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**Australian Government**  
**Australian Customs and**  
**Border Protection Service**

R E P O R T

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

PRELIMINARY AFFIRMATIVE DETERMINATION

PAD 187

POLYVINYL CHLORIDE HOMOPOLYMER RESIN  
EXPORTED FROM  
THE REPUBLIC OF KOREA

28 June 2012

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**2 SUMMARY AND DECISIONS**

This report publishes the reasons behind the Delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) decision to make a Preliminary Affirmative Determination (PAD) and for Customs and Border Protection to take securities in relation to the dumping investigation into polyvinyl chloride homopolymer resin (PVC) exported to Australia from the Republic of Korea (Korea).

The findings, conclusions and calculations discussed in this PAD report are findings and conclusions made for the purpose of this PAD.

These findings, conclusions and calculations are based on information available at the time of making the PAD and may change between the time of the PAD publication and the publication of the Statement of Essential Facts.

**2.1 PAD AND PROVISIONAL MEASURES**

In making this decision, the CEO has determined that there appears to be sufficient grounds for the publication of a dumping duty notice in relation to PVC exported to Australia from Korea.

The CEO considers that Customs and Border Protection should require and take securities under s.42 of the *Customs Act 1901* (the Act) in respect of interim dumping duty that may become payable in relation to PVC from Korea, (being satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues).

The documents to give effect to the CEO and Customs and Border Protection's decisions are:

- the determination at **Confidential Attachment 1**; and
- the public notice at **Non-confidential Attachment 1**.

**2.2 Application of law to facts**

Division 2 of Part XVB of the Act sets out procedures for the consideration of anti-dumping matters by the CEO.

**2.2.1 The role of the CEO of Customs and Border Protection**

The CEO may make a PAD, at any time after 60 days from the date of initiation of an investigation, after having regard to the application concerned and any submissions concerning the publication of the notice that are received within 40 days after the date of initiation of the investigation and any other matters the CEO considers relevant, if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or that it appears that there will be sufficient grounds subsequent to the importation into Australia of the goods.

<sup>1</sup> All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

If the CEO makes a PAD, Customs and Border Protection may, at the time of the PAD or at any later time during the investigation, require and take securities<sup>2</sup> in respect of interim dumping duty that may become payable if the officer of Customs taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

If the CEO makes a PAD, public notice of this decision must be given. If Customs and Border Protection decides to require and take securities, the CEO must also give public notice of this decision.

The CEO's powers have been delegated to certain officers of the International Trade Remedies Branch.

**2.2.2 Matters of which the CEO must be satisfied before making a PAD**

*There appear to be sufficient grounds for the publication of a dumping duty notice.*

Customs and Border Protection is of the view for the purpose of this PAD that:

- the goods have been exported from Korea at less than normal value and are therefore dumped; and
- because of that material injury to the Australian industry producing like goods has been caused or is being caused.

**2.2.3 Findings and conclusions**

Customs and Border Protection has made the following conclusions:

Dumping (section 8 of this report)

- export prices for LG Chem Ltd (LG Chem) can be calculated under s.269TAB(1)(a) and s.269TAB(1)(c) for the investigation period;
- normal values for LG Chem can be calculated under s.269TAC(1) for the investigation period;
- the goods exported by LG Chem were dumped with a dumping margin of 5.4% over the investigation period, which is not negligible; and
- the volume of dumped goods is not negligible;

Material injury caused by dumping (section 9 of this report)

- the Australian industry has experienced price suppression and price depression over the injury analysis period and that injury is material;
- the Australian industry has experienced reduced profits, profitability, revenue and return on investment over the injury analysis period and that injury is material.

