



*CUSTOMS TARIFF 1901 - PART XV B*

**STATEMENT OF ESSENTIAL FACTS NO.210**

**REVOCATION REVIEW OF  
GREYBACK CAR TONBOARD  
EXPORTED FROM  
THE REPUBLIC OF KOREA**

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## **1. SUMMARY AND RECOMMENDATIONS**

This revocation review is in response to an application by Hansol Paper Co Ltd (Hansol) for the revocation of the anti-dumping measures that apply to greyback cartonboard exported to Australia from the Republic of Korea (Korea).

The anti-dumping measures comprise a dumping duty notice applying to all exporters except Daehan Pulp Co. Ltd (Daehan) and a price undertaking applying to exports by Daehan.

Hansol did not apply for a review of the variable factors relevant to the measures. As such this review has only examined whether the measures should be revoked.

This Statement of Essential Facts (SEF) sets out the facts on which the Anti-Dumping Commission (the Commission) proposes to base its recommendation to the Minister for Home Affairs (Minister) in relation to the revocation review of whether the anti-dumping measures applicable to greyback cartonboard exported to Australia from Korea are no longer warranted.

### **1.1 Preliminary findings**

Based on all available information, the Commission's preliminary finding is that the anti-dumping measures relating to greyback cartonboard exported to Australia from Korea should be revoked as the sole Australian industry member, Amcor Packaging (Australia) Pty Ltd (Amcor) will cease production of like goods in October 2013.

Based on this preliminary finding and subject to any submissions received in response to this SEF, the Commission proposes to recommend to the Minister that:

1. the dumping duty notice be revoked in relation to all exporters generally; and
2. Daehan be released from the undertaking and the investigation of the need for a dumping duty notice covering Daehan be terminated.

The Commission also proposes to recommend to the Minister that the anti-dumping measure comprising a dumping duty notice be revoked with effect from **8 June 2013**, and that the anti-dumping measures comprising an undertaking be revoked with effect from the date of the Minister's declaration for this review.

The proposed specified date of revocation is effectively the date the goods were entered for home consumption. Interim dumping duties would not apply to the goods entered for home consumption after this date.

## 1.2 Application of law to facts

Division 5 of Part XVB of the *Customs Act 1901* (“the Act”)<sup>1</sup> sets out, among other things, the procedures to be followed by the Commissioner in conducting a revocation review of measures.

## 1.3 Application

On 7 May 2013, Hansol, an exporter of greyback cartonboard from Korea, lodged an application requesting a revocation review of the anti-dumping measures applying to greyback cartonboard exported to Australia from Korea in relation to exporters generally.

## 1.4 Initiation of this revocation review

After examining the application and other relevant information the delegate was satisfied that:

- the application complied with the requirements of s.269ZB; and
- there appeared to be reasonable grounds for asserting that the anti-dumping measures are no longer warranted.

A revocation review was initiated on 16 May 2013 with public notification in *The Australian* newspaper and Australian Customs Dumping Notice (ACDN) 2013/39 published.

## 1.5 Final report

The final report and recommendation in relation to whether the anti-dumping measures applicable to greyback cartonboard exported to Australia from Korea are no longer warranted must be provided to the Minister by **18 October 2013**.

The Act requires that interested parties be given 20 days to lodge submission in response to the SEF<sup>2</sup>. Interested parties should ensure that submissions to this SEF are received by **23 September 2013**.

The Commission is not obliged to have regard to any submissions received after **23 September 2013** if to do so would prevent the timely preparation of the report to the Minister.

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<sup>1</sup> A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

<sup>2</sup> S.269ZC(7)(f)

## **2. INTRODUCTION**

### **2.1 Revocation review process**

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to apply for a review of those measures as they affect a particular exporter or exporters generally.

Accordingly the affected party may apply for revocation of the measures if there are reasonable grounds to assert that the anti-dumping measures are no longer warranted.

If an application for a review of anti-dumping measures is received, and not rejected, the Commission has up to 155 days, or such longer time as the Minister may allow, to inquire and report to the Minister on the review of the measures.

Within 110 days of the initiation, or such longer time as the Minister may allow, the Commission must place on the public record a SEF on which it proposes to base its recommendation to the Minister concerning the review of the measures.

In making recommendations in its final report to the Minister, the Commission must have regard to:

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the SEF;
- this SEF; and
- any submission made in response to this SEF that is received by the Commission within 20 days of being placed on the public record.

The Commission may also have regard to any other matter that it considers to be relevant to the review.

The delegate:

- must not make a revocation recommendation in relation to the measures unless a revocation review notice has been published in relation to the review; and
- otherwise must make a revocation recommendation in relation to the measures, unless the Commissioner is satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent<sup>3</sup>.

