Korea and the USA.

Current anti-dumping measures for PVC apply to all exporters of PVC from Japan, Korea and the USA, and as outlined in section 2.1, are not due to expire until 2017.

1.2 Recommendation

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) decide not to reject Chemiplas' application for a review seeking the revocation of the anti-dumping measures (in the form of dumping duty notices) as they apply to all exporters from Japan, Korea and the USA.

If the Commissioner accepts this recommendation, to give effect to that decision, the Commissioner must publish the notice at **Attachment 1** indicating that it is proposed to review the measures covered by the application.

Chemiplas has not applied for a review of the variable factors relevant to the measures. Consequentially, the review will only examine whether the measures are no longer warranted for PVC exported to Australia from Japan, Korea and the USA.

1.3 Application of law to facts

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the review of measures.

The Division empowers the Commissioner to reject or not reject an application for the review of anti-dumping measures.

1.4 Findings and conclusions

The Commission has examined the application and, in accordance with subsection 269ZC(2), is satisfied that:

- the application complies with the requirements of section 269ZB (as set out in section 3 of this report); and
- there appear to be reasonable grounds for asserting that the anti-dumping measures are no longer warranted (as set out in section 4 of this report).

¹ The full description of the goods subject to the dumping duty notices is at section 2.2 of this report.

² All legislative references are to the *Customs Act 1901*, unless otherwise specified.

PUBLIC RECORD

Accordingly, the Commission recommends that the Commissioner does not reject the application and that a review of the anti-dumping measures applying to PVC be initiated.

2 BACKGROUND

On 19 October 2015, Chemiplas, an importer and distributor of PVC, lodged an application requesting a review of the anti-dumping measures claiming that the measures are no longer warranted for PVC exported to Australia from Japan, Korea and the USA.

2.1 Existing measures

Anti-dumping measures currently apply to all exporters of PVC from Japan, Korea and the USA. The history of these measures is detailed below.

2.1.1 Korea

Measures for Korea were initially imposed in 2000³ and were continued for a further five years in 2005.⁴ These measures expired in March 2010.⁵

A subsequent application from Australian Vinyls Corporation Ltd (Australian Vinyls) resulted in the initiation of a new investigation in relation to Korea on 23 April 2012. New measures were subsequently imposed in relation to Korea on 19 October 2012.⁶

The current measures relating to Korea are due to expire on 18 October 2017.

2.1.2 Japan

Measures for Japan were initially imposed on 22 October 1992 and were continued for a further 5 years in 1997, 2002, 2007 and 2012.⁷ The measures were last revised on 19 October 2012⁸ as a result of a review.

The current measures relating to Japan are due to expire on 21 October 2017.

2.1.3 USA

Measures for the USA were initially imposed on 23 January 1992 and were continued for a further 5 years in 1997, 2002, 2007 and 2012.⁹ The measures were last revised on 19 October 2012¹⁰ as a result of a review.

The current measures relating to the USA are due to expire on 22 January 2017.

2.2 The goods subject to the measures

The goods subject to anti-dumping measures (the goods) are:

‘Polyvinyl chloride homopolymer resin’ (PVC). PVC is a white powder produced by the polymerisation of vinyl chloride monomer (“VCM”). PVC can be manufactured through a suspension process or a mass process, and the final goods are considered to be similar and interchangeable.

³ See Australian Customs and Border Protection (ACBPS) *Trade Measures Report No 10*

⁴ See ACBPS *Trade Measures Report No 91*

⁵ See Australian Customs Dumping Notice (ACDN) No. 2010/08

⁶ See ACDN No. 2012/50

⁷ See ACBPS *Trade Measures Report 184*

⁸ See ACDN No. 2012/51

⁹ See ACBPS *Trade Measures Report No 174*

¹⁰ See ACDN No. 2012/51

Paste (or emulsion), compound grades and recycled PVC are excluded from the measures.

2.3 Tariff classification of the goods

The goods under consideration are classified to tariff subheading 3904.10.00 (statistical code 18) of Schedule 3 to the *Customs Tariff Act 1995*.

The goods are subject to a 5 per cent rate of Customs duty.