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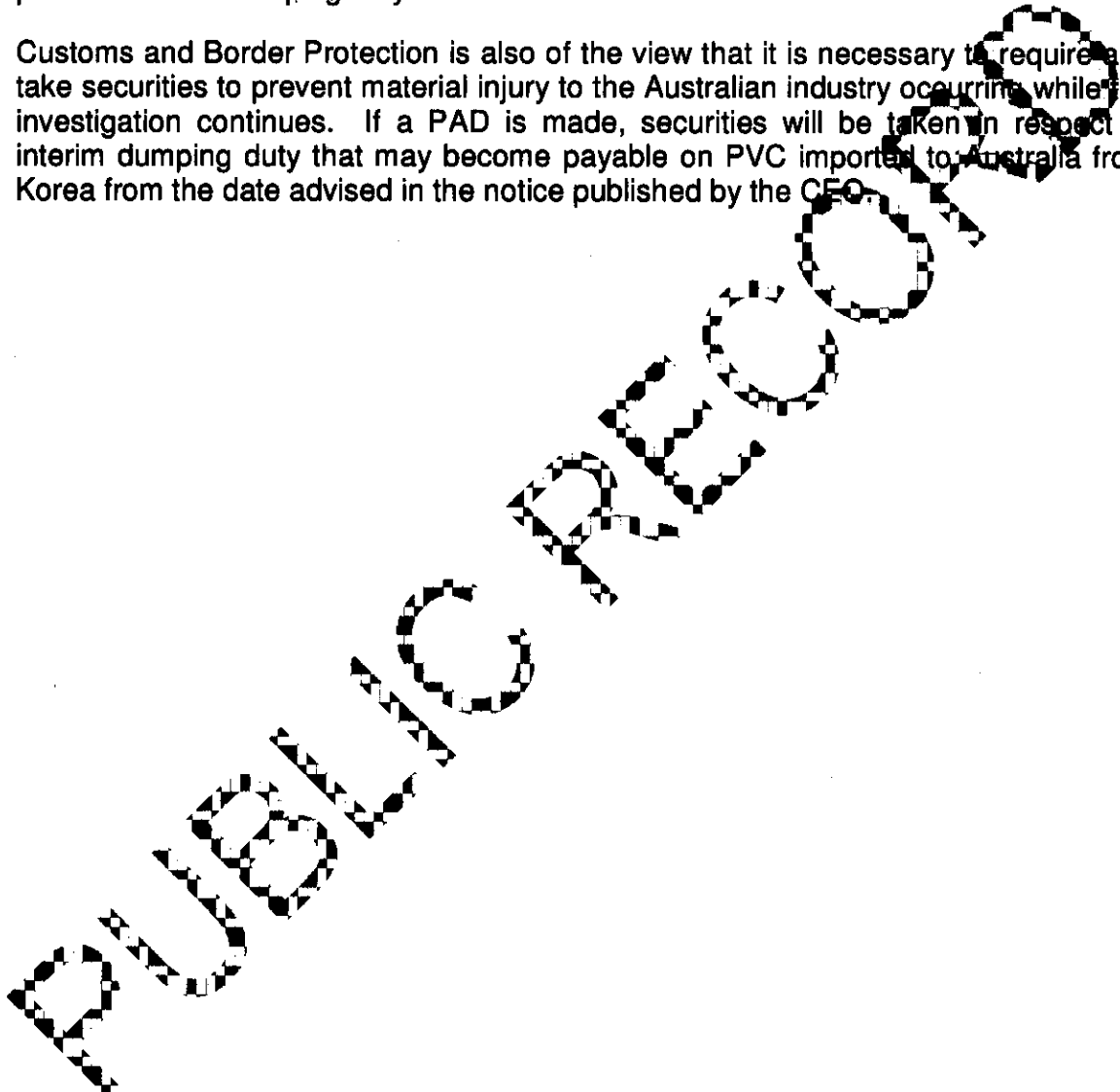
<sup>2</sup> Under s.42.

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- customers of the Australian industry have used the price of PVC imported from Korea to negotiate lower prices from Australian industry;
- these prices are lower than they would have been if the PVC was not dumped and therefore the dumped goods have caused the material injury to the Australian industry.

Customs and Border Protection has considered all relevant information and made a finding for the purpose of this PAD that there appears to be sufficient grounds for the publication of a dumping duty notice.

Customs and Border Protection is also of the view that it is necessary to require and take securities to prevent material injury to the Australian industry occurring while the investigation continues. If a PAD is made, securities will be taken in respect of interim dumping duty that may become payable on PVC imported to Australia from Korea from the date advised in the notice published by the CEO.



**3 BACKGROUND****3.1 Application**

On 16 March 2012, Australian Vinyls Corporation Pty Ltd (Australian Vinyls) lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of PVC exported to Australia from Korea.

The applicant alleges that the Australian industry has suffered material injury caused by PVC exported to Australia from Korea at dumped prices. The applicant claims that material injury commenced in mid-2010 following the expiration of anti-dumping measures on PVC exports from Korea and that the industry had been injured through:

- loss of sales;
- reduced market share;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability,
- reduced production volumes; and
- reduced return on investment;

Following consideration of the application by a delegate of the CEO an investigation was initiated on 23 April 2012. Public notification of initiation of the investigation was made in *The Australian* newspaper on 23 April 2012. Australian Customs Dumping Notice (ACDN) No. 2012/14 provides further details of the investigation and is available at [www.customs.gov.au](http://www.customs.gov.au).

Customs and Border Protection set an investigation period of 1 January 2011 to 31 December 2011 for which it will examine exports to Australia of the goods to determine whether dumping has occurred. Customs and Border Protection will examine details of the Australian market from 1 January 2009 for injury analysis purposes.

**4 ABILITY TO MAKE PAD AND TAKE SECURITIES****4.1 Ability to make a PAD**

At any time not earlier than 60 days after the date of initiation of an investigation as to whether there are sufficient grounds for the publication of a dumping duty notice in respect of goods the subject of an application, the CEO may, if he or she is satisfied:

- a) that there appears to be sufficient grounds for the publication of such a notice; or
- b) that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods;

make a PAD under section 269TD to that effect.

