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31 August 2012

Mr John Bracic  
Director, Operations 1  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601

Dear Mr Bracic

## Public File

**Investigation into the dumping of PVC Resin exported from Korea (Investigation No. 187) –  
Submission in response to Statement of Essential Facts No. 187**

Please find attached a submission on behalf of Australian Vinyls Corporation Pty Ltd in respect of  
Statement of Essential Facts No. 187.

If you have any questions concerning the attached, please do not hesitate to contact me.

Yours sincerely



John O'Connor  
Director

Cc: Mr Peter Flinn  
Manager – Sales & Marketing  
Australian Vinyls Corporation Limited

## Executive Summary

Australian Vinyls Corporation Pty Ltd ("AVC") welcomes Customs and Border Protection's preliminary findings and conclusions contained in Statement of Essential Facts ("SEF") No. 187 concerning exports of polyvinyl chloride homopolymer resin ("PVC") exported from the Republic of Korea ("Korea").

Specifically, AVC supports Customs and Border Protection's findings that:

- exports of PVC from Korea were at dumped prices; and
- that the dumped exports of PVC from Korea have caused material injury to the Australian industry.

In March 2012, AVC made an application for anti-dumping measures on PVC exported from Korea. AVC's application followed a significant upsurge in Korean PVC exports to Australia during 2011 (particularly in the second half of 2011). On 23 April 2012 Customs and Border Protection commenced an investigation into AVC's claims that PVC exported from Korea had caused material injury to the Australian industry. On 28 June 2012 Customs and Border Protection published a Preliminary Affirmative Determination ("PAD") imposing provisional measures on all future Korean exports of PVC to Australia.

Following Customs and Border Protection's verification visit with LG Chemicals ("LG Chem") - the sole exporter of PVC from Korea to Australia - a weighted average dumping margin of 3.43 per cent was assessed. LG Chem was the only Korean exporter of PVC during the 2011 investigation period.

AVC endorses Customs and Border Protection's proposed recommendation to the Minister that a dumping duty notice be published in respect of PVC exports from Korea. Interim dumping measures are required to ensure that the Australian industry does not experience and, is not threatened with, further material injury from dumped PVC exports from Korea.

### Previous Measures applicable to PVC exported from Korea

Anti-dumping measures applied to PVC exports from Korea from 2000 until early 2010. In 2009, AVC made application for the continuation of measures beyond March 2010, however, the measures were allowed to expire in March 2010<sup>1</sup>.

At the time of expiration of the measures, Korean PVC exports to Australia were relatively insignificant.

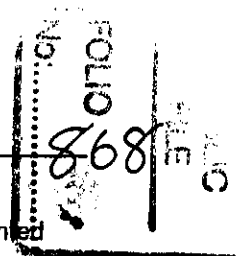
### Investigation No. 187

Following a substantial increase in Korean PVC exports to Australia in 2011, AVC submitted an application for anti-dumping measures demonstrating that the Australian industry had suffered material injury from the dumping and that anti-dumping measures were required to address the injurious exports.

AVC identified that Korean PVC exports to Australia had increased from minimal levels in 2010 to approximately 22,000 tonnes in 2011. Of total PVC imports into Australia during 2011, imports from Korea accounted for approximately one-third of the total volume. This represented a dramatic increase in imports from previous years, placing Korea as the major PVC import source from all countries.

LG Chem was identified as the Korean exporter of PVC to Australia during 2011. LG Chem completed an exporter questionnaire and accepted a verification visit from Customs and Border Protection. Normal values for LG Chem were determined under s.269TAC(1) using LG Chem's domestic selling prices. In applying the ordinary course of trade test to LG Chem's domestic sales, Customs and Border Protection established that 24 per cent of LG Chem's domestic sales were at a

<sup>1</sup> Trade Measures Report No.151 refers.



loss. These sales were excluded from the normal value assessment for LG Chem, and a weighted average dumping margin of 3.43 per cent was determined.

Following inquiries, Customs and Border Protection confirmed that AVC had suffered material injury in the following forms:

- lost sales volume;
- lost market share;
- price suppression;
- reduced profit and profitability;
- reduced revenues;
- reduced return on investment and reduced capital investment;
- increased inventories;
- reduced production; and
- reduced capacity utilisation.

