



27 September 2019

The Director
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Public File

Dear Director

Investigation No. 515 – High density polyethylene exported from Korea, Singapore, Thailand and the USA – Submissions from interested parties

I. Introduction

A number of interested parties have made submissions to Investigation No. 515 and raised matters that Qenos Pty Ltd (“Qenos”) seeks to comment on. The interested party submissions are as follows:

- Shamrock Poly Pty Ltd (dated 30 July 2019 – EPR Document No.005);
- Polymer Direct Pty Ltd (31 July 2019 – EPR Document 006);
- Chevron Phillips Chemicals Australia Pty Ltd (31 July 2019 – EPR Document 008);
- Dow Chemical Australia Pty Ltd (29 July 2019 – EPR Document 009);
- Pact Group (31 July 2019 – EPR Document 010);
- Visy Group (EPR Document 011);
- Redox Pty Ltd (EPR Document 012).

II. Shamrock Poly Pty Ltd

Shamrock Pty Ltd (“Shamrock”) states that it requires high molecular weight HDPE that uses a bimodal production process (i.e. Mitsui Technology) that it sources from SCG Chemicals in Thailand. Shamrock further states that the imported material has “distinct differences in characteristics and processability” when contrasted with Qenos’ product. Shamrock is critical of Qenos’ technology referring to it as “old technology” used for HDPE production and supply to the HDPE film market.

Shamrock provides additional representations that it has been importing HDPE and never had a shortage of supply which it claims cannot be said for Qenos. It indicates that Qenos has experienced “packing issues or plant outages” that have caused it inconvenience.

Australia’s Anti-Dumping System affords importers an opportunity to seek an exemption from anti-dumping measures where it can be demonstrated that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. It is clear from Shamrock’s submission that Qenos does supply a locally produced good that is alike and competitive with Shamrock’s imported goods. Shamrock’s representations appear to be limited to criticising Qenos’ supply (technology and reliability).



III. Polymer Direct Pty Ltd

Polymer Direct Pty Ltd (“PD”) is an importer of HDPE for the pipe manufacturing sector. PD is seeking the Anti-Dumping Commission (“the Commission”) to treat the market segments of HDPE (i.e. blow moulding, injection moulding, film, tape and monofilament, pipe) as separate markets due to the “distinct and differing dynamics” that exist in each market segment.

Whilst Qenos does concur that the HDPE produced and sold in each of the market segments are generally not substitutable across segment borders, they are recognised as market segments within the broader market for HDPE (and have, for example, the same tariff subheading and statistical codes).

Qenos is a supplier of HDPE across all market segments and continues to produce in all market segments. Qenos has also demonstrated it has experienced injury across each segment of the broader HDPE market. Qenos considers that it is appropriate to consider the HDPE market as a single market comprising a number of segments.

PD contends that Qenos’ has experienced injury due to its decision to price according to an international index. The index referred to by PD is included in the negotiations at the insistence of customers to ensure that pricing mirrors global influences. The available supply and demand of HDPE in the region influences pricing, including the international reference point. In the event Qenos does not meet the regional price included in the benchmark, Qenos will surrender volume to imports.

PD has queried Qenos’ methodology for determining prima facie normal values for pipe-grade HDPE in Thailand. Qenos commissioned a market survey to obtain domestic HDPE prices in Thailand. HDPE pipe grade prices were not referenced in the report. Qenos relied upon the typical margin pipe grade HDPE achieves over blow/injection moulding prices in the domestic market and constructed HDPE prices for Thailand based upon the premium. This methodology was considered adequate by the Commission for the purposes of commencing an investigation.

Qenos has previously commented on the relevant factors considered by the Commission in its causation analysis. There is no requirement to repeat the statements included in the 2012 Ministerial Direction on Material Injury.

Qenos has indicated to the Commission as part of the Australian industry verification visit what its production capacity is for HDPE. However, Qenos would further add that an Australian manufacturer is not required to possess the total volume of the Australian market in its installed capacity. The Australian industry member, however, can expect to sell its production at fair market prices and not have to reduce prices to unfair (or dumped) levels.

PD has also raised concerns in relation to the demarcation of supply of product by Qenos on the Australian market and questioning whether the imposition of measures is in the national (or public) interest. Concerning domestic supply, Qenos is a supplier to all states and territories in Australia and has access to an efficient supply chain for delivery of product. Qenos does not view state borders as a limitation to supply. In respect of the public interest, the imposition of measures is at the Minister’s prerogative and the level of measure(s) to be applied is limited by the operation of the lesser duty rule. These provisions operate to ensure that in circumstances where measures are warranted, the level of measure applied is sufficient to remove the injury from dumping only.