2.4 Australian industry producing like goods

The 2012 dumping investigation in relation to goods exported from Korea and the 2012 continuation inquiries in relation to goods exported from Japan and the USA found there to be an Australian industry producing like goods and that Australian Vinyls was the sole manufacturer of PVC in Australia.

Information will be sought from Australian Vinyls during this review. The Commission will also seek information on whether there are any other Australian industry members producing PVC.

3 COMPLIANCE WITH SECTION 269ZA AND 269ZB

3.1 Finding

Based on the information provided in the application, the Commission is satisfied that the application complies with sections 269ZA and 269ZB.

3.2 Legislative framework

Pursuant to subsection 269ZA(1), where anti-dumping measures have been taken in respect of goods, an 'affected party'¹¹ may by application lodged with the Commissioner request that the Commissioner initiate a review of measures.

The application can be made by an affected party who considers that it may be appropriate to review those measures as they affect a particular exporter of those goods, or as they affect exporters of those goods generally. The applicant may apply for a review because:

- one or more variable factors have changed; or
- anti-dumping measures are no longer warranted.

Paragraph 269ZA(2)(a) states, inter alia, that if measures involve the publication of a dumping duty notice, an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of the notice or the publication of a notice declaring the outcome of the last review of the notice.

Subsection 269ZB(1) requires that the application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires and be signed in the manner indicated by the form.

Subsection 269ZB(2) requires an applicant to provide in the application:

- a description of the kind of goods to which the measures the subject of the application relate; and
- a description of the measures the subject of the application; and
- if the application is based on circumstances that, in the applicant's view, indicate that the anti-dumping measures are no longer warranted the applicant must provide evidence, in accordance with the approved form, of the circumstances.

3.3 Particulars of the application

Chemiplas submitted an application for the initiation of a review of anti-dumping measures in respect of PVC exported from Japan, Korea and the USA pursuant to sections 269ZA and 269ZB.

Chemiplas specified in its application that it is an importer and distributor of PVC.

Chemiplas claims that the measures are no longer warranted as the sole Australian manufacturer of PVC, Australian Vinyls, has announced that it will be ceasing PVC production at its Laverton facilities in early 2016. With the closure

¹¹ Refer to section 3.4

of Australian Vinyls' Laverton plant, Chemiplas submitted that there would no longer be an Australian industry producing like goods.

In support of its application, Chemiplas provided:

- a completed application form;
- a printout of a webpage from Australian Vinyls' website dated 'September 2015' (**Attachment 2**);
- a copy of an e-mail from Australian Vinyls to its customers dated 30 September 2015 (**Attachment 4**);
- supporting letters from two end users of PVC (**Confidential Attachment 5**); and
- a printout of the Commission's dumping commodity register relating to PVC (**Attachment 6**).

3.4 Commission's assessment

Subsection 269T(1) states that an affected party includes a person who is directly concerned with the importation into Australia of the goods to which the measures relate or who has been directly concerned with the importation into Australia of like goods.

In its application, Chemiplas stated that it was an importer and distributor of the goods. Chemiplas was established to be an importer of PVC by the then ACBPS during the 2012 inquiry into the continuation of the measures from Japan.¹²

The Commission has also confirmed, using the Australian Border Force's (ABF) import database, that Chemiplas imported the goods following completion of the 2012 dumping investigation in relation to goods exported from Korea, and the 2012 continuation inquiries in relation to goods exported from Japan and the USA.

On this basis, the Commission is satisfied that Chemiplas meets the definition of an 'affected party' specified in subsection 269T(1).

The Commission is also satisfied that the application lodged by Chemiplas:

- was in writing;
- provides a description of the goods subject to the measures;
- provides a description of the measures the subject of the application;
- provides evidence of the particular circumstances which the applicant believes indicate that the measures are no longer warranted (as outlined in section 4 below); and
- was lodged more than 12 months after the publication of the dumping duty notice or the publication of a notice declaring the outcome of the last review of the notice.¹³

On the basis of the above, the Commission is satisfied that the application satisfies the requirements of sections 269ZA and 269ZB.

