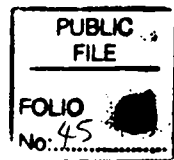


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Australian Government
Australian Customs and
Border Protection Service



INTERNATIONAL TRADE REMEDIES BRANCH

CONSIDERATION REPORT NO. 184

APPLICATION FOR CONTINUATION OF
ANTI-DUMPING MEASURES

POLYVINYL CHLORIDE HOMOPOLYMER RESIN

EXPORTED FROM

JAPAN

24 February 2012

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1 Summary and recommendations

This report provides the results of the consideration of an application lodged by Australian Vinyls Corporation Pty Ltd (AVC) for the continuation of anti-dumping measures that apply to polyvinyl chloride homopolymer resin (PVC) exported to Australia from Japan.

1.1 Recommendations

It is recommended that the delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) decide not to reject the application.

If the delegate accepts this recommendation, to give effect to that decision, the delegate must publish the attached notice at **Appendix A** indicating that Customs and Border Protection will inquire into whether the continuation of the anti-dumping measures is justified.

1.2 Application of law to facts

Division 6A of Part XVB of the *Customs Act 1901* (the Act¹) sets out among other things, the procedures to be followed by the CEO in dealing with an application for the continuation of measures.

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

Depending on the CEO's decision, it may be necessary for the CEO to publish a notice indicating that it is proposed to inquire whether continuation of the measures is justified.

The CEO's powers have been delegated to certain officers of Customs and Border Protection.

1.3 Findings and conclusions

AVC's application for the continuation of anti-dumping measures applying to PVC exported to Australia from Japan has been examined and considered.

The application lodged by AVC complies with the requirements of s.269ZHC.

Having regard to the applicant's claims and other relevant information, there appears to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

The CEO considers that there are reasonable grounds for asserting that should measures expire, this might be likely to lead to an increase in the volume of PVC at dumped prices from Japan that would undercut the selling prices of the Australian industry and could cause injury in the form of price suppression and depression and reduced profits and profitability.

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

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2 Background

On 9 December 2011, Customs and Border Protection published a notice in *The Australian* newspaper inviting certain persons to apply to the CEO of Customs and Border Protection for the continuation of anti-dumping measures on PVC exported from Japan².

On 7 February 2012, AVC, the sole manufacturer of PVC in Australia, lodged an application for the continuation of the measures³.

2.1 Existing measures

Measures are currently in place for exports of PVC from Japan and the United States of America (USA). Anti-dumping measures were first imposed on exports from Japan in 1992; the measures have been the subject of continuation inquiries every five years since and are due to expire on 21 October 2012.

2.2 The goods subject to the measures

The goods covered by the dumping duty notice are PVC.

The goods subject to the measures do not include PVC compounds, pastes or emulsion grades.

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.

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 (e.g. pipes and fittings, cables, house cladding, gutters, down pipes, flooring and window frames). PVC based products are also used in packaging, upholstery and domestic appliances.

2.3 Tariff classification of the goods

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

2.4 Australian industry producing like goods

AVC is the sole manufacturer of PVC in Australia. Its production facilities are in Laverton North, Victoria. The company manufactures PVC and wood-plastic compounds, as well as supplying a range of imported chemicals including

² In accordance with s.269ZHB.

³ In accordance with s.269ZHC(2).

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caustic soda, PVC processing additives, synthetic rubbers and specialty elastomers.

2.5 Australian market

In the previous continuation inquiry into measures regarding exports from Japan, Trade Measures Report No 123 (REP 123), Customs and Border Protection estimated that the market for PVC in Australia was approximately 200,000 tonnes per annum from 2002 to 2006 (calendar years).

AVC notes that in the 2011 continuation inquiry into measures against exports from the USA, REP 174 refers, that the market was estimated at approximately 190,000 tonnes for the years 2009/10 and 2010/11 (financial years).

In its application AVC estimated that the size of the market in 2011 to be approximately 180,000 tonnes. AVC provided information sourced from the Australian Bureau of Statistics (ABS) on imports of PVC and its own imports, sales and production in the application in support of its estimates. REP 174 noted that AVC imports PVC from Taiwan to supplement domestic production.

