



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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*Customs Act 1901 Part XVB*

## **CONSIDERATION REPORT NO. 515**

Application for a dumping duty notice

Submitted by Qenos Pty Ltd

In relation to high density polyethylene exported to Australia from the Republic of Korea, the Republic of Singapore, the Kingdom of Thailand and the United States of America

21 June 2019

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<b>ABBREVIATIONS</b>
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Abbreviation / short form	Full reference
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
CFR	Cost and Freight
ChemChina	China National Chemical Corporation Ltd
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
the Direction	<i>Ministerial Direction on Material Injury 2012</i>
FOB	Free on Board
HDPE, or the goods	high density polyethylene
investigation period	1 April 2018 to 31 March 2019
Korea	Republic of Korea
LLDPE	linear-low density polyethylene
the Minister	Minister for Industry, Science and Technology
Qenos	Qenos Pty Ltd
SG&A	selling, general and administrative
Singapore	Republic of Singapore
the subject countries	collectively, Korea, Singapore, Thailand and the USA
Thailand	Kingdom of Thailand
USA	United States of America
USD	United States Dollar

# 1 FINDINGS AND RECOMMENDATIONS

This report provides the result of the consideration by the Anti-Dumping Commission (the Commission) of an application under subsection 269TB(1) of the *Customs Act 1901* (the Act)<sup>1</sup> by Qenos Pty Ltd (Qenos) for the publication of a dumping duty notice in respect of high density polyethylene (HDPE) that has been imported into Australia from the Republic of Korea (Korea), the Republic of Singapore (Singapore), the Kingdom of Thailand (Thailand) and the United States of America (USA).<sup>2</sup>

Qenos alleges that the Australian industry producing HDPE has experienced material injury and/or there is a threat of material injury caused by HDPE exported to Australia from the subject countries at dumped prices.

The legislative framework that underpins the making of an application and the Commission's consideration of an application is contained in Divisions 1 and 2 of Part XVB.

## 1.1 Findings

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- the application complies with the requirements of subsection **Error! Reference source not found.**(4) (as set out in section 2.2 of this report);
- there is an Australian industry in respect of like goods (as set out in section 2.4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in chapters 3, 4 and 5 of this report).

## 1.2 Recommendations

Based on the above findings, the Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) decide not to reject the application, and initiate an investigation to determine whether a dumping duty notice should be published.

The Commission further recommends that:

- exports to Australia during the period 1 April 2018 to 31 March 2019 (the investigation period) be examined for dumping; and
- details of the Australian market from 1 April 2015 be examined for injury analysis purposes.

If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision (**Non-Confidential Attachment 1**) in accordance with the requirements set out in subsection 269TC(4).

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

<sup>2</sup> Collectively, the subject countries.

## 2 THE APPLICATION AND THE AUSTRALIAN INDUSTRY

### 2.1 Lodgement of the application

#### 2.1.1 Legislative framework

The procedures for lodging an application are set out in section 269TB. The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

#### 2.1.2 The Commissioner's timeframe

Event	Date	Details
Application lodged & received by the Commissioner under subsections 269TB(1) and (5)	22 May 2019	The Commission received an application from Qenos which alleges that the Australian industry has experienced material injury and/or there is a threat of material injury caused by HDPE that has been imported into Australia from the subject countries at dumped prices.
	30 May 2019	The Commission notified Qenos that the application contained important deficiencies which, if left unaddressed, may create doubt on the reasonableness of the grounds for the publication of a dumping duty notice.
Applicant provided further information in support of the application under subsection 269TC(2A)	30 May 2019 14 June 2019	The applicant provided further information and/or data in support of its application without having been requested to do so (as provided in subsection 269TC(2A)). This provision of further information and data restarted the 20 day period for consideration of the application and the application was taken to have been lodged and received from the last date this information was provided.
Consideration decision due under subsection 269TC(1)	4 July 2019	The Commissioner shall decide whether to reject or not reject the application within 20 days after the applicant provided further information.

Table 1: Commissioner's timeframe

### 2.2 Compliance with subsection 269TB(4)

#### 2.2.1 Finding

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4).

#### 2.2.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that the application complies with subsection 269TB(4).

### 2.2.3 The Commission’s assessment

The table below summarises the Commission’s assessment of compliance with subsection 269TB(4).

Requirement for the application	Details
Lodged in writing under subsection 269TB(4)(a)	Qenos lodged, in writing, confidential and non-confidential versions of the application. The non-confidential version of the application can be found on the electronic public record on the Commission website. <sup>3</sup>
Lodged in an approved form under subsection 269TB(4)(b)	The application is in the approved form (B108) for the purpose of making an application under subsection 269TB(1).
Contains such information as the form requires under subsection 269TB(4)(c)	Qenos: <ul style="list-style-type: none"> <li>• provided a completed declaration;</li> <li>• answered all questions that were required to be answered by the applicant;</li> <li>• completed all appendices; and</li> <li>• provided sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in confidence.</li> </ul>
Signed in the manner indicated in the form under subsection 269TB(4)(d)	The application was signed in the manner indicated in Form B108 by a representative of the applicant.
Supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and determined in accordance with subsection 269TB(6)	Qenos’s application states that it is the sole Australian manufacturer of HDPE. This corresponds with the information available from previous investigations concerning HDPE (see below) and the Commission’s own research. As set out in section 2.4, the Commission is satisfied persons, being Qenos, who produce or manufacture like goods in Australia and who support the application: <ul style="list-style-type: none"> <li>• account for not less than 25 per cent of the total production in Australia on the basis that Qenos is the sole Australian producer of HDPE; and</li> <li>• Account for more than 50 per cent of the total production of like goods produced or manufactured by that portion of the Australian industry that has expressed either opposition to or support for the application on the basis that Qenos is the sole Australian producer of HDPE.</li> </ul>
Lodged in the manner approved under section 269SMS for the purposes subsection 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner’s instrument made under section 269SMS, being by email to an address provided in that instrument. The application was therefore lodged in a manner approved under subsection 269SMS(2).

**Table 2: Commission’s assessment of application**

<sup>3</sup> The electronic public record can be found [here](#).

## 2.3 The goods the subject of the application

The table below outlines the goods as described in the application and the tariff classifications the goods are generally classified to.

