



*Customs Act 1901 – Part XV B*

## **ANTI-DUMPING NOTICE NO. 2019/83**

### **Public notice under subsection 269TC(4) of the *Customs Act 1901***

#### **High Density Polyethylene exported from the Republic of Korea, the Republic of Singapore, the Kingdom of Thailand and the United States of America**

#### **Initiation of Investigation No. 515 into alleged dumping**

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated an investigation following an application lodged by Qenos Pty Ltd, a manufacturer of high density polyethylene (HDPE, the goods) in Australia. The application seeks the publication of a dumping duty notice in respect of the goods exported to Australia from the Republic of Korea, the Republic of Singapore, the Kingdom of Thailand and the United States of America.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced employment;
- reduced capacity utilisation;
- reduced return on investment; and
- reduced investment.

The non-confidential version of the application, which contains the basis of the alleged dumping and injury, is available on the public record on the Anti-Dumping Commission (Commission) website, [www.adcommission.gov.au](http://www.adcommission.gov.au).

Particulars of the reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 515*, which is available on the public record. The date of initiation of this investigation is the date of publication of this notice.

## **Goods Description**

The goods the subject of the application are:

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.

## **Tariff Classification**

The goods are generally, but not exclusively, classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

- 3901.20.00 (statistical code 03)
- 3901.90.00 (statistical code 27)

These tariff classifications and statistical codes may include goods that are both subject and not subject to this investigation. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this investigation.

## **Investigation Process**

The investigation period is 1 April 2018 to 31 March 2019. I will examine exports of the goods to Australia during this period to determine whether dumping has occurred. I will examine details of the Australian market from 1 April 2015 for injury analysis purposes.

Where the Minister for Industry, Science and Technology (the Minister) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.<sup>1</sup>

Where there are grounds for the Minister to publish a dumping duty notice in respect of the goods, I will examine whether the trade in the dumped goods give rise to retrospective notices being published pursuant to section 269TN of the *Customs Act 1901* (the Act), and make recommendations to the Minister accordingly.

## **Proposed model control code structure**

On 9 August 2018, the Commission advised in Anti-Dumping Notice (ADN) No. 2018/128 that a model control code (MCC) structure would be implemented in new investigations, reviews of exporters generally or continuations for cases initiated after this date.<sup>2</sup>

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<sup>1</sup> In accordance with section 269TG of the *Customs Act 1901*.

<sup>2</sup> Full guidance regarding the Commission's application of an MCC structure is provided in ADN No. 2018/128 on the Commission website, [www.adcommission.gov.au](http://www.adcommission.gov.au).

As noted in that ADN, in developing the MCC structure the Commission will have regard to differences in physical characteristics that give rise to distinguishable and material differences in price. The Commission's **proposed** MCC structure is as follows:

Item	Category	Sub-category	Identifier	Sales Data	Cost Data	Key Category
1	Specification	Prime	A	Mandatory	Mandatory	Yes
		Non-Prime	B			
2	Application	Pipe	P	Mandatory	Optional	Yes
		Injection	I			
		Blow moulding	B			
		Film	F			
		Tape and monofilament (may also be described as Yarn)	T			
3	Other additives	Colour	C	Mandatory	Mandatory	Yes
		Other	O			
		None	N			

All exporters will also be requested to provide the specification details including grades, melt index and density, as well as information concerning the typical end uses of the relevant grade.

The Commission welcomes submissions with respect to the proposed MCC structure. Submissions should be raised as soon as is practicable, but no later than **31 July 2019**, being the day submissions concerning this investigation are due.

Interested parties are also encouraged to make submissions on whether the proposed MCC structure should be accepted by the Commission in their particular circumstances. All submissions with respect to the proposed MCC structure will be considered by the Commission and reported in verification reports or in the Statement of Essential Facts (SEF).

### **Public Record**

I must maintain a public record of each investigation. Documents included in the public record are available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The public record will contain, among other things, a copy of the application, *Anti-Dumping Commission Consideration Report No. 515* and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

## **Lodgement of Submissions**

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **31 July 2019**, addressed to:

The Director, Investigations 1  
GPO Box 2013  
Canberra ACT 2601  
Australia

or by email to [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au).

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.<sup>3</sup> This is available at [www.legislation.gov.au](http://www.legislation.gov.au).

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

## **Lodgement of Exporter Questionnaires**

Exporters of the goods to Australia are invited to participate in this investigation by completing the exporter questionnaire and the associated spreadsheets by **31 July 2019**.

The exporter questionnaire and the associated spreadsheets are available under the case information for case number 515 (which can be found under 'current cases and their electronic public record' on the Commission website, [www.adcommission.gov.au](http://www.adcommission.gov.au)).

Alternatively, exporters can email [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au) and the Commission will forward the exporter questionnaire and spreadsheets for completion.

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<sup>3</sup> Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the Anti-Dumping Commission's General Managers (Anti-Dumping Notice No. 2017/10, available at [www.adcommission.gov.au](http://www.adcommission.gov.au), refers).

## **Provisional Measures**

Pursuant to section 269TD of the Act, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or there appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD of the Act, the Commonwealth may apply provisional measures, including the taking of securities under section 42 of the Act, in respect of interim dumping duty that may become payable on the goods, where a PAD has been made.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, [www.legislation.gov.au](http://www.legislation.gov.au).

## **Statement of Essential Facts**

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. In accordance with section 269TDAA of the Act, a SEF will be placed on the public record by **12 October 2019**<sup>4</sup>, or by such later date as allowed in accordance with section 269ZHI of the Act.<sup>5</sup> The SEF will set out the essential facts on which I propose to base my recommendations to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record.

Submissions received in response to the SEF within 20 days of it being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

## **Report to the Minister**

A recommendation to the Minister will be made in a report on or before 26 November 2019 (or such later date as allowed under section 269ZHI), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Minister must make a declaration within 30 days after receiving the report, or such longer period as the Minister considers appropriate.

## **Anti-Dumping Review Panel**

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act of either a decision by me to terminate the investigation, or a decision of the Minister to publish or not to publish a dumping duty notice after considering my report.

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<sup>4</sup> As this day is a Saturday, the effective due date for placing the SEF on the public record is the following business day, 14 October 2019.

<sup>5</sup> On 14 January 2017, certain powers and functions of the Minister under section 269ZHI of the Act were delegated to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

### **Interested Party List**

Throughout the investigation, the Commission will maintain an internal list of interested parties. Updates on the investigation will be sent to parties on this list. If you would like to be added to the interested party list, please email [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au).

### **Anti-Dumping Commission Contact**

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2440, or [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

24 June 2019