Customs and Border Protection used information from its import database, information provided by AVC and details from previous inquiries to assess imports and the Australian market from 2007 to 2011. This assessment is at **confidential attachment 1**.

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3 Compliance with section 269ZHC

The application lodged by AVC complies with the requirements of s.269ZHC.

3.1 Legislative framework

Section 269ZHC(1) specifies that an application lodged under s 269ZHB must:

- (a) be in writing;
- (b) be in an approved form;
- (c) contain such information as the form requires; and
- (d) be signed in the manner indicated in the form.

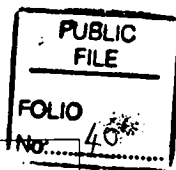
Sections 269ZHC(2) and (3) cover procedural matters in relation to lodgement of the application.

3.2 Our assessment

The application lodged by AVC was in writing, in the approved form, contained such information as the form required and was signed in the manner indicated in the form.

The applicant also provided non-confidential versions of the application for distribution to interested parties. The non-confidential version of the application adequately reflects the reasons for seeking continuation of the anti-dumping measures.

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4 Consideration of reasonable grounds

Having regard to the applicant's claims and other relevant information, there appear to be reasonable grounds for asserting that the expiration of anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

4.1 Legislative framework

Section 269ZHD(2)(b) requires consideration of whether there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

For the purposes of considering s.269ZHD(2)(b), the applicant's claims have been examined and assessed according to whether it is reasonable to assert that, in the absence of anti-dumping measures, exports of the goods might:

- continue or recur;
- be at dumped prices; and
- lead (or be likely to lead) to a continuation of, or recurrence of material injury.

4.2 Is it reasonable to assert that exports of the goods might continue or recur?

4.2.1 Applicant's claims

AVC said that it was only able to identify exports from Japan to Australia for 2010 and 2011 as the ABS data did not provide details for certain countries prior to those years. AVC notes that imports from Japan were approximately 596 tonnes in 2010 and small volumes (17 tonnes) in 2011. AVC submits that exports from Japan will increase if the anti-dumping measures expire.

AVC submitted that Japan is the second largest producer of PVC globally with a capacity of approximately 2 million tonnes and that its production utilisation rate has declined from almost full capacity in 2007 to approximately 71% in 2011. AVC notes this shows that Japan has considerable excess capacity to increase production and exports.

AVC also notes that Japan is a large exporter of PVC, exporting almost 40% of its production in 2007 declining to 22.5% in 2011. AVC submits that demand for the PVC in 2011 has been at reduced levels worldwide and that this has led to producers to seek new opportunities for supply due to difficult conditions in domestic markets.

AVC provided information that showed Japanese exports to New Zealand increased 54% in 2011 over exports in 2009 and 2010 and argued that this increase demonstrated the willingness of Japanese exporters to increase supply. AVC also pointed to information in a chemical newsletter that indicated Japanese exporters are seeking to increase export levels.

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AVC concludes that the increase in export volumes to New Zealand is indicative of a likely increase in exports to Australia should the measures expire. AVC also notes that exporters have maintained distribution links to importers in Australia.

4.2.2 Our assessment

Customs and Border Protection import data base shows that exports of PVC from Japan to Australia have maintained a presence in the market, albeit at declining volumes, since the last continuation inquiry. The presence of continuing imports from Japan in the market indicates that distribution links with Japanese exporters of PVC have been maintained.

Available information in the public domain supports the submission by AVC on the PVC industry in Japan. An article dated May 2009 from ICIS Chemical Business (a chemical market newsletter) notes Japan's PVC capacity at around 2 million tonnes which exceeded demand of 1.2 million tonnes a year. Chemmonitor, another chemical newsletter, notes in January 2012 that Japan exported 430,000 tonnes of PVC in 2011 and that the Japanese market will be influenced by the slowdown of the global economy. Other available information from the internet notes that whilst PVC production and capacity in Japan was affected by the earthquake in March 2011, capacity appears to have recovered to levels prior to the earthquake by the end of 2011.

Imports of PVC from Japan have continued and distribution links have been maintained since the last continuation inquiry, the available evidence points to surplus capacity in Japan with exports being a large part of sales of production by the Japanese manufacturers.