<b>Full description of the goods, as subject of the application</b>			
High density polyethylene (HDPE). HDPE is a polymer of ethylene in primary form having a specific gravity of 0.94 grams or more per cubic centimetre.			
<b>Tariff classification (<i>Schedule 3 of the Customs Tariff Act 1995</i>)</b>			
<b>Tariff code</b>	<b>Statistical code</b>	<b>Unit</b>	<b>Description</b>
3901.20.00	03	kg	Polymers of ethylene, in primary forms: - Polyethylene having a specific gravity of 0.94 or more
3901.90.00	27	kg	Polymers of ethylene, in primary forms: - other
<b>Previous investigations</b>			
<p>HDPE has been the subject of a number of previous investigations, in each instance as a result of an application from Qenos.</p> <p>Anti-dumping measures have previously been imposed on exports from:</p> <ul style="list-style-type: none"> <li>• Korea, Saudi Arabia and Singapore (September 1992 to September 1997); and</li> <li>• Korea (except Daelim Corporation), Malaysia, Singapore (except Singapore Polymer Corporation Pte Ltd) and Sweden (December 2003 to December 2008).</li> </ul> <p>The last of these measures were imposed following <i>Trade Measures Branch Report No. 68</i>. The measures were reviewed in <i>Trade Measures Branch Report Nos. 90, 129</i> (as they applied to Chevron Phillips Singapore Chemicals (Private) Limited of Singapore) and <i>133</i> (as they applied to all exporters other than Chevron Phillips Singapore Chemicals (Private) Limited).</p> <p>Previous investigations have also examined exports from Belgium (terminated in 2003 - <i>Trade Measures Branch Report No. 73</i>) and Thailand (terminated in 2003 - <i>Trade Measures Branch Report No. 68</i>).</p> <p>The continuation inquiry recommended that the measures not be continued, and that recommendation was accepted by the relevant Minister (<i>Trade Measures Branch Report No. 136</i> refers).</p>			
<b>Other administrations</b>			
As at 31 December 2018, there is no record of anti-dumping measures being imposed with respect to exports of HDPE by any other administration. <sup>4</sup>			

**Table 3: The goods**

## 2.4 Like goods and the Australian industry

### 2.4.1 Finding

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- Qenos produce goods that have characteristics that closely resemble the goods the subject of the application; and
- at least one substantial process of manufacture is carried out in Australia.

<sup>4</sup> World Trade Organization *Integrated Trade Intelligence Portal*, viewed 5 June 2019: <https://i-tip.wto.org/goods/default.aspx?language=en>

## 2.4.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

Like goods are defined under subsection 269T(1). Subsections 269T(2), (3), (4) and (4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

## 2.4.3 Locally produced like goods

The table below summarises the Commission’s preliminary assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods. This assessment is based on Qenos’ application and the Commission’s own research.

Factor	The Applicant’s claims	The Commission’s assessment
Physical likeness	Qenos claims that the locally produced goods and the imported goods have the same physical appearance and cannot be differentiated.	The Commission considers that both the imported goods and the goods manufactured by the Australian industry are physically alike in all practical aspects, being a cloudy, white, highly crystalline thermoplastic of a similar chemical composition. Other additives (such as colour, ultraviolet stabilisers (for end uses likely to be exposed to sunlight), anti-clumping agents etc.) may be included in the finished product.  The average customer would be unlikely to distinguish the difference between locally manufactured goods and imported goods.
Commercial likeness	Qenos claims the domestically manufactured goods are sold via the same or similar distribution channels, to the same or similar customers on the Australian market, and therefore compete directly with the imported goods.	The Commission considers that the imported goods and the goods manufactured by Australian industry are commercially similar as they compete in the same end user markets. These end users include manufacturers of pipe extrusions, tape and monofilament, film, blow and injection moulded products. The products are packed in similar sizes (e.g. container, 25 kilogram bags or 1 tonne bulk bags) and marketed in similar ways (particular grades, based on technical specifications, are sold for specific end user applications).
Functional likeness	Qenos claims that the domestically manufactured goods and imported goods have the same end uses and are used interchangeably in a range of applications. Both locally produced and imported HDPE is suitable for use as the raw material in the production of other products (e.g. of automotive, flexible packaging, homewares and leisure, packaging and storage, resources (water, gas and slurry reticulation), pipe and construction, rigid packaging and wire and cable).	The Commission considers that the imported goods and the goods manufactured by the Australian industry are functionally alike as they can be used interchangeably in the production of downstream products through intermediate manufacturing processes (e.g. blow moulding, injection moulding, film and pipe extrusions).



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Factor	The Applicant's claims	The Commission's assessment
Production likeness	Qenos claims domestically manufactured goods and the imported goods are manufactured via similar manufacturing processes, using the same or similar raw materials in the production process.	The Commission considers that the production of HDPE requires specific chemical reactions to make the goods. Whilst these processes might vary in terms of technology or methodology, they all rely on essentially the same raw material inputs to produce HDPE. The equipment and processes required to produce HDPE is therefore alike in most significant practical aspects.
<b>Commission's assessment</b>		
The Commission's assessment is that the locally produced goods closely resemble the goods the subject of the application and are like goods, given that the primary physical characteristics are similar, are commercially alike as they are sold to common end users, are functionally alike as they have the same end uses, and the imported and locally produced goods are manufactured in a similar manner.		

**Table 4: Like goods assessment**

### 2.4.4 Manufacture in Australia

The table below summarises the Commission's assessment of whether at least one substantial process of manufacture is carried out in Australia and whether the like goods are therefore considered to have been manufactured in Australia.

The Applicant's claims
HDPE is produced via the polymerisation of ethylene gas and a co-monomer in the presence of various catalysts at controlled pressures and temperatures. Qenos claims that it manufactures ethylene from locally sourced ethane and liquid petroleum gas, and the entire polymerisation process takes place in Australia (at Altona, Victoria and at Botany, New South Wales).
The Commission's assessment
The Commission considers that at least one substantial process of manufacture is carried out in Australia and considers the like goods to have been manufactured in Australia.

**Table 5: Manufacture of like goods**

## 2.5 Australian industry information

The table below summarises the Commission's assessment of whether Qenos has provided sufficient information in the application to analyse the performance of the Australian industry.

Have the relevant appendices to the application been completed?		
A1	Australian production	Yes
A2	Australian market	Yes
A3	Sales turnover	Yes
A4	Domestic sales	Yes
A5	Sales of other production	Yes
A6.1	Cost to make and sell (& profit) – Domestic sales	Yes
A6.2	Cost to make and sell (& profit) – Export sales	Yes
A7	Other injury factors	Yes

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<b>General administration and accounting information</b>		
History	The Qenos group of companies was formed in 1999 as a joint venture between Orica (50 per cent) and ExxonMobil Chemical (50 per cent). In 2005, Qenos was sold to the China National Chemical Corporation Ltd. (ChemChina).	
Ownership	Qenos is a privately owned company, 100 per cent owned by Qenos Olefins Pty Ltd. ChemChina is the ultimate parent company.	
Operations	Qenos is a supplier of a broad range of products from local production including HDPE, low density polyethylene, linear-low density polyethylene (LLDPE) and mettalocene-LLDPE for use in blow moulding, pipe extrusions, rotational moulding, film extrusion, extrusion coating and injection moulding processes.  Qenos also supplies externally sourced products including resins, modifiers, rubbers and elastomers, and copolymers.	
Financial year	1 January to 31 December.	
Unaudited accounts	Qenos provided internal management reports for quarters ending June 2018, September 2018, December 2018 and March 2019 (refer <i>Confidential Attachment A-6.3.2</i> of application).	
Annual reports	Qenos provided audited financial statements for the 2017 and 2018 financial years (refer <i>Confidential Attachments A-2.9 (i)</i> and <i>(ii)</i> of application).	
<b>Production and sales information</b>	<b>Cost to make and sell information</b>	<b>Other injury factors</b>
The Commission has no significant concerns regarding the production and sales information provided.	The Commission has no significant concerns regarding the cost data provided.	The Commission has no significant concerns regarding the data provided in Appendix A7 to the application.
<b>The Commission's assessment</b>		
Based on the information in the application, which covers the period between 1 April 2015 and 31 March 2019, the Commission is satisfied that there is sufficient data on which to analyse the performance of the Australian industry.		