In deciding whether to make a PAD, the CEO must have regard to the application concerned, and to any submissions concerning publication of the notice that are received by Customs and Border Protection within 40 days after the date of initiation of the investigation. The CEO may also have regard to any other matters that the CEO considers relevant. The CEO is not obliged to have regard to any submission received after day 40 if to do so would prevent the timely consideration of whether or not to make a PAD.

**4.2 Ability to take securities**

Customs and Border Protection may, at the time of making a PAD or at any later time during the investigation after a PAD is made, require and take securities under section 42 in respect of interim duty that may become payable if the officer of Customs taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

**4.3 Information considered**

In making this PAD Customs and Border Protection has had regard to:

- the application for the dumping duty notice;
- submissions received within 40 days after the date of initiation of the investigation; and
- other matters that the CEO considered relevant.

**5 THE GOODS UNDER CONSIDERATION**

**5.1 The goods**

The goods the subject of the application are described as follows:

*Polyvinyl chloride homopolymer resin (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.*

*The application excludes paste (or emulsion), compound grades and recycled PVC.*

**5.2 Tariff classification**

PVC is classified under sub-heading 3904.10.00, statistical code 18, in Schedule 3 to the *Customs Tariff Act 1995*. The duty rate for PVC from Korea is currently 5%.

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**6 AUSTRALIAN INDUSTRY AND LIKE GOODS**

Customs and Border Protection is satisfied that there is an Australian industry in respect of like goods.

**6.1 Locally produced like goods**

Subsection 269T(1) defines like goods as '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'.

Subsections 269T(2) and 269T(3) specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

**6.1.1 Australian Industry**

In its application Australian Vinyls stated that previous PVC inquiries conducted by Customs and Border Protection have found and concluded that PVC produced by Australian Vinyls had the same physical characteristics, end-use and substitutability as PVC exported from Korea. Therefore Customs and Border Protection has satisfied itself that an Australian industry producing like goods existed.

Australian Vinyls highlighted that since Trade Measures Report No. 151 (REP 151), which related to the continuation of measures on PVC exported from Korea (dated 25 February 2010), there has been no substantial change in its manufacturing of PVC.

Customs and Border Protection notes that REP 174, the continuation of measures on PVC exported from the United States of America (USA), issued in November 2011, found that there is an Australian industry producing like goods and that Australian Vinyls is the sole manufacturer of PVC in Australia.

PVC is a white free flowing powder that is used in combination with other chemicals to produce a variety of products. The main input into the production of PVC is vinyl chloride monomer (VCM). VCM is manufactured by combining ethylene and chlorine to form ethylene dichloride that is cracked in a furnace. PVC is made in a batch process in which VCM droplets are polymerised, while suspended in water, in the presence of an initiator and other additives.

Australian Vinyls production facility is located in Laverton North, Victoria. The company manufactures PVC and wood-plastic compounds, as well as supplying a range of imported chemicals including caustic soda, PVC processing additives, synthetic rubbers and speciality elastomers.

Customs and Border Protection visited Australian Vinyls production facility for the current continuation inquiry into PVC from Japan and the current review into PVC from Japan and the USA. At the visit data relating to the cost and production of PVC was verified, this included information on the purchase of VCM.

Customs and Border Protection has examined the evidence presented in the application and from previous inquiries and is satisfied that there is at least one substantial process of manufacture performed in Australia.

Customs and Border Protection considers that Australian Vinyls is the sole producer of PVC in Australia and comprises the Australian industry.

**6.2 Like goods**

Customs and Border Protection verified sales information relating to PVC during its recent verification visit and obtained copies of technical data sheets of the grades of PVC produced by Australian Vinyls.

Customs and Border Protection has visited end-users and importers of PVC from Korea during this investigation. At those visits the grades of PVC imported from Korea and the grades produced by Australian Vinyls were discussed and compared.

**6.2.1 Assessment of Like Goods**

Customs and Border Protection has considered the following matters in assessing whether goods produced by the Australian industry are like to the goods:

- i. Physical likeness:
  - Australian industry products have similar chemical composition and generally possess similar physical characteristics to the imported PVC.
- ii. Commercial likeness:
  - Australian industry products compete directly with the imported goods in the Australian market.
- iii. Functional likeness:
  - Both imported and Australian produced goods have comparable or identical end-uses.
- iv. Production likeness:
  - Australian industry products are manufactured in a similar manner to the imported goods.

**6.2.2 Conclusion on Like Goods**

Customs and Border Protection considers that its assessment of like goods above supports a conclusion that the Australian products are identical to, or have characteristics closely resembling, the goods. Customs and Border Protection concludes that there is an Australian industry producing like goods to the goods.

## 7 Australian market

### 7.1 Market structure and supply

The Australian market consists of the following market segments:

- plumbing and electrical fittings;
- pressure pipe; and
- general purpose.