¹² See page 24 on record number 6 on the Public Record relating to Case 184

¹³ Paragraph 269ZA(2)(a)

4 CONSIDERATION OF REASONABLE GROUNDS

4.1 Finding

Having regard to the matters contained in the application and other relevant information, the Commission is satisfied that there are reasonable grounds for Chemiplas to assert that anti-dumping measures are no longer warranted for PVC exported to Australia from Japan, Korea and the USA.

4.2 Application for a revocation review

Chemiplas claims that the measures in respect of the goods subject to this application are no longer warranted on the basis that Australian Vinyls will be ceasing the manufacture of PVC in Australia and, therefore, there will no longer be an Australian industry producing like goods.

4.3 Applicant's claims

Chemiplas claims in its application that Australian Vinyls is the sole Australian manufacturer of PVC and that it will be ceasing production of PVC in early 2016.

In support of its claims, Chemiplas provided:

- a copy of a webpage from Australian Vinyls' website dated 'September 2015' which, in part, states that *".....Australian Vinyls (AV) will cease manufacturing polyvinyl chloride (PVC) resin at its plant in Laverton, Victoria"* and that it *"....would expect continuous production to cease in early 2016."*;
- a copy of an e-mail dated 30 September 2015 from the General Manager of Australian Vinyls to its customers advising of the decision to close its PVC plant in Laverton; and
- copies of two letters from two end users of PVC in support of Chemiplas' application.

Chemiplas, together with the two supporting end users, submitted that the anti-dumping measures should be removed at the earliest opportunity to ensure continuity of supply pending the closure of Australia's PVC manufacturing facilities. Chemiplas submitted that the measures should be revoked at the latest by 1 January 2016. The two supporting letters specified that the anti-dumping measures should be removed between 8 and 10 weeks before Australian Vinyls ceases production of PVC.

4.4 Commission's assessment

In previous investigations and inquiries it was found that Australian Vinyls was the sole manufacturer of PVC in Australia and that its only PVC manufacturing plant was located in Laverton, Victoria. These findings are consistent with Chemiplas' claims that Australian Vinyls is the sole manufacturer of PVC in Australia.

The Commission has reviewed the website¹⁴ for Australian Vinyls which confirms the company's intention to cease production of PVC. The webpage

¹⁴ <http://www.av.com.au/>

specifies that production of PVC would cease at Laverton following the conversion of the final VCM shipment, which is expected to arrive late in 2015. The webpage further states that continuous production would cease in early 2016 (**Attachment 2** refers).

It is also noted that an article published in *The Australian* newspaper on 27 October 2015 reported the announced closure of 'Australia's last remaining PVC resin plant' (**Attachment 3** refers).

4.5 Date of revocation

Both the application and the supporting letters are seeking the revocation of the anti-dumping measures on either 1 January 2016 or 8 to 10 weeks before the cessation of PVC production by Australian Vinyls.

If a revocation review is initiated by the Commissioner, the effective date of any possible revocation will be canvassed with interested parties and these submissions will be taken into consideration.

Given the applicant's claims that the Australian industry will soon cease manufacturing the goods domestically, a revocation at the earliest opportunity will be considered, having regard to the relevant statutory requirements of the Act.

4.6 Commission's conclusion on "reasonable grounds"

The Commission is satisfied, on the basis of the application, the supporting evidence provided by Chemiplas and other available information, that there appear to be reasonable grounds to assert that the anti-dumping measures are no longer warranted in relation to PVC exported to Australia from Japan, Korea and the USA.

Accordingly, it is recommended that the Commissioner not reject the application for a review of anti-dumping measures. It is also recommended that the Commissioner publish a notice under paragraph 269ZC(4)(a) indicating that it is proposed to review whether the anti-dumping measures applying to PVC are no longer warranted.

5 ATTACHMENTS

Attachment 1	Notice of Review
Attachment 2	Website Page from Australian Vinyls
Attachment 3	Newspaper article from <i>The Australian</i> newspaper dated 27 October 2015
Attachment 4	E-mail from Australian Vinyls to its customers dated 30 September 2015
Confidential Attachment 5	Supporting letters from two end users of PVC
Attachment 6	Dumping and Commodity Pages