**Table 6: Information about the Australian industry**

### 2.5.1 Market size

To estimate the size of the Australian market for HDPE, the applicant has had regard to its own sales volumes (as outlined in *Confidential Appendix A2* of the application) and to export statistics from TradeData International for 1 April 2015 to 31 March 2019. The applicant acknowledged that data for the quarter ending 31 March 2019 was incomplete, as data for USA and certain other countries was not available at the time of lodgement.

The applicant claims that the Australian market for HDPE has experienced growth over the years 2015/16 to 2018/19 (based on years ending 31 March).

The Commission has compared the import volume data provided by the applicant (from the subject countries, and all other countries) to import volumes in the Australian Border Force (ABF) import database in order to assess whether Qenos' estimate of the size of the Australian market for HDPE is reasonable. In examining the ABF data, the Commission has found that there appear to be goods which may have been classified under incorrect tariff subheadings, and the consignment has not been described in sufficient detail to assess the classification further. The Commission has also observed some consignments have been declared with volumes which are either over or understated (e.g. declared in kilograms rather than tonnes, and vice versa).

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The Commission found some discrepancies between the import volumes as reported by Qenos and the import volumes obtained from the ABF import database. Given these discrepancies and Qenos' acknowledgement that its data for the quarter ending 31 March 2019 is incomplete, and noting that the ABF import database provides more detailed information in relation to import consignments, the Commission has relied on the data from the ABF import database to estimate the size of the Australian market for HDPE.<sup>5</sup>

The graph below shows the Commission's estimate of the size of the Australian market for HDPE from 2015/16 to 2018/19 using data from the ABF import database and Qenos' sales data.

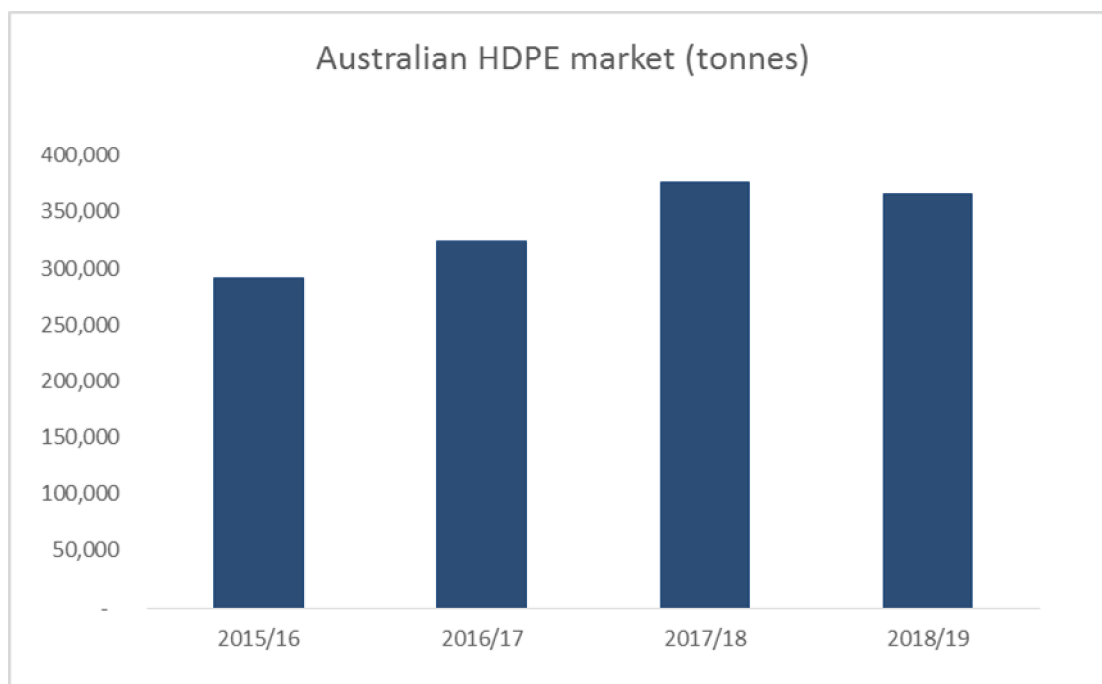


Figure 1 – Australian HDPE market size<sup>6</sup>

The graph above shows that the total Australian market size for HDPE has increased by 26 per cent overall since 2015/16; however, the market contracted slightly in 2018/19.

The Commission's assessment of the Australian market size for HDPE forms **Confidential Attachment 2**.

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<sup>5</sup> During the course of the investigation the Commission will seek further information from interested parties and may further refine the data as appropriate. The Commission will also bring to the ABF's attention the apparent discrepancies it has observed in the import database.

<sup>6</sup> Based on years ending 31 March.

### 3 REASONABLE GROUNDS – DUMPING

#### 3.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the claims that the goods have been exported to Australia from Korea, Singapore, Thailand and the USA at dumped prices.

#### 3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the Minister for Industry, Science and Technology (the Minister) must be satisfied of in order to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods, i.e. that dumping has taken place (to an extent that is not negligible). This issue is considered in the following sections.

#### 3.3 Export price

##### 3.3.1 Legislative framework

Export price is determined by applying the requirements in section 269TAB, taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

##### 3.3.2 The Applicant's estimate

The table below summarises the approach taken by Qenos to estimate export prices and the evidence relied upon.

Country	Basis of estimate	Details
Korea, Singapore and Thailand	The price paid by the importer – subsection 269TAB(1)(a). The applicant commissioned an international trade data company to prepare information relating to export price for Korea, Singapore and Thailand.	The applicant considers that the commissioned import data accurately reflects the declared Free on Board (FOB) prices for the exported goods from Korea, Singapore and Thailand.

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Country	Basis of estimate	Details
USA	<p>The price paid by the importer as per subsection 269TAB(1)(a) and the price at which the goods were sold by the importer to a customer, less prescribed deductions, as per subsection 269TAB(1)(b).</p> <p>The applicant commissioned an international trade data company to prepare information relating to export price for the USA.</p> <p>The commissioned import data was not complete for the quarters ending December 2018 and March 2019.</p>	<p>The applicant considers that the commissioned import data accurately reflects the declared FOB prices for the exported goods from the USA for the period January 2018 to July 2018.</p> <p>The applicant considers that the commissioned import data for the goods exported from the USA from July 2018 is unreliable, as it does not reflect the actual prices that Qenos has observed in the market for exports from the USA. As such, the applicant has also estimated export prices based on the prices of HDPE sold by importers to unrelated Australian customers in months corresponding to known price offers. Accordingly, the prices estimated by the applicant do not cover all months of the investigation period.</p> <p>In calculating deductive export prices for exports from the USA, the applicant has removed prescribed deductions from the price at point of resale to unrelated buyers in Australia.</p>

**Table 7: Qenos' estimate of export prices**

### **3.3.3 The Commission's assessment**

The Commission examined the calculations and supporting evidence provided by Qenos by comparing the export price calculated by Qenos to export prices from the ABF import database.

For Korea, Singapore and Thailand, there were minor variances between Qenos' estimated export price and the ABF data and the Commission does not consider these variances to be material.

In relation to the USA, Qenos' export prices matched the ABF data for the quarter ending June 2018. The difference in Qenos' export data when compared to ABF data for the quarters ending September 2018, December 2018 and March 2019 is significant.