PVC is the preferred product in pressure pipe, plumbing and electrical fittings, and other general purpose applications. There exists limited substitutability at the margin with polyethylene in certain applications. The annual demand for PVC, however, is not impacted by any minor substitutability.

PVC is sold to a range of processors who either extrude, inject, mould or blow mould the PVC to make a wide variety of goods. The major end-use of PVC based products is in the building and construction sector (such as pipes and fittings, cables, house cladding, gutters, down pipes, flooring and window frames). PVC based products are also used in water supply piping, packaging, upholstery and domestic appliances.

The Australian market for PVC is supplied through local production and imports from a number of source countries (including Korea, Taiwan and Thailand). Australian Vinyls imports PVC from Taiwan to supplement domestic production, those imports were verified as part of the recent industry visit.

The Delegate of the CEO has had regard to the matters discussed and information verified during the visit to Australian Vinyls, information contained in the application and other information provided by Australian Vinyls in making a PAD.

### 7.2 Importers and end users

Customs and Border Protection identified a number of importers of PVC from Korea from its import database and sent requests for information and cooperation.

From the responses it was established that there were three channels of importation and distribution of the goods from Korea to the end user in Australia;

- sold by the exporter on costs and freight (CNF) terms to the end user in Australia;
- sold by the exporter on costs and freight (CNF) terms to a trading company in Australia, who then sells the goods to the end users; and
- sold by the exporter on delivered duty paid (DDP) terms to the end user.

The majority of the parties identified provided information to Customs and Border Protection and verification visits were undertaken to the largest importer and end-users.

In making a PAD the Delegate of the CEO has had regard to the matters discussed and information verified during visits, matters discussed in the in-progress visit reports and information provided by other parties in making a PAD.

### 7.3 Exporters

During the course of the investigation Customs and Border Protection established that there was only one exporter of PVC from Korea, LG Chemicals (LG Chem) during the investigation period.

LG Chem is a manufacturer of PVC in Korea and exported the goods directly to Australia as well as through related and unrelated trading parties. Customs and Border Protection considers LG Chem to be the exporter of the goods, whether exported directly or through the traders.

Customs and Border Protection granted LG Chem a two week extension of time to lodge a response to the Exporter Questionnaire. A response was received from LG Chem by the extended date. Whilst information contained in that response is unverified at this stage, Customs and Border Protection considers that information to be relevant for the purpose of assessing whether grounds for a PAD exist.

### 7.4 Market size and demand

During the recent continuation inquiry into PVC from the USA (Rep 174), Customs and Border Protection estimated the size of the market at slightly over 190,000 tonnes in the financial years 2009-10 and slightly below 190,000 tonnes in 2010-11. REP 174 showed the market peaking in 2007/08 at around 225,000 tonnes before declining in subsequent years.

In its application Australian Vinyls estimated the size of the market in the calendar year 2011 at approximately 180,000 tonnes. Australian Vinyls estimates the current market is at 190,000 to 200,000 tonnes per annum.

Australian Vinyls said that it relies on monthly forecasts from its larger customers to estimate demand for the next three months, however these forecasts can be unreliable.

Australian Vinyls said the market is weaker due to the effects of the global financial crisis and the breaking of the drought and floods. During the drought there was demand for large water projects requiring irrigation pipe, however the floods reduced demand as there was no longer a need for those projects. In addition it also became impossible to lay pipes in the flooded areas. The global financial crisis had an effect due to the slowdown in the construction industry which uses PVC for pipes, cables flooring, profiles, ducting, window profiles and siding. Technology improvements, such as using thinner walled pipes, can also negatively affect demand as less material is required. However, this may make PVC more competitive as it lessens the cost.

Importers and end users estimated the market varied between 180,000 – 210,000 tonnes depending on the building and construction demand. A key demand for pipe

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in Australia was large scale gas and water projects such as road construction, industrial and residential estate construction and the construction industry generally, as the demand for PVC is linked to the demands of these projects and construction sectors, and decrease in activity in these markets will consequently result in a decrease in demand for PVC.

Customs and Border Protection estimated the size of the Australian market for the calendar years 2009 - 2011 using information from its import database, Australian Vinyls, importers, end-users and other available information. The information shows that the market for PVC increased to approximately 200,000 tonnes per annum in 2010 and 2011.

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**8 DUMPING ASSESSMENT**

The CEO is satisfied that for the purpose of this PAD the goods from Korea were dumped during the investigation period.

Customs and Border Protection identified only one exporter (LG Chem) of the goods from Korea during the investigation period.

Export prices, normal values and dumping margins expressed in this PAD are based on available information at the time of the PAD. These values may change as further information, including that verified during the visit to LG Chem, becomes available.

**8.1 Export prices**

Based on LG Chem's exporter questionnaire response, Customs and Border Protection has calculated free on board (FOB) export prices under ss.269TAB(1)(a) and (1)(c) depending on whether the sales were purchased directly from LG Chem or via an intermediary. Export prices were calculated using the invoiced price for the goods less post exportation charges.