Following the Minister's decision, a notice will be published advising interested parties of the decision.

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<sup>3</sup> S.269ZDA(1A)

## **2.2 Responding to the statement of essential facts**

Interested parties may wish to make submissions in response to this SEF. However the Commission is not obliged to have regard to any submissions received after **23 September 2013** if to do so would prevent the timely preparation of the report to the Minister.

Submissions should be sent to:

The Director  
Operations 1  
Anti-Dumping Commission  
5 Constitution Avenue  
CANBERRA ACT 2601  
AUSTRALIA

Submissions can also be faxed to (02) 6275 6990 or emailed to [Operations1@adcommission.gov.au](mailto:Operations1@adcommission.gov.au).

Submissions provided in confidence must be clearly marked “**FOR OFFICIAL USE ONLY**”. Interested parties intending to respond to the SEF must include a non-confidential version of their submission for placement on the public record.<sup>4</sup>

The public record contains non-confidential submissions already received from interested parties and other publicly available documents such as the Commission’s consideration report and notices. This SEF should be read in conjunction with those documents.

All documents on the public record are available on the Commission’s electronic public record for the review, which may be accessed online at <http://www.adcommission.gov.au/cases/EPR210.asp>.

The public record may also be viewed at Customs House Canberra by contacting the Commission administration on (02) 6275 6547.

## **2.4 History of anti-dumping measures**

On 15 December 2004, an investigation in respect of greyback cartonboard exported from Korea was initiated following an application from Amcor. The relevant Minister accepted the conclusions and recommendations in Trade Measures Report No. 92 (REP 92) that exports of the goods from Korea were at dumped prices, the Australian industry producing like goods had suffered material injury as a result of those dumped goods and material injury would continue to be caused to the Australian industry if the goods from Korea continued to be exported to Australia at dumped prices.

A dumping duty notice was published on 27 July 2005 for exports of the goods by all exporters except for Daehan. The Minister agreed to accept a price undertaking by Daehan. On 9 June 2010, the Minister for Home Affairs accepted the recommendations in REP 154 to continue anti-dumping measures for a further five years and accepted the recommendations in REP 155 to change the variable factors relevant to the measures. Anti-dumping measures applying to greyback cartonboard from Korea are currently due to expire on 27 July 2015 unless revoked earlier.

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<sup>4</sup> In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

### **3. GOODS SUBJECT TO THE REVOCATION REVIEW**

#### **3.1 Preliminary findings**

There is an Australian industry producing like goods<sup>5</sup> with Amcor being the sole manufacturer of greyback cartonboard in Australia.

#### **3.2 The goods and like goods**

The goods the subject to the anti-dumping measures (the goods) are coated greyback cartonboard, grey on one side and coated white on the other side. Greyback cartonboard are cellulose fibre based paperboards containing recycled fibre. Thicknesses range from 320 to 720 microns, which corresponds to a weight range of 250 to 550 grams per square metre.

##### **3.2.1 Tariff classification of the goods**

The goods are classified to tariff subheading 4810.13.90 statistical code 56, 4810.19.90 statistical code 57, 4810.29.90 statistical codes 64 and 80 and 4810.99.00 statistical code 85 in Schedule 3 of the *Customs Tariff Act 1995 (Cth)*. The applicable rate of Customs duty for greyback cartonboard imported from Korea is five per cent.

##### **3.2.2 Like goods and the Australian industry**

The 2010 continuation inquiry and review found that there was an Australian industry producing like goods with Amcor being the sole manufacturer of greyback carton board in Australia.

No information has come to the Commission's attention suggesting that there is any other Australian industry member aside from Amcor that produces greyback cartonboard.

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<sup>5</sup> For the purposes of s.269T.

## **4. REVOCATION OF THE ANTI-DUMPING MEASURES**

### **4.1 Preliminary findings**

The Commission has made the preliminary findings that:

- the anti-dumping measures applying to greyback cartonboard exported from Korea should be revoked;
- the dumping duty notice be revoked with effect from 8 June 2013; and
- the undertaking be revoked with effect from the date of the Minister's declaration for this review.

### **4.2 Applicant's claims**

Hansol claims that there are reasonable grounds for asserting that the measures in respect of the subject goods are no longer warranted on the basis that the Australian industry producing like goods will cease production by the end of 2013.

Hansol provided a copy of a letter from Amcor notifying customers of the intended closure of its cartonboard mill as evidence of its claims.

Hansol states that the closure of Amcor's cartonboard production plant will mean that there is no longer an Australian industry producing like goods to the greyback cartonboard from Korea to which current anti-dumping measures apply and therefore these anti-dumping measures should be revoked.