The Commission accepts that an applicant can only provide information in its application that is reasonably available to it. The Commission considers that Qenos' sources of information are reasonable and contemporaneous. Accordingly, the Commission considers Qenos' estimates and calculations of HDPE export prices exported from Korea, Singapore, Thailand and the USA are reasonable for the purposes of making the application. However, for the purposes of this report, the Commission considers the ABF import data to be more reliable than the applicant's estimates, and will therefore rely on these figures to determine export prices for each of the subject countries.

The applicant's calculation of the export price and the Commission's comparison are contained in **Confidential Attachment 3**.

## **3.4 Normal value**

### **3.4.1 Legislative framework**

Normal value is determined by applying the requirements in section 269TAC, taking into account whether:

- the purchase or sale of the goods was an arms length transaction under section 269TAA;

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- the goods were sold in the ordinary course of trade under section 269TAAD;
- there has been an absence or low volume of sales of like goods in the country of export that would be relevant for determining a normal value under subsection 269TAC(1); and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under subsection 269TAC(1).

**3.4.2 The Applicant's estimate**

The table below summarises the approach taken by Qenos to estimate normal values and the evidence relied upon.

Country	Basis of estimate	Details
Korea	The applicant was unable to obtain domestic selling prices for the goods from Korea and has constructed the normal value under subsection 269TAC(2)(c).	<p>Qenos explained that domestic selling prices for HDPE sold in Korea are not available to it in any known industry newsletters or publications. Qenos therefore constructed selling prices for HDPE (injection moulding grade) sold in Korea based on production costs (prepared by a data analytics company) for HDPE production in Korea.</p> <p>Qenos explained that the production costs are sensitive to movements in the raw material ethylene price. To counter this, Qenos included quarterly United States Dollar (USD) FOB prices out of Korea for ethylene, sourced from S&amp;P Global Platts' monthly polymer newsletter. This allowed for quarterly constructed selling prices to reflect likely price movements in the investigation period.</p> <p>Qenos added depreciation, as well as selling, general and administrative (SG&amp;A) expense amounts to the FOB Korean ethylene prices, in USD. These amounts are sourced from Qenos' own quarterly depreciation and SG&amp;A expenses for 2018. Qenos also added a level of profit, to allow for an estimated adequate return on investment for a high-capital intensive petrochemical business, as an upwards adjustment.</p>
Singapore	The applicant was unable to obtain domestic selling prices for the goods from Singapore and has constructed the normal value under subsection 269TAC(2)(c).	<p>Qenos explained that domestic selling prices for HDPE sold in Singapore are not available to it in any known industry newsletters or publications. Qenos therefore constructed selling prices for HDPE sold in Singapore based on production costs of a Singaporean HDPE producer, with information from a data analytics company.</p> <p>Qenos explained that the production costs for HDPE are sensitive to movements in the raw material ethylene price. To counter this, Qenos included a quarterly USD average South East Asian price at Cost and Freight (CFR) terms in relation to ethylene, sourced from S&amp;P Global Platts monthly polymer newsletter. This allowed for quarterly constructed selling prices to reflect likely price movements in the investigation period.</p> <p>Qenos added depreciation, as well as SG&amp;A expense amounts to the USD average South East Asian CFR prices. These amounts are sourced from Qenos' own quarterly depreciation and SG&amp;A expenses for 2018. Qenos also added a level of profit, to allow for an estimated adequate return on investment for a high-capital intensive petrochemical business, as an upwards adjustment.</p>

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Country	Basis of estimate	Details
Thailand	The applicant obtained domestic selling prices under subsection 269TAC(1).	Qenos explained that Thai domestic selling prices for HDPE are not available to it in any known industry newsletters or publications. Qenos therefore commissioned a market survey to obtain domestic selling prices for HDPE (shown at <i>Confidential Attachment B-3.1(a)</i> of its application). Qenos obtained Thai domestic prices for HDPE during the December 2018 quarter. The selling prices to the domestic customer excludes costs such as VAT, delivery and shipment. In order to calculate domestic selling price equivalents for all of 2018, Qenos adjusted the Thai domestic price sources from the market survey pricing, by reference to movements in domestic prices in the USA for injection and blow moulding grades. The applicant has calculated a weighted average monthly domestic Thai selling price (i.e. incorporating injection, blow moulding, film and pipe grades) for comparison with the weighted average monthly export prices published by Thai Customs.
USA	The applicant obtained domestic selling prices under subsection 269TAC(1).	Qenos has obtained domestic selling prices for HDPE sold in the USA, on a monthly basis, from S&P Global Platts. Qenos has used the mid-month domestic sell price in the USA available for HDPE injection, blow-moulding and film grades.

**Table 8: Qenos' methodology for normal values**

### 3.4.3 The Commission's assessment

In relation to Qenos' estimation of normal values for Korea and Singapore, the Commission is satisfied that:

- the respective production costs for HDPE manufacture appear to be reasonable for the purposes of estimating domestic prices;
- the USD FOB ethylene prices out of Korea, as well as the USD FOB average South East Asian CFR ethylene prices, are from a reputable source utilising a transparent data collection and reporting framework, available to all market participants; and
- the adjustments made to account for depreciation and SG&A expenses, as well as profit, are reasonable, given that Qenos is also a petrochemicals manufacturer, and because Qenos had regard to the return on investment for a high-capital intensive petrochemical business.

With regard to Qenos' estimation of normal value for Thailand, the Commission is satisfied that:

- a market survey of Thai domestic prices is a reasonable basis for establishing a normal value in that market; and
- movements in the domestic prices in USA for certain HDPE grades is a viable way of estimating likely movements in Thai domestic prices, given the limited information available to Qenos.

In relation to Qenos' estimation of normal value for the USA, the Commission is satisfied that the domestic prices for USA are sourced from a reputable company, and is reasonable for this purpose.

Qenos' estimates of normal value and the Commission's assessment are contained in **Confidential Attachment 4**.

### 3.5 Dumping margins

#### 3.5.1 Legislative framework

Dumping margins are determined in accordance with the requirements of section 269TACB. Dumping margins and dumping volumes cannot be negligible, otherwise the investigation is terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

#### 3.5.2 Korea, Singapore and Thailand

Qenos calculated dumping margins for Korea, Singapore and Thailand by comparing weighted average export prices to weighted average normal values for each month of the period it examined. Qenos did not calculate a single dumping margin for the whole of the period. As a result, the Commission has used a simple average of Qenos' figures for each month to determine a single dumping margin estimate for each country. This is shown at table 9, below.

For each of the three countries, the Commission has calculated separate dumping margins for the proposed investigation period. These dumping margins are based on weighted average export prices (calculated from ABF data) and Qenos' weighted average normal values, for the whole of the investigation period.

#### 3.5.3 USA

Qenos' dumping margin for HDPE exported from the USA used a deductive export price based on HDPE offers to certain Australian customers to calculate dumping margins for October 2018, November 2018, and February 2019 only. Qenos' estimated dumping margins are based on export prices and normal values pertaining to various offer dates during each of the three months. In order to determine Qenos' singular dumping margin estimate for the USA, the Commission has calculated a simple average of the dumping margins estimated by Qenos. This is shown at table 9, below.

The Commission calculated a separate dumping margin based on weighted average export prices using ABF import data, and Qenos' weighted average normal value, for the whole of the investigation period.