For weighting purposes, quarterly export prices were calculated for the various product groups of PVC exported to Australia.

Export price calculations are at **Confidential Appendix 1**.

**8.2 Normal values**

Customs and Border Protection has had regard to information submitted by LG Chem and contained in its questionnaire response to determine normal values. An assessment of that information reveals that there is a sufficient volume of like goods sold by LG Chem in the domestic market in Korea that were made in the ordinary course of trade and at arms length.

Therefore domestic sales of PVC are suitable for determining normal values. Quarterly unit normal values for the same product groups of PVC exported were calculated and weighted using the corresponding quarterly export volumes.

Customs and Border Protection has made the following adjustments to the normal value based on information contained in LG Chem's questionnaire response:

- downward adjustment for domestic packing expenses;
- downward adjustment for domestic delivery expenses;
- upward adjustment for export packing expenses;
- upward adjustment for export inland freight to port;
- upward adjustment for handling and FOB related expenses;
- upward adjustment for export related bank charges, and
- upward adjustment for Customs agents fees on exports.

Normal value calculations are at **Confidential Appendix 1**.

### 8.3 Dumping margin and volume of exports

A dumping margin for LG Chem was calculated in accordance with s.269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin calculated is 5.4% which is not negligible.

Dumping calculations are at **Confidential Appendix 1**.

Customs and Border Protection calculated that the volume of goods exported by LG Chem that are dumped over the investigation period is greater than 3% of the total import volume of PVC over the investigation period and is therefore not a negligible volume.

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**9 MATERIAL INJURY CAUSED BY DUMPING**

In assessing injury to the industry Customs and Border Protection has analysed only those factors relating to PVC produced by Australian Vinyls. Imports of PVC by Australian Vinyls are excluded from the analysis unless otherwise noted.

The CEO is satisfied for the purpose of making this PAD that the dumped exports of PVC from Korea have caused material injury to the Australian industry producing like goods.

**9.1 Price effects**

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases for the applicant's product, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Australian Vinyls stated in its application that it has operated its plant at close to optimal rates and has been able to maintain production costs at relatively stable levels in 2011, but that it has experienced price depression in that same period.

Australian Vinyls claimed it was able to recover a proportion of cost increases in 2010 through slightly higher selling prices (when contrasted with 2009 selling prices), however in 2011 its selling prices declined, whereas costs slightly increased, further widening the gap between costs and selling prices to its disadvantage.

Customs and Border Protection visited Australian Vinyls and verified data relating to costs and sales. Customs and Border Protection found that Australian Vinyl's costs have exceeded selling prices over the period of analysis and that, whilst costs remained unchanged in 2011, prices fell slightly in that same period, the negative margin between revenue and costs indicates that prices have been suppressed.

Customs and Border Protection considers that Australian Vinyls has suffered price depression and price suppression.

Australian Vinyls claimed that the dramatic growth in LG Chem's exports to Australia has only been achievable by exporting at dumped prices and undercutting Australian industry selling prices. Australian Vinyls said it has responded to selling prices offered by LG Chem across its customer range and reduced its own prices to retain volumes.

Australian Vinyls included in its application confidential customer information detailing discussions with a number of individual customers. Australian Vinyls claimed that the documents demonstrated that its PVC selling price has commonly been undercut by up to eight per cent in most instances. These documents also indicate that LG Chem's selling prices are the lowest price available in the marketplace and that where Australian Vinyls had reduced its price to remain competitive, LG Chem would respond with a further price reduction.



Australian Vinyls has described PVC in previous investigations as a fungible product meaning that the imported product can easily be substituted for domestically produced product. Australian Vinyls claimed that the fungible nature of PVC was demonstrated by:

- the range of import sources in recent years;
- the low level of brand identification or distinguishing features between the sources; and
- the propensity demonstrated by importers and traders to switch sources of supply.

Customs and Border Protection considered in previous investigations that there is a high level of substitutability between PVC from various sources and that, therefore, price is generally an important factor in consumers' purchasing decisions. Price continues to be a key factor in the purchasing of PVC. This is evidenced by the range of import sources from 2009 to 2011 with six countries exporting volumes of 3,500 tonnes or greater per year.

Interested parties have also confirmed that import prices have been used to leverage competitive prices from Australian Vinyls, and that prices offered by LG Chem would have had an impact on Australian Vinyls pricing strategy.

Customs and Border Protection found that monthly prices of imported PVC from Korea undercut Australian Vinyls' prices by between 3% to 12% over the investigation period. The price analysis also supported a claim made by Australian Vinyls that LG Chem's pricing became increasingly aggressive in the second half of 2011, with the data showing the level of undercutting gradually increasing over the year.