IV. Chevron Phillips Australia Pty Ltd

Chevron Phillips Australia Pty Ltd (“CPAus”) argues that the injury experienced by Qenos is due to factors other than dumping. Similar with submissions by other interested parties, CPAus does not consider that the significant volume of imports (at alleged dumped prices) have had any impact on



Qenos' financial performance. This is despite the region operating with surplus supply and prices plummeting across the investigation period.

This explanation that dumping has not caused material injury is simply not plausible. Injury from dumping and injury from other factors can coincide. Provided the injury from the dumping is material in nature and there is sufficient evidence on causation, a positive finding on dumping and injury can be established. As indicated by CPAus, Qenos lost supply to a significant domestic HDPE customer, resulting in lost sales volumes for an extended period. Qenos has also identified a number of other instances to the Commission where it was the subject of pricing pressure to reduce prices, culminating in price depression (at these other customer accounts).

It is therefore unrealistic for CPAus to ignore the impact of the import prices on Qenos' economic performance. The Australian HDPE market is supplied by up to 50 per cent from imports. It is unrealistic to conclude that the declining import prices have little or no impact on Qenos' prices, profit and profitability.

Qenos respectfully rejects CPAus' suggestions that the injury experienced from dumped imports cannot be considered as material.

V. Dow Chemical Australia Pty Ltd

Dow Chemical Australia Pty Ltd's ("DCAL") submission attempts to demonstrate that its reducing import volumes during the investigation period could not have caused injury to the Australian industry producing like goods (i.e. Qenos).

In its examination of injury and causation, the Commission will have regard to the cumulative effects of dumping of exports from Korea, Singapore, Thailand and the USA. Subsection 269TAE(2C) details the requirements for assessing cumulative effects of goods exported to Australia from different countries. Where a dumping investigation involves a number of countries, and where the exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day, the cumulative effects of the imports into Australia may be assessed where:

- the margin of dumping established for exporters in each country is not negligible; and
- the volume of the dumped imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

Qenos submits that HDPE as a commodity product supplied by different exporters into the Australian market is wholly interchangeable between suppliers in a particular market segment (e.g. blowmoulding, injection moulding, film, pipe, etc). The conditions of competition between the imports (once dumping is established) and the like goods would therefore confirm that injurious imports from exporters that are margins of dumping above negligible levels can be cumulated (as per subsection 269TAE(2C) of *the Customs Act*).

DCAL's assertions that its imports are not injurious to Qenos during the investigation may only be correct if the imports are at prices with a dumping margin that is established as negligible or, the conditions of competition between DCAL's imports and dumped imports from other countries and the like goods, is not established.



VI. Pact Group

Qenos has examined the Pact Group's ("Pact") submission dated 31 July 2019. The submission presents Qenos as an unreliable and inefficient supplier of HDPE, that engages in poor customer management. Pact further asserts that Qenos is "improperly seeking to use trade law to claw back volumes" to address the identified shortcomings.

Qenos refutes these claims by the Pact Group.

Qenos is a reliable supplier of quality HDPE. Qenos has acknowledged that it has experienced raw material supply constraints, however, these have not contributed to customers encountering supply shortages.

Pact acknowledges that it sourced import supply from July 2018 at the expense of supply from Qenos. Pact's decision to switch source of supply away from Qenos was price based – Qenos would not reduce pricing by the requested [value] per tonne the lead up to July 2018. Qenos could not match the requested reduction sought by Pact, resulting in Pact sourcing import volumes.

Pact's position is further explained in the commentary concerning new production supply of HDPE by overseas manufacturers. Pact states¹:

"New capacity entering the US market (according to ICIS) is 10,800,000 tonnes per year. In addition, there is 1,910,000 tonnes of upgrades to existing US facilities. This needs to be compared to Qenos Altona's nameplate capacity of 180,000 tonnes of HDPE per year. So, Qenos' current HDPE capacity represents <1% of the expansion taking place in the US alone."

The sentiment associated with the above extract is that Pact has a desire to access the new supply volumes in the US at prices that are declining (although Qenos' understands that installed HDPE capacity in the US is 10.8 million tonnes, not new capacity). No account is made as to whether the prices are at dumped levels and injurious to the Australian industry. Pact has erroneously assumed that the cited low input costs in the US will translate to lower selling prices – however, this is not reflected in the ICIS domestic selling prices for the US.