### **4.3 Submissions from other parties**

The Commission received submissions from:

- Hanna Group (Hannapak), an importer and end-user;
- Central National Australia Pty Ltd (Central National), an importer;
- Visy Glama Pty Ltd (Visy Glama), an end-user;
- BJ Ball Group (BJ Ball), an importer;
- Shinpoong Paper MFG Co Ltd. (Shinpoong Paper), an exporter;
- Ekman Pty Ltd (Ekman), an importer;
- ANZPAC Services (Australia) Pty Ltd (ANZPAC), an end-user;
- Hansol, the applicant; and
- Amcor, the Australian industry.

Copies of the submissions were placed on the public record.

#### Hannapak

Hannapak advised that it is one of Australia's largest producers of folding cardboard and that Amcor is its main supplier of raw material.

Hannapak submitted that whilst Amcor will not cease manufacturing until September 2013 it is necessary for Hannapak to commence purchasing



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material and preparing a stock build for the transition from Amcor product to imported material.

Hannapak provided copies of two letters from Amcor in support of its submission. A letter dated 18 February 2013 advising of the phased shutdown during the second half of 2013; and a letter dated 10 May 2013 advising that last orders are to be received no later than 7 June 2013.

The letter of 10 May 2013 from Amcor includes the following:

- “We” (Amcor) require from you confirmation of your final orders to cover supply through until your anticipated cut-over to import supply;
- “We” are seeking from you an irrevocable commitment in the form of formal purchases orders;
- Once final purchase orders have been received (June 7) and accepted, no changes to volume, grade, thickness, type or size will be permitted; and
- No additional volumes can or will be manufactured after final orders are produced.

### Central National

Central National advised it is an importer of various paper qualities from throughout the world and it would like to commence importing greyback cartonboard from Korea.

Central National submitted that when the Amcor mill closed in September 2013 there would no longer be an Australian industry and no reason for anti-dumping duties. Central Australia provided copies of Amcor news releases and media statements on the closure of the Amcor mill in support of its submission.

### Visy Glama

Visy Glama advised that it currently purchases greyback cartonboard as a major raw material in the production in Australia of packaging for numerous industries.

Visy Glama submitted that the anti-dumping measures should be revoked either effective from 7 June 2013 or 16 May 2013.

Visy Glama submitted that it cannot be argued that Amcor is continuing to suffer material injury after 7 June 2013 given that no further sales of greyback cartonboard are to be made beyond that date.

Visy Glama further submitted that measures be revoked effective from the date of initiation of the review, 16 May 2013, given that Amcor made the decision to close its operations in February 2013 and there can be no further injury sustained by Amcor.

Visy Glama noted that in the revocation of measures applying to washing machines, REP 141, the Minister revoked the measures effective from the date the revocation review commenced. Visy Glama also noted that the revocation review for washing machines was completed in approximately two months and

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given the narrow scope of issues in this review there is no impediment to the time frames being truncated for this review.

Visy Glama provided copies of correspondence from Amcor regarding the closure of its mill and procedures for final orders.

### BJ Ball

BJ Ball advised that it is an importer of greyback cartonboard with Hansol being its largest single supplier. BJ Ball asked for the anti-dumping duties to be reviewed and removed as soon as possible as:

- the market would require a restocking program before Amcor ceased production;
- there is an extensive trial and qualification program for any new product; and
- the measures places Hansol and BJ Ball at a financial disadvantage by having the anti-dumping duties in place when such duties do not apply to other potential suppliers from other countries.

### Shinpoong Paper

Shinpoong Paper advised that it exported cartonboard paper to overseas markets except Australia due to the anti-dumping duty. Shinpoong Paper submitted that as the sole manufacturer in Australia, Amcor, was closing its business the measures should be revoked.

### Ekman

Ekman is an importer and trader that represents KleanNara (formerly Daehan) in Australia on an exclusive basis. Ekman advised that KleanNara has continuously supplied the Australian market for 13 years and has been subject to price undertakings since the 2005 investigation which it has never breached.

Ekman submitted that the Australian market has many options to source greyback cartonboard from without the need to revoke the anti-dumping measures.

Ekman advised that KleanNara is under pricing pressure and has entered into 12 month fixed price arrangements with its customers.

Ekman also submitted that the review should follow the timelines as advised in the initiation. Ekman further submitted that should the anti-dumping measures be revoked the effective date should be no sooner than 1 January 2014 when Amcor greyback cartonboard will cease to be used.

### ANZPAC

ANZPAC advised that it is in a contractual agreement with Ekman and KleanNara where the agreed price was established in an environment that included the anti-dumping measures.

ANZPAC submitted that if the measures were revoked it would be exposed to the potential of material injury from the sudden importation of cheaper greyback cartonboard material.