Given the available information we consider it is reasonable to assert that in the absence of measures exports of PVC from Japan to Australia might continue or recur.

4.3 Is it reasonable to assert that exports of the goods might be at dumped prices?

4.3.1 Applicant's claims

AVC noted that imports of PVC from Japan were at prices that were competitive in the market in 2010 but declining market prices and the measures in place dissuaded Japanese exporters from supplying larger volumes in 2011.

AVC provided information on monthly domestic prices for PVC in Japan for the calendar year 2011; the information was sourced from a chemical industry newsletter. The prices were Japanese yen per kilogram and were converted to an Australian dollar per kilogram price for comparison to export prices.

AVC provided information on monthly export prices of PVC from Japan to New Zealand for 2011; the information was sourced from Statistics New Zealand data. The prices were in New Zealand dollars per kilogram and were converted to an Australian dollar per kilogram price for comparison to export prices.

AVC calculated monthly dumping margins for 2011 for PVC imported into New Zealand from Japan; the margins ranged from 32 – 91%.

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AVC concludes that if measures were to expire that as exporters have maintained distribution links that levels of dumping evident in New Zealand would likely translate to the Australian market.

AVC also noted that China and India had anti-dumping measures in place against exports of PVC from Japan as at June 2011.

4.3.2 Our assessment

Information on export prices from Japan was also contained in the industry newsletters provided by AVC, a comparison of those export prices to the domestic prices in the newsletters showed similar margins to those calculated by AVC for imports of PVC from Japan into New Zealand.

Information has not been provided for adjustments such as delivery, credit and level of trade, but given the margins calculated it is reasonable to conclude that exports were at dumped prices.

Exports from Japan to Australia have been at minor volumes in recent years therefore, it is reasonable at this stage to consider New Zealand import data as part of the assessment of the propensity to dump.

The semi annual reports for January to June 2011 to the World Trade Organisation shows India and China continue to have dumping duties in place against exports of PVC from Japan which also indicates the propensity of Japanese PVC exporters to dump. Therefore, there are reasonable grounds for asserting that the expiration of measures might lead to dumping.

4.4 Is it reasonable to assert that exports of the goods might lead (or be likely to lead) to a continuation of, or recurrence of material injury?

4.4.1 Applicant's claims

AVC considers that should the anti-dumping measures applicable to PVC exported from Japan be allowed to expire, it is likely that AVC would experience a recurrence of, or be threatened with, material injury from dumped PVC exports from Japan.

AVC provided a summary of its key financial indicators from 2006 that it said showed an erosion of its margins over costs from 2006 to 2012 and that its financial position in 2012 is precarious.

AVC submitted that the prices of PVC exported from Japan to New Zealand in 2011 if exported to Australia and after adding costs to approximate a into store price would have undercut AVC's average selling price that would likely have caused AVC to respond by lowering its prices resulting in additional injury.

AVC also submitted that a further indication that export prices of PVC from Japan to New Zealand are injurious is that those prices are less than a calculated non-injurious price for AVC.

AVC concluded that the anti-dumping measures have limited the injurious effects of dumping since the measures were continued in 2007. AVC considers that should anti-dumping measures expire then exports from Japan will increase

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at prices that will undercut AVC prices be below a non-injurious price and cause material injury to AVC.

4.4.2 Our assessment

The comparison of export prices of PVC from Japan to New Zealand in 2011 shows that those prices would for most months undercut AVC average selling price in 2012 after adding costs to reach a comparable into store price.

The great majority of export prices to New Zealand are also below the current non-injurious free on board price (NIFOB) applicable in the measures. A NIFOB based on AVC's selling price for 2012 and allowing for deductions to bring that price back to a comparable free on board point also shows that export prices generally below the NIFOB.

We consider that it is reasonable to conclude that exports of PVC from Japan that were at prices that undercut AVC's prices might cause material injury where AVC were to respond to such prices by cutting its own prices in response. Such a response could lead to material injury though loss of revenue, profits and profitability.