The Pact submission states that "the other key factor" that prompted it to move away from Qenos supply was that Qenos did not regard it as a valued customer. Pact argues that Qenos required Pact to commit to "very large and inflexible quantities" however Pact also sought to diversify supply and minimize its claimed risk associated with purchasing from Qenos. Pact seeks to portray that Qenos is an unreliable supplier of low-quality product. The supply interruptions experienced by Qenos were primarily due to shortages in gas supply and there is no evidence provided by pact that Qenos' HDPE is sub-standard product. Pact also refers to the grades of HDPE sourced from Qenos and imports as not being interchangeable. This was not an issue prior to July 2018. Qenos understands that the sole reason (as explained to it in the negotiations) was the attractiveness of prices for imports.

Qenos does not have an issue in competing with fair prices. However, Qenos cannot compete with prices that are at dumped levels that injure it, resulting in price depression and price suppression. Qenos does not consider that Pact's representations reflect the principal reason that Pact changed source of supply away from Qenos following attempts to secure a significant reduction in prices from Qenos.

¹ The Pact Group submission, 31 July 2019, EPR Document 010, P. 5.



VII. Visy Group

Qenos welcomes the submission by the Visy Group (“Visy”) as more accurately reflective of the relevant considerations in Investigation No. 515.

Qenos would highlight that it has not merely assumed that because import prices are at levels below Qenos’ pricing that it has assumed the HDPE exports to Australia are at dumped prices. Rather, Qenos has relied upon independent information to demonstrate, prima facie, that it appears that the HDPE exported from Korea, Singapore, Thailand and the USA has been at dumped prices during 2018/19.

Visy is aware that Qenos has sought to identify the concerns of customers with blow moulding grade HD6400-1. Qenos developed HD6400-1 as a replacement grade to address customer concerns with grade HD6400.

Qenos understands the concerns of customers where anti-dumping measures are imposed. As indicated, Qenos is seeking to compete with fair prices only and anticipates that the measures applied by the Commission will address the injurious effects of dumping only.

VIII. Redox Pty Ltd

Redox Pty Ltd (“Redox”) has made a number of points that it has requested the Commission to consider. Qenos provides the following rebuttal to those points:

- Qenos does not and has not suggested it be the sole supplier of HDPE to the Australian market;
- Polyethylene production commenced at Altona in the 1960s. However, the life of a petrochemical plant is akin to that of an axe – the handle and head have been replaced numerous times since original purchase;
- It cannot be concluded that the imposition of measures will likely result in product shortages – this is an erroneous assumption not based upon any reliable information;
- Qenos competes head to head with Redox – an importer of HDPE;
- Qenos has confirmed in its application that it has been impacted by raw material outages and increasing energy costs. These occurrences do not detract from Qenos’ view that it has experienced injury from dumping that is material throughout the investigation period;
- As indicated above, Qenos is not seeking to supply the whole Australian market for pipe grade HDPE. It does, however, seek to compete with undumped prices;
- The weekly CFR SEA pricing disclosed by Redox does not reflect the full landed into store price in Australia. It is overly simplistic to assert that Qenos’ pricing is above these prices when they do not reflect the full cost of importation.

The Redox submission has identified a number of matters that it has not accurately presented. The Commission has available to it relevant information in relation to each matter.

IX. Closing remarks

Qenos welcomes the submissions from interested parties concerned with Investigation No. 515. The concerns of interested parties (i.e. customers and importers) include the potential impact of dumping measures on future business operations and supply of HDPE to the Australian market.

Qenos is concerned that it has a viable, competitive manufacturing operation with which it can continue to supply quality HDPE to the Australian market. Qenos acknowledges that it has experienced injury from rising energy costs and it has encountered disruptions in supply (prior to the investigation period).

Qenos



The 2012 Ministerial Direction clarifies that where there are a number of influences causing injury to the Australian industry, the Commission must be satisfied that the injury caused by dumping is material. Qenos considers the circumstances in the 2018/19 investigation period do reflect those considered by the Minister in the 2012 Determination and that the injury caused by dumped HDPE exports to Australia in 2018/19 is material.

If you have any questions concerning this submission, please do not hesitate to contact me on (03) 9258 7480, or Qenos' Representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Francis', written in a cursive style.

David Francis
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