#### 3.5.4 The Commission's assessment

The table below summarises the dumping margins estimated by Qenos (based on the information available to it) and the dumping margins estimated by the Commission (based on both Qenos' information and the ABF import database). Dumping margins are expressed as a percentage of the export price.

Country	Qenos' estimate	Commission estimate
Korea	17%	10.6%
Singapore	11%	10.4%
Thailand	45%	40.7%
USA	28%	19.8%

Table 9: Estimate of dumping margins

Assessed at the levels shown, the dumping margins are not negligible.



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Therefore, there appear to be reasonable grounds to support Qenos' claims that dumping has occurred and dumping margins are not negligible under subsection 269TDA(1)(b)(ii).

With respect to the volume of dumped goods, the ABF import database indicates that the volume of exports from Korea, Thailand and Singapore exceeds the 3 per cent threshold for a negligible volume in subsections 269TDA(3) and (4).

However, for the reasons noted in section 2.5.1 above, there is some uncertainty as to the volume of goods that were actually exported from the USA during the investigation period. Whilst Qenos' application suggested that volumes exported from the USA accounted for approximately 2 per cent of all Australian imports, the Commission considers, based on the evidence it has gathered, that the volume imported during the investigation period exceeds that figure. Further noting the potential for the goods to have been misclassified and / or incorrectly declared in terms of volumes in the ABF import database, the Commission has concluded that there still appear to be reasonable grounds for the publication of a dumping duty notice with respect to exports from the USA.

A comparison of Qenos' estimated dumping margins and the Commission's dumping margin calculations form **Confidential Attachment 5**.

## 4 REASONABLE GROUNDS – INJURY TO THE AUSTRALIAN INDUSTRY

### 4.1 Findings

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application and to other information considered relevant, the Commission considers that there appears to be reasonable grounds to support the claim that the Australian industry has experienced injury in the form of:

- reduced sales volume;
- reduced market share;
- price suppression;
- reduced profit and profitability;
- reduced investment;
- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment.

Qenos has provided sufficient information in its application for the Commission to undertake an initial assessment of injury and causation.

### 4.2 Legislative framework

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that material injury to an Australian industry producing like goods has been or is being caused or is threatened. This issue is considered in the following sections.

The matters that may be considered in determining whether the Australian industry has experienced material injury are set out in section 269TAE. In assessing the materiality of the claimed injury, the Commission has also had regard to the *Ministerial Direction on Material Injury 2012* (the Direction).<sup>7</sup>

### 4.3 Approach to injury analysis

The analysis detailed in this section is a preliminary analysis based on information provided by Qenos in support of its application, including quarterly production, cost, sale and other financial data. Where relevant, the Commission also had regard to the ABF import database.

#### 4.3.1 Injury analysis period

For the purpose of the following injury analysis, the Commission has analysed Qenos' injury claims from 1 April 2015 to 31 March 2019. As such, the figures presented show the data for years ending 31 March.

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<sup>7</sup> *Ministerial Direction on Material Injury 2012*, 27 April 2012, available at [www.adcomission.gov.au](http://www.adcomission.gov.au).

## 4.4 The applicant's claims

Qenos claims that, as the sole member of the Australian industry, it has been injured through:

- loss of sales volume;
- reduced market share;
- price depression (throughout 2018/19);
- price suppression;
- loss of profits;
- reduced profitability;
- reduced employment;
- reduced capacity utilisation;
- reduced return on investment; and
- reduced investment.

In its application, Qenos claims that material injury commenced in 2017/18 when exports of HDPE to Australia from the subject countries undercut its selling prices. It also claims that it is experiencing a threat of material injury from goods exported to Australia from USA.

## 4.5 Volume effects

Qenos claims that the Australian industry has experienced injury in the form of reduced sales volumes and market share. The following sections of the report summarise the claimed injury indicators (in terms of volume effects) and include the Commission's assessment.

### 4.5.1 Sales volume

The following graph shows Qenos' total sales volume for HDPE in the Australian market since 1 April 2015.

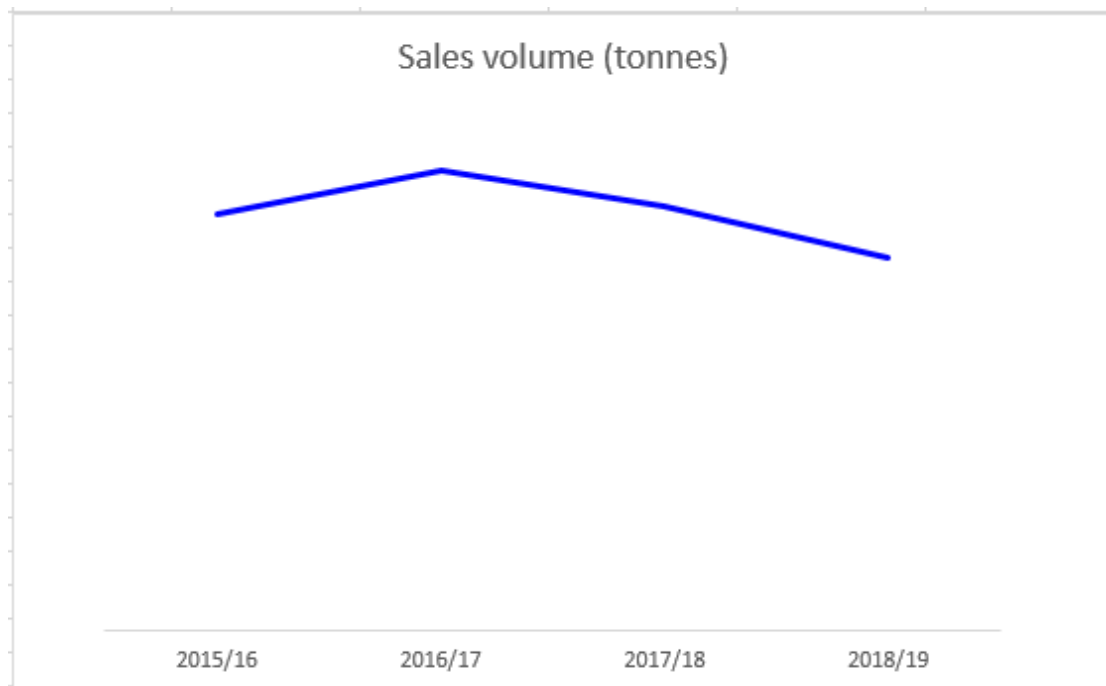


Figure 2 – Qenos' domestic sales volume of HDPE

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This graph shows that Qenos' domestic sales volumes of HDPE increased in 2016/17, before decreasing in both 2017/18 and 2018/19. As outlined in section 2.5.1 of this report, this occurred at a time when the overall size of the Australian market for HDPE has grown.

### 4.5.2 Market share

The following graph shows changes in the domestic market share between Qenos and importing countries for the period 2015/16 to 2018/19.