Customs and Border Protection further analysed customer specific sales data from Australian Vinyls, end users, importers and LG Chem and found evidence that the prices offered by LG Chem led to Australian Vinyls' prices being lower than they otherwise would have been.

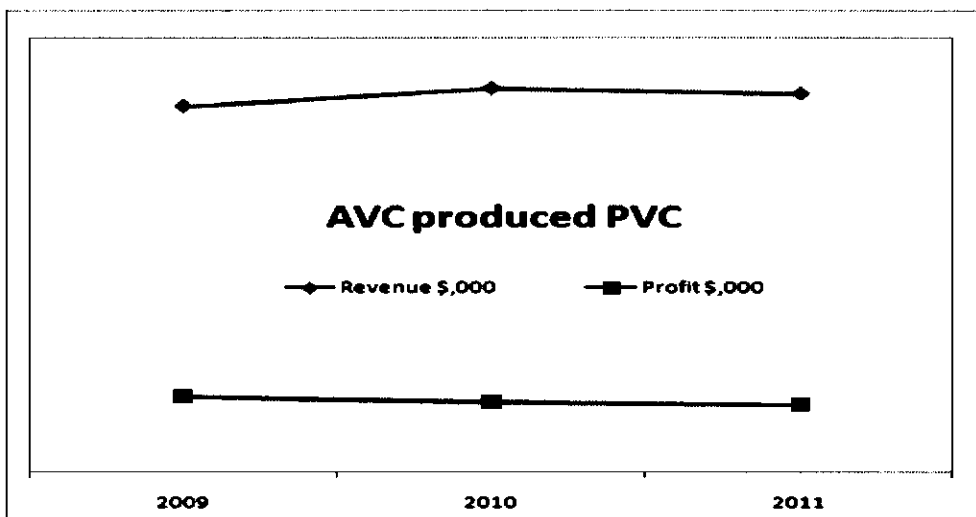
Customs and Border Protection considers that there appear to be sufficient grounds to conclude that the Australian industry prices have been affected by the prices of the imported PVC from Korea to the extent that it has reduced its selling prices and has not been able to obtain price increases which would have otherwise occurred. There appear to be grounds that customers of the Australian industry have used prices of PVC from Korea to negotiate lower prices from the Australian industry. This has led to price depression and price suppression suffered by the industry.

## **9.2 Revenue, profit and profitability effects**

Australian Vinyls claimed it is able to demonstrate that it has experienced price suppression injury in 2011.

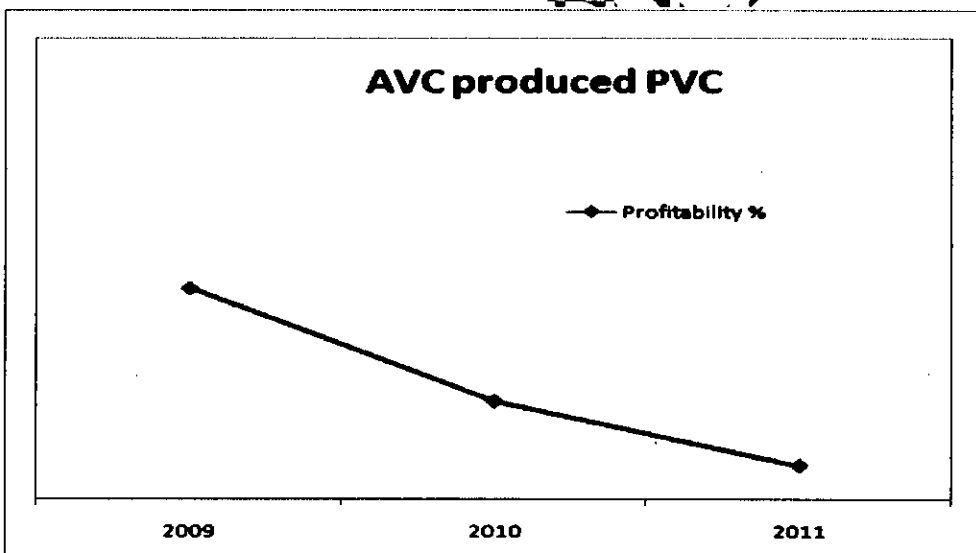
Australian Vinyls also claimed that the decline in its selling prices has also contributed to a reduction in its domestic sales revenues and that in 2011 revenues were lower than achieved in 2010.

Movements in revenue and total profits are illustrated in the following chart.



Revenue increased from 2009 to 2010 before declining in 2011. Total profits have been decreasing since 2009.

Profitability is profit expressed as a percentage of revenue and is shown in the following chart.



Australian Vinyls continued to trade unprofitably over the analysis period, with losses steadily increasing year on year.

### 9.3 Other injury factors

Australian Vinyls noted that reduced revenues and lower profits and profitability have also contributed to a reduction in its return on investment.