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ANZPAC asked that if the measures were to be revoked that the effective date be delayed until 30 March 2014 when the contractual pricing arrangement with Ekman and KleanNara ceased.

### Hansol

Hansol noted in its submission that Amcor had confirmed it was the sole Australian manufacturer of greyback carton board and that it was closing its mill.

Hansol submitted that as Amcor had confirmed it would cease manufacturing and imports made in the lead up to this cessation would be non-injurious there should be an immediate revocation of the anti-dumping measures.

### Amcor

Amcor advised that it is the sole Australian manufacturer of greyback cartonboard at its Petrie, Queensland manufacturing facility. Amcor advised that its mill is scheduled to cease manufacture of greyback cartonboard in October 2013.

Amcor submitted it is aware of lead times that customers require to secure volumes of imported greyback cartonboard prior to the closure of its mill. Amcor further submitted that imports made in the lead up to the closure of its mill are likely to be non-injurious.

Amcor submitted that the revocation of the anti-dumping measures on greyback cartonboard exported from Korea should take effect from 1 July 2013 even though it would continue production until October 2013.

Amcor further submitted that the revocation of the anti-dumping measures before 1 July 2013 could result in the cancellation of orders that would impact the scheduled production in the lead up to October.

## **4.4 Commission's assessment**

### Revocation

As noted at section 2.1 of this SEF the Commission must make a revocation recommendation in relation to the measures, unless satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

It is not in dispute that the sole Australian manufacturer of greyback cartonboard, Amcor, will cease production in the second half of 2013.

The Commission notes the submissions from ANZPAC and Ekman asking that the measures not be revoked due to potential injury to ANZPAC and there being alternative sources of supply. However, the relevant consideration is material injury to the Australian industry producing like goods.

As there will not be an industry producing like goods, there are no grounds to be satisfied that that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

The Commission's preliminary finding is that the anti-dumping measures applying to greyback carton board exported from Korea should be revoked.

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### Date of revocation

The Act provides for the Minister to specify a date in his declaration that the dumping duty notice is effectively revoked from, and from which the undertaking no longer applies<sup>6</sup>. The date specified cannot be earlier than the date of initiation of the review<sup>7</sup> for a dumping duty notice and cannot be earlier than the date of the declaration for an undertaking.

Importers and end-users have submitted various dates for revocation ranging from the initiation of the revocation review on 16 May 2013 to 30 March 2014 when the contractual pricing arrangements with an exporter would cease.

ANZPAC and Ekman asked that the effective date of the revocation be either 1 January or 30 March 2014 due to contractual arrangements in place. However, as noted above the relevant consideration is material injury to the Australian industry producing like goods.

Amcor submitted that anti-dumping duties should be revoked from 1 July 2013 as it was aware that customers required sufficient lead time to secure imported volumes when its mill ceased production in October 2013.

The Commission does not consider that the date of revocation should be effective from the date of initiation of this review as Amcor was still producing and selling like goods in competition with the goods exported from Korea.

The Commission notes the date of 7 June 2013 for final orders from Amcor and considers that from 8 June 2013 Amcor was not taking any more orders from its customers and was not competing with the goods from Korea in selling its like goods in the Australian market.

The Commission's preliminary finding is that there could be no further injury caused once Amcor had stopped taking orders from its customers. The Commission notes Amcor's submission that orders could be cancelled, however the available information shows that those orders were subject to an irrevocable commitment.

It is also likely that orders taken by Amcor on or before 7 June 2013 will be fulfilled by 18 October 2013, the date on which the Commission is due to provide the Minister with its final report and recommendations. This further mitigates the possibility of customers cancelling orders.

The Commission therefore considers 8 June 2013, that is one day after Amcor took final orders from its customers, is reasonable as an effective date for the revocation of the measures.

The Commission's preliminary finding is that the anti-dumping measures applying to greyback carton board exported from Korea:

- comprising a dumping duty notice should be revoked from 8 June 2013; and
- comprising a undertaking should be revoked effective from the date of the Minister's declaration for this review.

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<sup>6</sup>S.269ZDB(1)

<sup>7</sup> S.269ZDB(6)

## **5. EFFECT OF THE REVOCATION REVIEW**

The Commission has made the preliminary finding that the anti-dumping measures applying to greyback cartonboard from Korea should be revoked.

The effect of the preliminary findings would be that the anti-dumping measures on greyback cartonboard would not apply from:

- 8 June 2013, for exporters subject to the dumping duty notice; and
- the date of the Minister's declaration for this review for the undertaking.

The specified date of revocation is effectively the date the goods were entered for home consumption. Interim dumping duties do not apply to the goods entered for home consumption after this date.