Critically, Customs and Border Protection was able to confirm that AVC's selling prices to its three largest customers (accounting for approximately 70 per cent of AVC's sales volumes) had been undercut by LG Chem's PVC exports by between 3 and 12 per cent over the investigation period. Customs and Border Protection's price undercutting analysis re-affirmed earlier findings that PVC was a fungible product (i.e. imported PVC could be easily substituted for locally produced PVC), there was a high level of substitutability, and price was a critical factor in the purchasing decisions of the customer.

Customs and Border Protection was able to corroborate AVC's assertions included in its application that LG Chem's dumped export prices "*were used to leverage competitive prices*" from AVC and that LG Chem's prices impacted AVC's pricing strategy. It is further noted that Customs and Border Protection confirmed that LG Chem's pricing strategy in the second half of 2011 was "*increasingly aggressive*" and that level of price undercutting gradually increased throughout the year (with the export volume in the second half of the year accounting for approximately 80 per cent of the total exports in the investigation period).

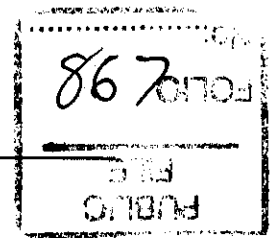
LG Chem's increasing export volume in the latter half of 2011 had a flow-on impact to AVC's production scheduling and capacity utilisation. AVC's market share in the second half of 2011 declined as LG Chem's export volumes increased. AVC's production scheduling was revised and a raw material VCM shipment was delayed with a further shipment scheduled for loading in November, subsequently cancelled. AVC brought forward its annual maintenance shutdown and extended it over December 2011 and January 2012. Further, AVC's sales volumes in the March 2012 quarter were significantly below the levels of previous March quarter sales volumes, confirming the delayed flow-on impact of the increased LG Chem export volumes in the latter half of 2011.

Customs and Border Protection confirmed that AVC experienced injury across a number of "other economic indicators" in addition to volume and price injury.

#### Causation

Customs and Border Protection was satisfied that the dumping of PVC exported from Korea had caused material injury to AVC. AVC notes that Customs and Border Protection assessed the lost sales revenues attributable to the dumped exports of PVC from Korea at 4 per cent of AVC's total revenue. This assessment, however, only takes account of the lost revenues and does not factor in the price reductions and price suppression evidenced in sales volumes of AVC's local production. AVC estimates that the price-effect injury caused by the dumped exports would have exceeded a further \$4M in 2011 and into 2012.

AVC concurs with Customs and Border Protection's analysis that the lost revenues attributable to the dumped Korean exports can be categorised as "material" and further highlights that the price-effect injury experienced by AVC is also material in nature.



### Duty Drawback – LG Chem

AVC has previously raised its concern about the adjustment made to LG Chem's normal value for duty drawback on certain imported raw material that it is suggested are used in the production of PVC that is exported to Australia.

AVC understands that LG Chem produces ethylene dichloride ("EDC") and imports some EDC from time to time. EDC is consumed in the production of VCM. It would appear that the argument for an adjustment to LG Chem's normal value is premised on the basis that the exported PVC includes an amount of EDC that is manufactured into VCM and then into PVC. AVC submits that Customs and Border Protection cannot be satisfied that the imported EDC is directly consumed in the manufacture of VCM for PVC production (that is subsequently exported to Australia). More importantly, AVC does not consider that LG Chem can readily demonstrate that the imported EDC is used in the manufacture of the PVC exported to Australia.

The failure to demonstrate this nexus must result in the duty drawback adjustment being disallowed.

### Unsuppressed Selling Price

AVC observes that in SEF No. 187 Customs and Border Protection has altered its position on an appropriate unsuppressed selling price ("USP") from that methodology used in the recent Preliminary Affirmative Determination ("PAD"). In the PAD, Customs and Border Protection used AVC's cost to make and sell ("CTM&S") PVC in 2011. Customs and Border Protection has proposed that a USP be based upon import parity pricing referenced to South East Asia PVC prices.

AVC recognises that in negotiating selling prices with some customers it is required to reference PVC import parity prices. AVC recognises the competitive alternatives and negotiates to ensure that it secures volumes for locally-produced PVC. However, agreement of the import parity price does not mean that the negotiated price is "*non-injurious*". The referenced South East Asia PVC price is not a domestic price – it is a regional export price that suppliers reference for the supply of excess tonnes that are not consumed domestically. The referenced regional price, therefore, is a dumped price particularly when there is excess production and supply in the region as was evident during 2011 and has continued in 2012.

