

Dr. Ross S. Becroft · B.A., LL.B., M.Comm.Law, PhD

Louis H. Gross · B. Juris., LL.B. Special Counsel

Suite 2, Level 3  
182-184 Victoria Parade  
East Melbourne, Victoria, 3002  
Australia  
Telephone: (61 3) 9866 5666  
Facsimile: (61 3) 9866 5644  
Email: info@grossbecroft.com.au

Our Ref: RB:KB 3666

Your Ref:

**NON-CONFIDENTIAL – FOR PUBLIC RECORD**

The Director  
Investigations 1  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

BY EMAIL: investigations1@adcommission.gov.au

Dear Sir/Madam

**Re: Dumping Investigation ADC 515 – High Density Polyethylene exported from Korea,  
Singapore, Thailand and the United States of America  
Submission by End User and Importer – Visy**

We act for the Visy group of companies which includes Visy Industries Australia Pty Ltd, Visy Packaging Pty Ltd, VisyPET Pty Ltd and Visy Trading Singapore Pte Ltd ('Visy') in relation to this matter.

This submission is in response to the investigation commenced on 24 June 2019 by the Anti-Dumping Commission (ADC) into alleged dumping of High Density Polyethylene ('HDPE') exported to Australia from Korea, Singapore, Thailand and the United States of America.

Visy does not support the imposition of dumping duties on imports of HDPE and it sets out its position in relation to the applicant's claims in this submission. In this regard, Visy requests that the ADC have regard to the following matters:

**1. Visy's status as an Interested Party**

Visy is a major purchaser of various grades of Blow Moulded and Injection Moulded HDPE in Australia. It purchases the various grades identified in section A3.10 of Qenos's Dumping Application. Visy utilises HDPE it purchases for its packaging manufacturing operations with the main end use applications comprising:

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- Dairy product packaging (eg 2 litre milk containers sold at supermarkets);
- Flavoured coffee and milk Ready to Drink packaging;
- Fruit packaging (eg retail packs of preserved fruit sold at supermarkets);
- Personal care products (e.g. shampoo bottles);
- Drinking water containers (larger sizes for camping etc);
- Industrial plastic containers (eg for the storage of fuel or chemicals).

HDPE is a significant raw material in used in the production of Visy's packaging products.

Visy currently purchases approximately [redacted] [quantity] per annum of HDPE for its Australian manufacturing operations. Visy currently utilises HDPE in [redacted] [number] of its manufacturing plants across [redacted] [locations] with such plants collectively employing approximately [redacted] [number] employees. At present, approximately [redacted] [number] percent of this volume is purchased from [redacted] [supplier] and [redacted] [number] percent of this volume is purchased from [redacted] [supplier].

Until in or about [redacted] [date] Visy purchased from [redacted], [supplier name and trading terms] meaning that [redacted] was the importer. However, from [redacted] [date] Visy is purchasing on a [redacted] [trade term] basis, meaning that it is the importer. The reason for the change was to take advantage of Visy's supply chain efficiencies by utilising [redacted] [name of party] to manage the freight and customs requirements for its purchases from [redacted] [supplier].

Accordingly, Visy is both an end user of HDPE within Australia and it is also an importer of HDPE into Australia, and is therefore an interested party for the purposes of this Investigation pursuant to the definition of 'interested party' in section 269T of the *Customs Act 1901* (Cth).

## **2. Visy's Concerns regarding the Commercial Impact of Dumping Measures**

Visy is very concerned about the prospect of dumping duties being imposed on imports of HDPE into Australia given the fact that HDPE is a significant input cost in its manufacturing operations. In the event that dumping measures were to be imposed, in Visy's view, there is a strong likelihood that HDPE selling prices in Australia would significantly increase both for imported and for product sourced locally from Qenos. The reason for this is that historically Qenos has based its pricing at or about import parity and therefore if major overseas markets are subject to dumping duties then Qenos is likely to increase its prices for Australian customers such as Visy. There is also the fact that Visy, like various other HDPE customers, for commercial reasons does not wish to have a single supplier of HDPE. By having two or more regular suppliers, this assists in supply contract negotiations and it also provides higher guarantees for the continuity of supply to guard against HDPE production outages or product quality issues. These commercial concerns are discussed further in the sections of this submission dealing with material injury and causation.

### 3. Like Goods

Visy notes that the Goods Description in this investigation singularly covers all common categories and grades of HDPE, some of which have quite varying end product applications as identified in section A-3 of the dumping application. It is imperative that the Commission establish an appropriate model control code structure in the investigation so that dumping margins may be ascertained in respect of discrete HDPE categories listed in the section A-3.10 of the application failing which there would be a distortion in any margin calculations as between the different categories. As stated above, Visy's interest in this matter is Blow Moulded and Injection Moulded HDPE.

#### 4. Dumping

In its capacity as an end user and a relatively new importer of HDPE, Visy is not in a position to comment on the veracity of the specific allegations of dumping made by Qenos in the absence of exporter verification to be conducted by the ADC. However, Visy makes the following general comments:

- In its commercial dealings with [REDACTED] [supplier] for its purchases of HDPE [REDACTED] [location], Visy has been assured on a number of occasions by [REDACTED] [supplier] that it is not able to offer formula based pricing based upon raw materials benchmarks that may lead to lower than market pricing and nor has [REDACTED] [supplier] offered to Visy HPDE pricing that is below the [REDACTED] [location] market price. As a result, Visy's pricing has always been [REDACTED] [pricing information].
- As such, based upon Visy's experience in purchasing imported resin, Visy is of the opinion that HDPE, which is a commodity-type product and as such is priced and traded globally, is not being sold at dumped prices to Visy into Australia.
- Visy notes that the estimated dumping margins listed in the Consideration Report are based upon Cost to Make and Sell modelling (refer pg 14 CR) and not on domestic market pricing information in Singapore and therefore the ADC must carefully examine these claims of dumping and where possible determine normal values based upon domestic pricing data. Further, Visy is concerned to ensure that [REDACTED] [location] market information is based exclusively on locally-sourced products and not products transhipped and claimed as [REDACTED] [location] -origin goods. We refer to the applicant's claims regarding this issue in its application (refer section B-1.5).

