John McDermott and Associates Pty Ltd

Trade Customs and excise advisors

ACN 071 413 360

ABN 91 071 413 360

27 Vagabond Cres
McKELLAR ACT 2617
Postal Address
PO Box 3414
BELCONNEN ACT 2617

Telephone Mobile: 0412 543 792
Email: jmcd49@optusnet.com.au

This submission is made on behalf of IRPC Public Company Limited ("**IRPC**") in response to the application for the publication of dumping duties on high-density polyethylene (HDPE) exported from South Korea, Singapore, Thailand, and the United States of America on the injury aspects.

In any case, IRPC, in the first instance, deny any accusation that dumping of HDPE in Australia is done by the Thai exporters.

Qenos claims, in its submission, the following injuries:

- Reduced sales volumes.
- Reduced market share.
- Price depression (throughout 2018 and 2019).
- Price suppression.
- Reduced profit and profitability.
- Reduced return on investment.
- Reduced capacity utilization.
- Reduced employment.
- Reduced capital expenditure.

From the available data/ information, it appears that the affect on those items claimed by Qenos may have been caused Qenos itself or outside factors. There have been numerous submissions from importers – which IRPC support – pointing out the deficiencies of Qenos' claims of material injury as follows:

1. **Increase in the cost to make & inability to meet demand**

   Many customers have expressed concern about the shortage of material from Qenos. Qenos has regularly advised HDPE pipe customers of its inability to supply the required volumes. Qenos stated:

   "As with other Australian manufacturers, Qenos has experienced an increase in energy costs in the last two year period, including also increases in feedstock costs (as with all other Australian manufacturing industries). **Qenos has experienced some limited production outages that have impacted production output to a minor degree. The sharp reduction in production volumes, however, has not been caused by production outages – rather it has been due to raw material cost increases associated with LPG not being economic in the HDPE production process**."

In effect, Qenos is admitting to a significant commercial decision to sharply reduce production volumes, essentially on the grounds of excessive and uneconomic input costs. On page 20 of its application, it also claims that its HDPE production "… was reduced in 2018/19 due to a range of factors including (i) a shortfall of raw material ethane in 2018 first half and operational consequential disruptions...."

Qenos saw an increase in its costs to make and sell (CTMS) in 2017 and 2018, and was not able to sufficiently raise its selling prices to recover cost increases. It therefore experienced an erosion of its margin (price suppression) between its average selling price and its full CTMS. In 2018 and 2019, Qenos' CTMS increased further (due to raw material and production cost increases), and again Qenos could not adequately raise prices to recover the higher CTMS. Qenos claims that the rising costs were in a market of unfairly priced imports from South Korea, Singapore, Thailand, and the USA.

As detailed in the Martogg submission, IRPC support the view that the primary cause of production constraint experienced by Qenos is the well-documented sharp increase in local gas costs, coupled with limited gas supply, at a time when US and Middle East polyethylene producers are experiencing reduced gas feedstock and power costs.

This is directly supported by the public statements made by Qenos management. In 2016, Qenos paid $8 million for electricity, and in 2018 it paid $18 million. "That's just for the commodity; that doesn't include network charges and other costs. We've taken more than $60 million of cost increases over that time. We can't pass a dollar of that on to our customers because our competition, who all come from overseas, don't have any of those increased costs." The gas shortage is a long way past being a theoretical problem. Qenos has let go of 15 per cent of its workforce in just the past year and a half. Qenos has 700 direct employees and 300 contractors. It uses natural gas to heat boilers and ethane – a gas liquid fuel – as a feedstock for its ethylene "crackers." Ethylene is used to make polythene, a basic plastic building block. Qenos claims it is facing increases in costs, and clearly cannot absorb them or pass them on to customers. It has to find efficiencies, while its overseas competitors are not facing this problem; they can buy (ethane) at the international price.

It would seem that Qenos is suffering injury, **not** from dumping, but from other factors including the climate change issue adopted by government resulting in the increased costs as described above.

Clearly, there are non-dumped imports in the market, and, depending on the facts – for example, if they are a relatively significant source in the Australian market – these can affect Qenos' ability to raise prices. Regardless of whether Qenos raises this as another factor causing injury, the fact remains that non-dumped and un-subsidised imports exist.

2. Other factors

In 2018, additional PE capacity (estimated at close to 4 million mt/pa) came on board in the USA (from inexpensive shale gas converted to ethane gas), and was originally destined for the China market. The current "trade war" between the US and China means that cargoes are now dumped in the Asia-Pacific region. This situation is exceptional, has not been seen before, and poses a serious threat to Qenos.

> Further, the submission by the PACT group reveals that it was forced to import due to the unreliability of supply from Qenos, and its poor management and rising production costs, making it uncompetitive with non-dumped imports. There are also claims of difference in like goods for comparable end use.

****

We humbly request the Commission to not recommend measures to address injury which is caused by something other than dumped or subsidised imports. We kindly request the Commission to examine the implications of non-dumped or un-subsidised goods sold at lower prices than the alleged dumped or subsidised goods in the market. This is an essential part of a thorough causation analysis, and the Commission needs to include the effects of non-dumped goods in its injury analysis. This has been made clear in the WTO Agreement, where it is stated:

"The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices…."

As a result, if any injury to domestic industry, is not caused directly by dumping, Anti-Dumping measures cannot be imposed. Furthermore, if the Anti-Dumping measure is imposed, the public and the downstream customers will suffer the most, as Qenos cannot reliably supply the products.

We urge the Commission to consider this submission and the public interest, and, accordingly terminate Anti-Dumping proceedings against the alleged dumped products from South Korea, Singapore, Thailand, and the United States of America.