Australian Vinyls provided an updated appendix A 7 summarising other injury indicators from 2009 to 2011. Of these factors return on investment shows a decline

from 2009 to 2011, revenues have decreased as noted and stock holdings have increased to the end of 2011.

#### **9.4 Material injury and causal link**

Injury factors indicate that the economic performance of the Australian industry has deteriorated from 2009 to 2011. Profits and profitability have declined from 2009 as costs continued to be above prices. The industry has suffered price depression and price suppression and revenues have shown a decline from 2010 to 2011. Return on investment has also declined whilst stock holdings are increasing.

Customs and Border Protection considers that the dumping margin has enabled the exports from Korea to secure sales in Australia at lower prices than if there was no dumping of the goods. These lower prices have led to price undercutting of industry prices causing Australian Vinyls to lower its prices leading to price suppression, price depression, lower revenues, reduced profits and profitability and lower return on investment.

Customs and Border Protection considers that the injury suffered by the industry is material and that the dumped prices of PVC from Korea have caused this material injury.

Injury and causal link analysis are at **Confidential Appendix 2**.

#### **9.5 Injury caused by other factors**

Customs and Border Protection notes the presence of imports from other countries in the market and that these import prices may also have an effect on Australian Vinyls. Customs and Border Protection also notes that general economic conditions may be having an effect due to the uncertainty from the ongoing global financial crisis.

**10 NON-INJURIOUS PRICE**

Australian Vinyls proposed an unsuppressed selling price (USP) based on Australian Vinyls' CTMS for 2011 plus a level of profit it achieved across the 2005-06 and 2006-07 financial years. Australian Vinyls submitted that the profit for 2006-07 should be adjusted to exclude the June quarter due to a large once off write down. Australian Vinyls submitted that its level of profit following the global financial crisis had been negative and would not be appropriate to use. The USP proposed by Australian Vinyls is the same USP that it proposed for the current review of the measures of PVC from Japan and the United States of America.

Chemiplas Australia Pty Ltd (Chemiplas), an importer of PVC from Japan, proposed a USP for the review of the measures based on the price of goods imported from Formosa Plastics Group, Taiwan; LG Chem, Korea and Thailand. Chemiplas said that Australian Vinyls was setting the price in the market with its imports from Taiwan and proposed that the selling prices of goods imported from Taiwan, Korea and Thailand could be used as the basis for a USP.

Other suppliers and end-users of PVC have said that end-users needed access to well priced and quality PVC resins as Australian Vinyls cannot supply the whole Australian market. A USP based on prices in the South East Asia region was suggested.

Customs and Border Protection does not consider that industry selling prices in 2011 are suitable to be used as a basis for a USP as they were affected by the dumped exports from Korea.

Customs and Border Protection does not consider that prices of imports from other countries in the Australian market are a suitable basis for a USP as it cannot be certain whether they are also impacted by the dumped export prices from Korea.

Customs and Border Protection considers the most appropriate basis for the USP, for the purpose of this PAD, is to use Australian Vinyls cost to make and sell (CTMS) for 2011. Customs and Border Protection considers at this stage that a profit should not be added to the USP.

Customs and Border Protection considers that a zero profit for the USP is suitable as there is evidence that PVC prices in the region are depressed. Australian Vinyls provided information on PVC prices and profits in East China in 2011 that showed PVC has been sold unprofitably since May 2011 and thus demonstrated the pricing pressures on PVC in the region.

Other parties commented that VCM and PVC goes through pricing cycles where the gap in pricing between VCM and PVC may narrow leading to losses at times. Parties saw the VCM PVC pricing being in a down cycle and commented that it was difficult for Australian Vinyls to make a profit in a down cycle.

The non-injurious price (NIP) has been calculated by deducting from the USP, amounts for into-store costs and overseas freight and marine insurance.

Customs and Border Protection compared the NIP calculated for the investigation period to weighted average export prices for the same period. Customs and Border

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Protection found that the NIP exceeded the export price by more than the calculated dumping margin. This means that the lesser duty rule does not come into effect.

USP and NIP calculations are at **Confidential Appendix 3**.

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**11 REASONS FOR MAKING A PAD**

Customs and Border Protection has received an exporter questionnaire response from LG Chem. That response enables a preliminary assessment that appears to show that exports of PVC from Korea in the investigation period were at dumped prices.

Customs and Border Protection considers it reasonable to expect that imports of PVC from Korea experienced a competitive advantage in terms of price as a result of dumping. The available evidence indicates that increased competition from dumped imports has caused the Australian industry to reduce prices leading to price suppression, price depression, lower revenues, reduced profits and profitability and lower return on investment.

Customs and Border Protection has calculated a NIP and found it to be above export prices from Korea. This further supports the finding for the PAD that PVC exported from Korea has caused material injury.

Based on the available information as at 28 June 2012, the CEO is satisfied for the purpose of this PAD that:

- the goods have been exported from Korea at less than their normal value;
- there is an Australian industry producing like goods that is experiencing injury;
- the dumped goods are causing material injury to the Australian industry; and
- there appear to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported from Korea.