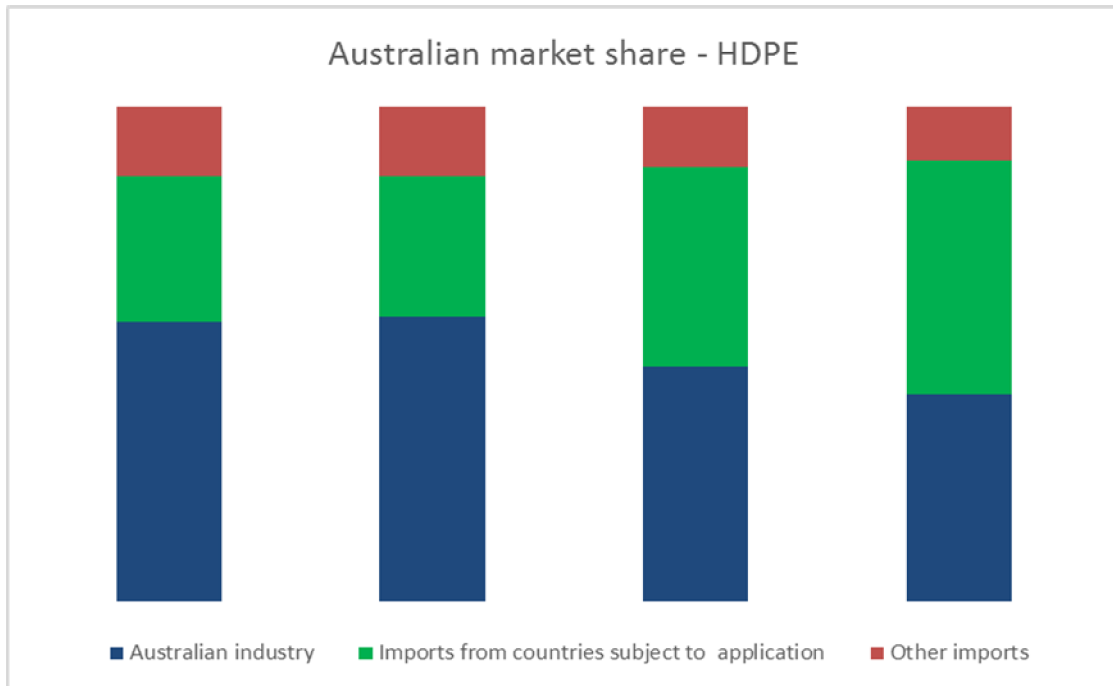


Figure 3 – Australian market share based on ABF and Qenos sales data

The above graph shows that Qenos' share in the Australian HDPE market has decreased progressively from 2016/17. The graph also shows that the share of imports from the subject countries have increased over the same period.

### 4.5.3 Conclusion – volume effects

Based on this analysis, the Commission considers there appear to be reasonable grounds to support the applicant's claim that the Australian industry has experienced injury in the form of loss of sales volume and market share.

## 4.6 Price effects

In its application Qenos claimed the Australian industry has experienced material injury in the form of price depression (throughout 2018/19) and price suppression. Qenos alleges that, as a result of price undercutting by dumped imports, it has been required to lower its prices in order to maintain volume.

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

The following graph shows the trends in Qenos' unit price and unit cost to make and sell (CTMS) for HDPE from 2015/16 to 2018/19.

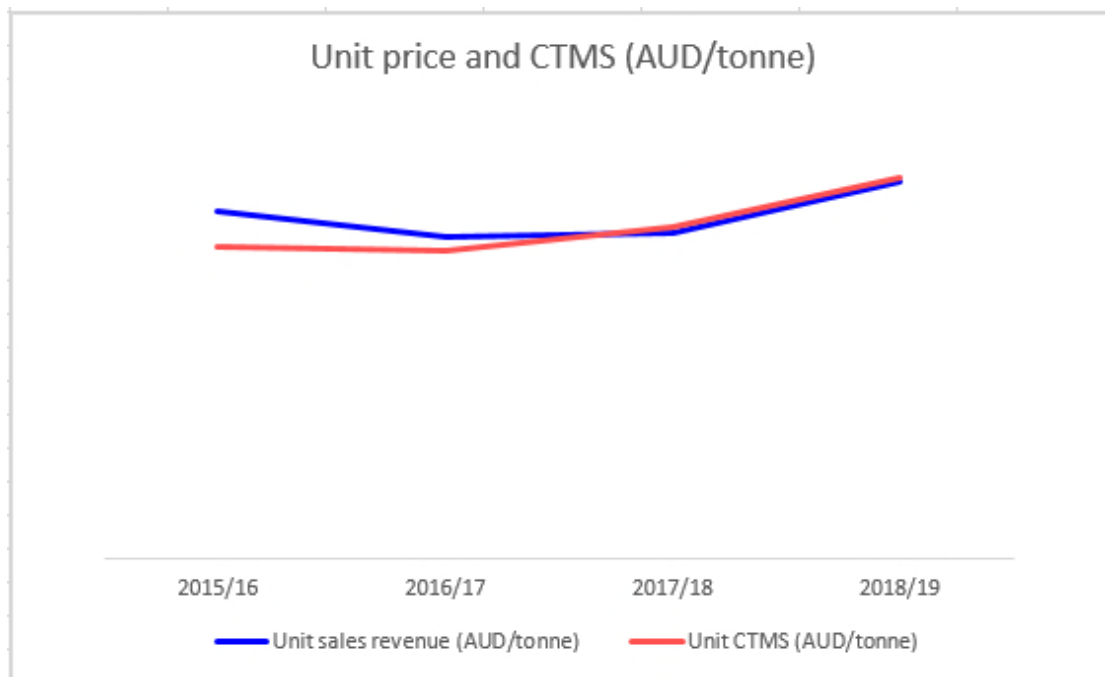


Figure 4 – Qenos’ HDPE unit price and cost

The graph above shows that unit price has decreased in 2016/17, remained relatively steady in 2017/18 and increased in 2018/19 (to be higher than the unit price in 2015/16). This does not appear to indicate price depression, as prices overall have risen during the period.

However, the graph also shows that between 2016/17 and 2018/19 Qenos’ unit cost increased steadily. Although it remained relatively in line with unit pricing during this period, the Commission notes that unit cost was slightly higher than pricing in both 2017/18 and 2018/19 (compared to 2015/16 when there was a clear margin between unit price and cost), indicating price suppression.

#### 4.6.1 Conclusion – price effects

Based on this analysis, the Commission considers there appear to be reasonable grounds to support the applicant’s claim that the Australian industry has experienced injury in the form of price suppression.

#### 4.7 Profit and profitability

Qenos claims that the Australian industry has experienced injury in the form of loss of profits and reduced profitability, as a result of the suppression of its margin between selling prices and costs.

The following graph shows the trend in Qenos’ domestic profit and profitability during the period 2015/16 to 2018/19.