## 5. Material Injury

There would appear to be a number of factors that would mitigate against Qenos satisfying the ADC that it has suffered material injury within the meaning of the s269TAE of the *Customs Act* 1901 (Cth). In this regard, Visy notes the following:

- Many of the claims of injury identified by Qenos relate to economic effects on Qenos's business that have only quite recently impacted upon Qenos. For instance, the injury factors claimed in respect of decline in production and cost variations have only commenced in financial year 2018/19 (refer index tables in section A-8 of the application).
- The applicant has identified in its application that there may be surplus US-origin HDPE that was destined for the China market but some of which may have been diverted to the Australian market (refer application section A-9.2C) as a result of retaliatory tariffs imposed by China on US products. This situation, whilst unpredictable, would not appear to be a permanent market trend or structural change giving rise to material injury to the applicant.
- In terms of other indicia of material injury, Visy observes that the ADC's comments in the consideration report that the Australian market for HDPE has grown in the order of 26 percent since financial year 15/16 (refer pg 10 CR) and that Qenos has not experienced any price depression (refer pg 21 CR) as its prices have kept pace with increases to its Cost to Make and Sell. Visy also notes that Qenos has significantly increased its capital expenditure costs in financial year 2018/19. The ADC's main area of concern would appear to be that Qenos has decreased its market share and has not sufficiently participated in growth in the Australian market. Whilst Visy cannot verify this claim, it points out that it has in fact [REDACTED] [purchasing information] its volumes purchased from [REDACTED] [party and date] in the order of [REDACTED] [quantity] tonnes per annum (out of its total annual purchases of [REDACTED] [quantity] tonnes per annum).

## 6. Causation

It should also be noted that Qenos have historically priced their products to Visy to a SE Asian Index based upon the non-dutiable mid-point price in these markets which vary monthly according to the published index, with adders for grade types, cost of supply chain delivered to the customer site, and an appropriate FX calculation.

Pricing for HDPE products which may be sourced from other regions or countries (USA / Middle East / Singapore etc), may be related either to indices based in these regions, or to selling prices in these countries. These by their nature will be either higher or lower periodically than the SE

Asia pricing used by Qenos, and supply chain costs and other factors (eg FX) will also vary the final cost of purchase - therefore there are a number of variables which may periodically result in more competitive pricing from these regions or countries.

It is simplistic to state that because the imported price is lower that Qenos therefore cannot compete with the imported HDPE products and the imported products must therefore be dumped.

Visy further submits that for major customers of HDPE, price is not the only commercial factor that affects the choice of supplier. There are other important factors such as product quality and reliability of supply that impacts upon such decisions. As to product quality, by way of example, Qenos advised Visy and other customers by letter on 16 May 2019 that that some customers were having issues with the formulation of a grade HD6400-1 such that it was accelerating the corrosion of certain metal components in blow moulding equipment. These quality issues, in Visy's experience, are generally not in the magnitude whereby customers would elect not to purchase from Qenos, but it reinforces the need for there to be a second or even third available source of supply from imports that will provide avenues for reliable supply of HDPE for manufacturing operations. As to the reliability of supply, Visy notes the statements by Qenos in section A-8.2 of the application that HDPE production was reduced in 2018/19 due to factors such as a shortfall of the raw material ethane and the impact of its LLDPE production (which presumably reduced its HDPE producing capacity).

In addition, there may be other self-mitigating factors that have impacted upon the incidence of material injury, as identified by Qenos (refer pg 30 application) such as high energy costs over the past 2 years and increases in feedstock costs. It is incumbent upon the ADC to investigate whether these factors have materially financially impacted upon Qenos and also whether the situation as it affects production quality and quantities has in turn affected customer HDPE sourcing decisions.

## **7. Conclusion**

Visy wishes to convey strongly that any imposition of dumping duties would have the effect of harming Australian-based manufacturing businesses as well as end consumers of goods. HDPE is a significant input to manufacturing in the Australian packaging manufacturing industry. Pricing is extremely competitive all around the world and Australian packaging manufacturers are under intense pressure to remain globally competitive. Dumping duties being imposed will undoubtedly add costs to Australian manufacturing businesses such as Visy and global brands may switch from Australian-based production to foreign finished packaging goods to avoid significant cost increases, or alternatively substitute the packaging product with another substrate (e.g. glass) and this would potentially further harm Australian investment and employment within the plastics manufacturing sector. Dumping duties are also likely to increase prices for the cost of the end products paid by consumers for certain staple food and beverage products as certain importers pay the dumping duties and Qenos increases local prices, with these costs then being passed on through the supply chain.

For the above reasons, Visy reiterates that it does not support the imposition of dumping duties on the imports of HDPE that are the subject of this investigation.

Should the Anti-Dumping Commission wish to clarify or otherwise discuss any matters raised in this submission, Visy would be available to further assist in such matters.

Yours faithfully

**GROSS & BECROFT**

A handwritten signature in black ink, appearing to be 'R. Becroft', with a horizontal line extending to the right.

**Dr. Ross Becroft**  
Principal