Consequently, the CEO is satisfied there appear to be sufficient grounds for the publication of a dumping duty notice in respect of the goods the subject of the application exported from Korea. The Delegate of the CEO has therefore made a preliminary affirmative determination under s.269TD of the Act to that effect.

In making this PAD, the Delegate of the CEO has had regard to the application, submissions received within 40 days of the publication of the notice of initiation, unverified information in the exporter questionnaire response and other matters the CEO considers relevant.

Additionally, the Delegate of the CEO has also had regard to other relevant information and data submitted by interested parties to the investigation and gathered by Customs and Border Protection during its investigation so far (where appropriate), including:

- data from importers and end users; and
- data submitted by the Australian industry.

**12 PROVISIONAL MEASURES**

S.269TD(4)(b) of the Act states that if the CEO makes a PAD, Customs and Border Protection may, at the time of making that determination or at any later time during the investigation, require and take securities under s.42 of the Act in respect of interim duty that may become payable if the officer of Customs and Border Protection taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In order to prevent material injury occurring while the investigation continues, Customs and Border Protection considers that securities should be taken under s. 42 of the Act in respect of interim dumping duty that may become payable in regards to PVC exported from Korea.

Customs and Border Protection is satisfied that it is necessary to take securities as there is evidence of exports by LG Chem from Korea after the investigation period and there is evidence of ongoing price offers of PVC from Korea that would continue to undercut industry prices leading industry to lower prices and a continuation of the material injury.

Customs and Border Protection proposes that these securities be taken at the level of the dumping margin calculated for this PAD, that is 5.4% as a proportion of the export price, and that these securities apply to PVC exported by all exporters from Korea.

Customs and Border Protection recommends that securities be required and taken from the date of publication of the notice advising of the PAD and the requirement to take securities.

**PUBLIC RECORD**

**13 ATTACHMENTS**

<b>Non-confidential Attachment 1</b>	Public notice PAD
<b>Confidential Attachment 1</b>	CEO Determination
<b>Confidential Appendix 1</b>	Export price, Normal value dumping
<b>Confidential Appendix 2</b>	Injury and causal link
<b>Confidential Appendix 3</b>	USP and NIP

**PUBLIC RECORD**



## Non-confidential attachment 1

**Customs Act 1901 - Part XVB****Polyvinyl Chloride Homopolymer Resin (PVC)****Exported from the Republic of Korea****Preliminary Affirmative Determination and Imposition of Securities**

## Notice under section 269TD

On 23 April 2012 the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) initiated an investigation following an application lodged by Australian Vinyls Corporation Pty Ltd, the sole manufacturer of polyvinyl chloride homopolymer resin (PVC) in Australia. The application requested the publication of a dumping duty notice in respect of PVC exported to Australia from the Republic of Korea (Korea).

The goods the subject of the application (the goods) are Polyvinyl Chloride Homopolymer Resin (PVC). The goods are classified to tariff subheading 3904.10.00, statistical code 18, in Schedule 3 of the *Customs Tariff Act 1995*. The general rate of duty for PVC from Korea is 5%.

In accordance with s.269TD(4)(a) of the *Customs Act 1901* (the Act), the CEO gives public notice that a preliminary affirmative determination has been made that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Korea.

The CEO also gives public notice, in accordance with s.269TD(5) of the Act, that the officer of Customs taking securities is satisfied that it is necessary to require and take securities to prevent material injury to the Australian industry occurring while the investigation continues.

Customs and Border Protection will require and take securities under s.42 of the Act in respect of any interim dumping duty that may become payable in respect of the goods from Korea entered for home consumption on or after 28 June 2012.

Customs and Border Protection made a preliminary comparison of weighted average normal values to weighted average export prices and calculated a dumping margin of 5.4%. The effective rate of securities is 5.4%.

In reaching this preliminary decision, Customs and Border Protection is satisfied that the goods appear to be dumped and appear to have caused material injury to the Australian industry producing like goods. Preliminary affirmative determination report No. 187 (PAD 187) was placed on the public record on 28 June 2012. Australian Customs Dumping Notice (ACDN) No. 2012/32 concerning this matter, and PAD 187, are available online at [www.customs.gov.au](http://www.customs.gov.au).

The CEO is due to report to the Minister for Home Affairs (the Minister) with recommendations on or before 25 September 2012. The Minister will then decide whether to publish a dumping duty notice and, if relevant, the level of the measures to be imposed. Depending on the Minister's decision, any securities taken may be converted to interim dumping duty or acquitted.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6245 5434, fax number (02) 6275 6990 or email [itrops1@customs.gov.au](mailto:itrops1@customs.gov.au).

John Bracic  
Delegate of the Chief Executive Officer  
International Trade Remedies Branch  
CANBERRA ACT  
28 June 2012