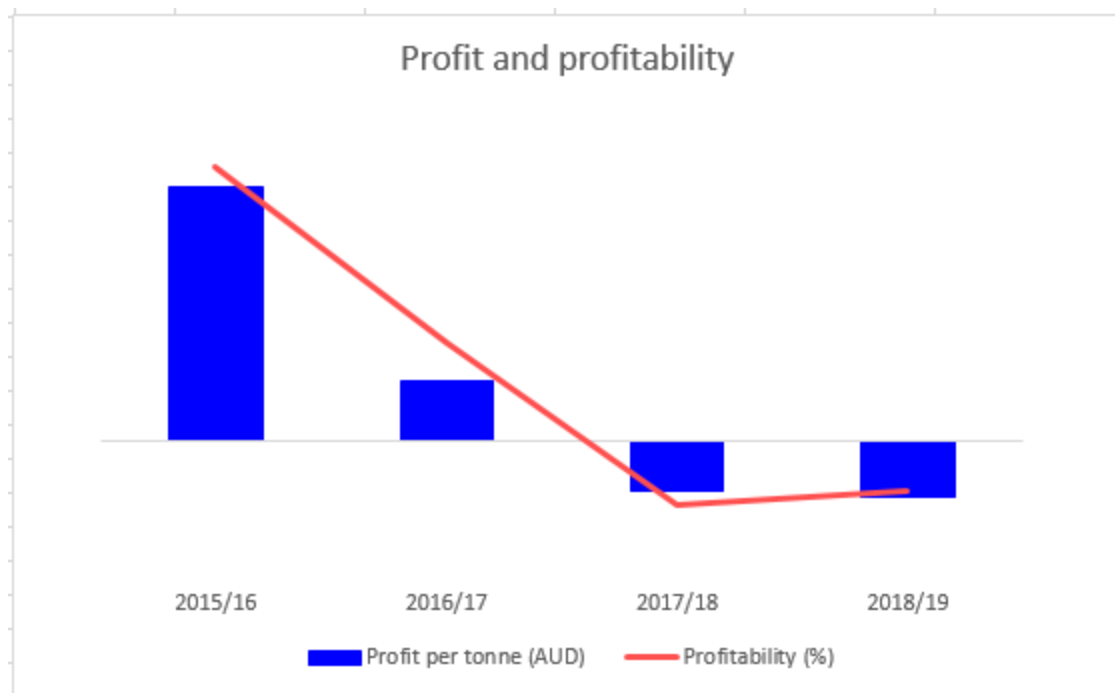


Figure 5 – Qenos’ profit and profitability for HDPE

The graph above shows a continuing (and considerable) decrease in Qenos’ profit and profitability between 2015/16 and 2018/19. Although there was a slight improvement to profitability in 2018/19, compared to 2017/18, profit per tonne continued to decrease in that year (albeit by a relatively small amount). Notwithstanding, it appears that Qenos made a loss in 2018/19, compared to its profitable position at the beginning of the injury period.

#### 4.7.1 Conclusion – profit and profitability

Based on this analysis, the Commission considers there appear to be reasonable grounds to support the applicant’s claim that the Australian industry has experienced injury in the form of loss of profits and reduced profitability.

### 4.8 Other injury factors

Qenos claims that the Australian industry has also experienced injury in the form of reduced capital expenditure, reduced return on investment, lower capacity utilisation and reduced levels of employment.

In relation to these claims, the Commission observes that Qenos’:

- capital expenditure increased in 2018/19, although there was a clear decrease across the injury period;
- return on investment has been decreasing since 2017/18;
- capacity utilisation has been decreasing since 2017/18; and
- employment has been decreasing since 2017/18.

It is noted that information pertaining to capital expenditure and employment were provided in aggregate only (i.e. were provided for more than just like goods). As such, any inferences drawn from this data on a preliminary basis may be distorted.

#### **4.8.1 Conclusion – other injury factors**

The Commission has considered the other injury factors outlined above and, based on the information provided in the application, there appear to be reasonable grounds to support the claim that the Australian industry has experienced injury in the form of reduced capital expenditure, reduced return on investment, lower capacity utilisation and reduced employment. The Commission will further assess these factors, as they specifically relate to like goods, during the course of the investigation.

#### **4.9 Threat of material injury**

Further to the injury that has been realised, the applicant alleges that there is a threat of material injury to the Australian industry from goods exported to Australia from USA.

The Commission has not drawn any conclusions regarding threat of material injury for the purpose of this report. The Commission will give consideration to threat of material injury during the investigation.

#### **4.10 The Commission's assessment**

The Commission considers that there appear to be reasonable grounds to support Qenos' claim that the Australian HDPE industry has experienced injury in the form of:

- reduced sales volume;
- reduced market share;
- price suppression;
- reduced profit and profitability;
- reduced investment;
- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment.

The Commission's assessment of the economic condition of the Australian HDPE industry forms **Confidential Attachment 2**.

## 5 REASONABLE GROUNDS – CAUSATION FACTORS

### 5.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the applicant's claim that the Australian industry has experienced injury caused by dumping and that the injury is material.

### 5.2 Cause of injury to the Australian industry

#### 5.2.1 Legislative framework

Under section 269TG, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice is that the material injury experienced by the Australian industry was caused by dumping. This issue is considered in the following sections.

Matters that may be considered in determining whether the Australian industry has experienced material injury caused by dumped goods are set out in subsection 269TAE(1).

#### 5.2.2 Cumulation of the effect of exports of the goods from different countries

For the purposes of subsection 269TAE(1), in determining the effect of the exportations of the goods to Australia from different countries of export, the Minister should consider the cumulative effect of those exports in accordance with subsection 269TAE(2C) in certain circumstances.

Subsection 269TAE(2C) specifies that, in relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day (as is the case in this investigation), the cumulative effects of such exports may be assessed if:

- the margin of dumping established for each exporter is not negligible; and
- the volume of dumped goods that have been exported to Australia is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and like goods that are domestically produced.

Taking into account the preliminary findings made in chapter 2 regarding the commercial likeness between the imported goods and the like goods that are domestically produced (i.e. they compete in the same end user markets, in similar pack sizes and are marketed in similar ways for specified end uses) and chapter 3 (regarding dumping margins and dumped volumes), the Commission is satisfied that a cumulative assessment is appropriate at this time. However, the matter will be considered further during the course of the investigation, particularly conditions of competition between the imported goods.

### 5.3 The applicant's claims

The table below summarises the causation claims of Qenos.



<b>Injury caused by dumping</b>
<p><u>Volume effects</u></p> <ul style="list-style-type: none"> <li>• Reduced sales and production volumes due to price undercutting, in the context of a growing market.</li> <li>• A clear correlation between the decline in the market share for the Australian industry and the increase in imports from the subject countries.</li> </ul> <p><u>Price effects</u></p> <ul style="list-style-type: none"> <li>• A need to reduce pricing in response to lower price offers from the subject countries in order to maintain business.</li> <li>• A reduction in revenue as a result of lower prices and sales volumes.</li> <li>• An inability to increase selling prices to sufficiently counter rising costs.</li> </ul> <p><u>Profit effects</u></p> <ul style="list-style-type: none"> <li>• Downward pressure on price and sales volumes has directly impacted profit and profitability.</li> <li>• Reduced profit and profitability has negatively impacted shareholders willingness to reinvest in the applicant's business.</li> </ul>
<b>Injury caused by other factors</b>
<p>The applicant has experienced an increase in energy costs over the past two year period, as well as an increase in feedstock costs.</p>

**Table 10: Causation claims**

## **5.4 The Commission's assessment**

### **5.4.1 Volume effects**

The Commission observes from sections 4.5.1 and 4.5.2 of this report that the sales volumes and market share attributed to the Australian industry decreased in 2017/18 and 2018/19, at a time when both the Australian HDPE market (section 2.5.1 refers) and the market share of the countries the subject of the application were growing.

In the context of a growing market, the Commission considers that it would be reasonable to expect that the Australian industry would gain at least a partial share in any growth, unless there was specific evidence to suggest otherwise. While the Commission acknowledges that the size of the Australian market decreased slightly in 2018/19 (after a period of significant growth), this decrease was minor in degree and was not in proportion to the reduction in sales volume experienced by the Australian industry in that year.