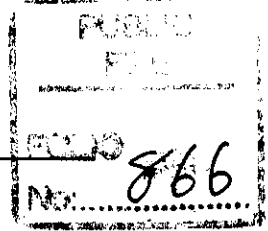
The key point is that large customers will seek out alternative sources of supply utilising the dumped regional price as a means of negotiating a reduced (or suppressed) price from AVC. As AVC is reliant on maximizing its production volumes, it is "forced" to accept a regional competitive price for its locally produced sales. The alternative is that it will not supply from local production as it is uncompetitive (against a price that reflects less than full cost recovery). As indicated, Customs and Border Protection has previously determined that<sup>2</sup>:

*"...there is a high level of substitutability between PVC from various sources and that, therefore, price is a critical factor in consumers' purchasing decisions. Price continues to be a key factor in the purchasing of PVC."*

AVC therefore does not consider the South East Asia import parity price to be "*non-injurious*". The only true non-injurious price for AVC is one that is based upon full cost recovery with an allowance for profit (as was used by Customs and Border Protection in the PAD).

AVC requests that Customs and Border Protection recognise that the import parity price referenced cannot be considered a non-injurious price. AVC further requests that Customs and Border Protection revert to the USP methodology as used in the PAD to arrive at a truly non-injurious price for the Australian industry.

<sup>2</sup> Statement of Essential Facts No. 187, P.27.



### Interested party submissions

AVC has previously commented on submissions on behalf of LG Chem of 3 July and 24 July (refer AVC submission dated 13 July and 3 August, respectively). A further submission on behalf of LG Chem dated 1 August was recently placed on the electronic public file.

The most recent submission contends that the price effect injury experienced by AVC could not have been caused by LG Chem. AVC rejects this suggestion. AVC has provided Customs and Border Protection with information that demonstrates that it has experienced price undercutting that can be attributed to LG Chem's dumped exports (with price undercutting margins of between 3 and 12 per cent across sales volumes accounting for approximately 70 per cent of AVC's total sales). This information has been "*corroborated by statements made with interested parties*"<sup>3</sup> by Customs and Border Protection and confirms that AVC has reduced its selling prices in response to LG Chem's export prices for PVC.

AVC also rejects the LG Chem assertions that the application for anti-dumping measures against LG Chem's exports to Australia was "*on the basis of unfounded and contradictory dumping and injury allegations*". The investigations by Customs and Border Protection have established that:

- (i) LG Chem's PVC exports to Australia during 2011 were at dumped prices;
- (ii) The dumping was above negligible levels;
- (iii) The Australian industry had suffered material injury from the dumping (through lost sales volumes and market share, price suppression, reduced profits and profitability, and reduced revenues);
- (iv) The Australian industry's selling prices were undercut by LG Chem's selling prices, with Customs and Border Protection noting that "*LG Chem's pricing became increasingly aggressive in the second half of 2011*" with margins of undercutting between 3 and 12 per cent;
- (v) The level of price undercutting gradually increased over the year as LG Chem's export volumes increased (with 80 per cent of LG Chem's export volume in the second half of 2011);
- (vi) "price" was a critical factor in the purchasing decisions of PVC consumers; and
- (vii) the dumped price offers from LG Chem contributed to the price depression and suppression experienced by the Australian industry.

The findings of Customs and Border Protection concerning LG Chem's PVC exports to Australia confirm that the Australian industry's assertions were well-founded and factual. LG Chem's claim in its 1 August 2012 submission that the material injury experienced by the Australian industry cannot be attributed to LG Chem's PVC exports, is not supported by the available evidence.

### Conclusions

AVC welcomes Customs and Border Protection's proposed recommendations to recommend that the Minister impose interim duties on exports of PVC to Australia from Korea. Anti-dumping measures are considered necessary to ensure the Australian industry does not experience further material injury from dumped PVC exports from Korea.

AVC considers that the USP proposed in SEF No. 187 is injurious to the Australian industry. AVC therefore requests that Customs and Border Protection determine a USP for the Australian industry based upon AVC's CTM&S PVC in 2011 as was used in the recent PAD.

AVC does not consider that LG Chem can adequately demonstrate a sufficient nexus between the imported EDC and the exported PVC to Australia, and therefore LG Chem's claim for adjustment to normal value must be disallowed.

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<sup>3</sup> SEF No. 187, P.28.