That the export prices of PVC from Japan to New Zealand are below the current NIFOB and a NIFOB calculated on AVC's selling price for 2012 also suggests that exports of PVC at those prices might cause material injury to AVC if exported to Australia.

Given the above comparison of export prices to AVC selling price, the current NIFOB and a NIFOB based on 2012 prices we consider that there are reasonable grounds for asserting that should measures expire, it might lead or be likely to lead to a continuation or reoccurrence of material injury that the measures are intended to prevent.

The price undercutting analysis and comparison of export prices and NIFOBs is at **confidential attachment 2**.

4.5 Conclusion on "reasonable grounds"

There appear to be reasonable grounds for asserting that the expiration of anti-dumping measure to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Accordingly as the delegate of the CEO you are recommended not to reject the application.

In accordance with s 269ZHD(4) you will need to publish a notice indicating that it is proposed to inquire into whether continuation of the measures is justified.

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5 Review of the measures – Japan and the USA

The CEO will commence a review of the normal values and non-injurious free on board prices applying to PVC exported from Japan and the USA, this follows consideration of an application by Chemiplas Australia Pty Ltd, an importer of PVC. Customs and Border Protection will not be examining revocation of the measures during this review.

The review will commence on 24 February 2012, the period to examine normal values and non-injurious free on board prices is from 1 January 2011 to 31 December 2011.

Particulars of the reasons for the decision to initiate the review are shown in Consideration Report No. 185 held on the public record.

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6 List of Attachments

Appendix A	Public notice under s. 269ZHD(4)
Confidential Attachment 1	Volume of Imports and market size
Confidential Attachment 2	Non-injurious price and undercutting analysis

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Appendix A

Customs Act 1901 – Part XV B

Polyvinyl Chloride Homopolymer Resin (PVC) exported from Japan

Initiation of continuation inquiry

Notice under s. 269ZHD(4)

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) will undertake an inquiry as to whether the continuation of anti-dumping measures applied to polyvinyl chloride homopolymer resin (PVC), exported from Japan is justified. The inquiry will commence on 24 February 2012.

The goods subject to anti-dumping measures, in the form of a dumping duty notice, are PVC. The goods subject to the measures do not include PVC compounds, pastes or emulsion grades. PVC is classified under sub-heading 3904.10.00, statistical code 18, in Schedule 3 to the *Customs Tariff Act 1995*. The rate of duty from Japan is 5%.

Anti-dumping measures applying to PVC exported from Japan were initially imposed in 1992 and have since been subject to continuation inquiries every five years. The measures apply to all exporters from Japan.

Interested parties are invited to lodge written submissions concerning the continuation of the measures not later than **04 April 2012** with:

The Director
Operations 1, International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra ACT 2601

or by email tmops1@customs.gov.au, or fax number 02 6275 6990.

Confidential submissions must be clearly marked "In-Confidence" and be accompanied by two non-confidential versions suitable for placement on the public record. All non-confidential submissions will be placed on the public record for this inquiry together with a copy of all relevant correspondence between Customs and Border Protection and other persons.

A statement of the essential facts on which the CEO proposes to base a recommendation to the Minister for Home Affairs (the Minister) will be placed on the public record by 13 June 2012, or such longer period as the Minister allows. Interested parties are invited to lodge submissions in response to the statement of essential facts within 20 days of that statement being placed on the public record. These submissions should also be lodged with Customs and Border Protection at the above mail, fax or email addresses. A report and recommendation to the Minister will be made on or before 30 July 2012 (or such longer period as the Minister allows).

Particulars of the reasons for the decision to initiate this inquiry are shown in Consideration Report No. 184 (CON 184) held on the public record. Interested parties wishing to examine the public record may do so on the internet at adpr.customs.gov.au/Customs or at Customs House, 5 Constitution Avenue, Canberra ACT during business hours by contacting International Trade Remedies office management on telephone number 02 6275 6547. CON 184 and all Australian Customs Dumping Notices are also available on the Customs and Border Protection website at www.customs.gov.au.

Enquiries about this notice may be directed to the case team on telephone number 02 6245 5434 or email tmops1@customs.gov.au.

Justin Wickes
Delegate of the Chief Executive Officer
24 February 2012