In light of this, and taking into account an example that the applicant provided regarding specific lost volumes to dumped imports from Singapore, Thailand and the USA in 2018/19,<sup>8</sup> there appear to be reasonable grounds at this time to support Qenos' claim that dumped goods imported in increasing volumes since 2017/18 have caused material injury to the Australian industry in the form of reduced sales volumes and market share.

The Commission will further assess the causal relationship between the volume effects and allegedly dumped imports during the course of the investigation, including a more detailed assessment of the specific lost sale claim and any other lost sales.

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<sup>8</sup> The evidence provided by Qenos for this example was not conclusive in terms of whether Qenos had reduced prices because of direct competition with imports from Singapore, Thailand and the USA. However, given the likely existence of dual supply arrangements, the Commission considers that such an environment would expose the Australian industry to competition from imports.

## 5.4.2 Export price analysis

The Commission compared the FOB prices<sup>9</sup> of exports from the subject countries to the FOB prices of exports from other countries during the period 2015/16 to 2018/19, and observed the following:

- prices from all countries decreased in 2016/17;
- while most prices increased in 2017/18, prices from the USA continued to decrease noticeably in that year;
- all prices increased in 2018/19, although the price attributable to the USA was the lowest of all prices, compared to 2015/16 when it was the highest price by a noticeable margin; and
- with the exception of 2018/19, prices from other countries were generally lower than the prices from the countries the subject of the application in each year.

The Commission was not able to identify and distinguish between different grades (e.g. pipe, film or injection / blow moulding grades) in the ABF import database. During the course of the investigation, the Commission anticipates that it will obtain more detailed information to allow for a more precise comparison of export prices.

The Commission's export price analysis is at **Confidential Attachment 6**.

## 5.4.3 Price undercutting

Price undercutting occurs when the imported goods are sold at a price below that of the Australian industry.

Qenos provided two examples of instances where it reduced its prices in response to competing offers in the market (at allegedly dumped prices) from the USA. Qenos also detailed a series of ongoing negotiations between itself and a particular customer that it alleged was sourcing alternative HDPE from Singapore, Thailand and the USA. While it appears Qenos has reduced its prices in order to secure supply to customers, the evidence provided is not conclusive in terms of whether Qenos has reduced prices because of direct competition with imports from the countries the subject of the application. Notwithstanding, given at least some customers appear to operate on a 'dual supply' basis in a market that has an allegedly high level of price transparency,<sup>10</sup> such an environment would likely expose the Australian industry to competition from imports, including those from the subject countries.

The Commission notes that the application also includes a spreadsheet outlining a number of discussions held at customer visits during 2018/19. However, in the Commission's view, further clarification regarding these notes is required given the limited number of references in that document to HDPE from the subject countries.

To further test Qenos' claim in relation to price undercutting, the Commission separately compared Qenos' monthly weighted average selling prices in 2018/19 (at delivered terms) to corresponding weighted average selling prices<sup>11</sup> of the goods imported from each of the subject countries (landed in Australia, including import duties and other taxes).

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<sup>9</sup> FOB prices were derived using data from the ABF import database.

<sup>10</sup> Due to published import and export data.

<sup>11</sup> Prices derived using data from the ABF import database.

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The Commission found that throughout 2018/19 Qenos' prices were undercut by the prices of imported goods from the countries the subject of the application;<sup>12</sup> the margin of undercutting ranged from 0.8 to 24.4 per cent. However, given the Australian industry prices used by the Commission are at delivered terms, it is likely that the level of undercutting calculated at this time is somewhat overstated.

During the course of the investigation, the Commission anticipates that it will obtain more detailed information to allow for a more precise comparison of export prices to the Australian industry's prices.

Based on this analysis and the case studies provided by Qenos, the Commission considers that there appear to be reasonable grounds to support its claim that the dumped goods exported from the subject countries have caused injury to the Australian industry in the form of price suppression. Specifically, the Commission considers that it is reasonable to conclude that the price pressures caused by the dumped goods appear to have prevented the Australian industry from increasing prices sufficiently to counter rising costs.

The Commission's price undercutting analysis is at **Confidential Attachment 7**.

### 5.4.4 Profit effects

As outlined in section 5.4.1 of this report, the Commission considers that there appear to be reasonable grounds to support Qenos' claim that the dumped goods from the subject countries have caused injury to the Australian industry in the form of loss of sales volumes and market share. Further, as outlined in section 5.4.3, there appear to be reasonable grounds to conclude that the dumped goods from the subject countries have caused injury to the Australian industry in the form of price suppression.

Given that profit is a function of sales volume and profit margin, the Commission also considers that there appear to be reasonable grounds to support Qenos' claim that the dumped goods have also caused injury to the Australian industry in the form of reduced profit and reduced profitability.

## 5.5 Injury caused by factors other than dumping

As outlined in section 5.3, Qenos has acknowledged that it experienced an increase in both energy and feedstock costs over the prior two year period. It also acknowledged that it experienced some limited production outages that impacted output to a minor degree, although it considered that any reduced output was the result of raw material cost increases associated with liquefied petroleum gas, not the outages.

In accordance with subsection 269TAE(2A), the Commission will assess other potential causes of injury to the Australian industry during the course of the investigation, including (but not limited to):

- factors affecting the demand for particular groups of HDPE grades, including pipe, film and injection/blow moulding;
- the economic condition of any associated industries (e.g. automotive, dairy); and
- the volumes and prices of HDPE imported from other countries.

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<sup>12</sup> There were a small number of periods during which particular countries were not undercutting; however, the Commission did not consider these periods to be significant.

## **5.6 Is injury from dumping material?**

Noting that other factors are likely to influence the economic condition of the Australian industry (as discussed in section 5.5 above), the Direction provides that injury from dumping need not be the sole cause of injury to the industry, but the injury caused by dumping must be material in degree.

In making this assessment, the Direction further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry experiencing the injury. As such, in considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.

Based on information available at this time, the Commission considers it is reasonable to find that increasing energy and feedstock costs have likely weakened the Australian industry during the 2018/19 period, making it more vulnerable to injury from dumped imports. Taking this into account, the Commission considers there are reasonable grounds at this time to suggest that any injury to the Australian industry caused by dumping is material in degree.

## **5.7 Conclusion – material injury caused by dumping**

The Commission considers that:

- the level of the dumping indicated in the application and in the Commission's calculations;
- the preliminary assessment of loss of sales volumes and market share;
- the preliminary assessment of price suppression; and
- the preliminary assessment of reduced profit and profitability,

provide reasonable grounds to support Qenos' claim that exports of the goods from the subject countries at dumped prices have caused material injury to the Australian industry.

**6 ATTACHMENTS**

<b>Attachment</b>	<b>Title</b>
<b>Non-Confidential Attachment 1</b>	Public notice of initiation (ADN No. 2019/83)
<b>Confidential Attachment 2</b>	Assessment of the Australian market size for HDPE Economic condition of the Australian industry
<b>Confidential Attachment 3</b>	Export prices
<b>Confidential Attachment 4</b>	Normal values
<b>Confidential Attachment 5</b>	Dumping margins
<b>Confidential Attachment 6</b>	Analysis of export prices
<b>Confidential Attachment 7</b>	Price undercutting analysis