



Importer Verification Report

Verification & Case Details

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| Initiation Date | 24 June 2019 | ADN: | 2019/83 |
| Case: | High density polyethylene (HDPE) - Dumping Investigation – Qenos Pty Ltd – Korea, Singapore, Thailand and the USA | | |
| Case Number | 515 | | |
| Company | David Moss Corporation Pty Ltd | | |
| Location | Neerabup, WA 6031 | | |
| Verification date | 26 July 2019 | | |
| Investigation Period | 1 April 2018 | to | 31 March 2019 |
| Injury Period | From 1 April 2015 | | |

THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION

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1 COMPANY BACKGROUND

1.1 Corporate structure and ownership

David Moss Corporation Pty Ltd (DAMOS) is a wholly owned private business. DAMOS is part of the DAMOS Group, consisting of a number of privately owned companies focused on the manufacture and supply of PE and PVC pipe and fittings..

The head office for the DAMOS Group is located in Perth, Western Australia, with other branches located in Kalgoorlie, Western Australia, Adelaide, South Australia and Brisbane, Queensland.

DAMOS imports high density polyethylene (HDPE or the goods) for use in the manufacture of PE pipe.

DAMOS is an end-user of the goods. It does not sell the goods in the condition in which they were imported to Australia to another party.

1.2 Related parties

The verification team examined the relationships between parties involved in the importation of the goods. The verification team found that DAMOS does not have any related party suppliers of the goods during the investigation period.

2 THE GOODS

2.1 The goods

DAMOS confirmed that it imported HDPE from Thailand and Singapore during the investigation period matching the description of the goods that are the subject of this investigation.

The HDPE imported by DAMOS are in prime grade and used in the manufacture of pipe extrusions. DAMOS stated that all HDPE imported contains carbon black additive, and may contain anti-slump additives.

2.2 Like goods

The importer agreed that the Australian Industry produced like goods to the goods that it imported during the investigation period.

DAMOS stated that all HDPE, commonly referred to also as resin, used for the manufacture of PE pipe is functionally the same, however some resins are better than others. Suppliers will manufacture specific resins for different applications, placing various additives to the end-users specifications.

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| Physical likeness | HDPE that can be sourced from Qenos possesses similar characteristics to the HDPE DAMOS imports. Additives may be added to the resin, such as anti-sag material or black compound. These additives are common between Australian manufactured and imported HDPE. |
| Commercial likeness | HDPE purchased by DAMOS and that manufactured by Qenos are commercially similar as they compete in the same end use markets. DAMOS is a manufacturer of pipe extrusions and sources HDPE from overseas as well as from Qenos. |
| Functional likeness | The imported goods and the goods manufactured by Qenos are functionally alike as they can be used interchangeably in the production of downstream products through intermediate manufacturing processes such as pipe extrusions, as is the case for DAMOS. |
| Production likeness | 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. |

3 VERIFICATION OF IMPORTS

3.1 Import listing

DAMOS confirmed that the import listing extracted from the ABF import database is a complete list of imports of the goods over the investigation period, with the exception of two consignments incorrectly classified as HDPE. These consignments relate to imported PVC resin and are not the goods under consideration.

The verification team calculated a weighted average FOB export price by supplier. The verification team note the terms of trade for imports of HDPE were cost insurance and freight (CIF) or cost and freight (CFR). As such, the verification team used the post FOB costs as declared in the customs entry documents to calculate a preliminary FOB export Price. These calculations are at **Confidential Appendix 1**.

With respect to the goods it imports, DAMOS provided the verification team copies of the following source documents:

- Commercial invoices;
- Bank documents as proof of payment;
- Letter of credit;
- Freight invoices
- Customs entry declarations;
- Bill of lading; and
- Customs broker invoices.

3.2 Verification of cost to import

The verification team verified the accuracy of the cost to import listed for selected shipments in Part B of the questionnaire response by reconciling to source documents in accordance with ADN No. 2016/30. Three of the selected shipments in Part B of the questionnaire response were imported on CFR terms, with the remaining seven selected shipments imported on CIF terms. DAMOS advised that only one supplier ships the goods on CFR terms, accounting for a small proportion of the goods it imports.

3.3 Verification of import costs allocation

The verification team verified the reasonableness of the methodology used to allocate the importation costs provided in the questionnaire response, in accordance with ADN No. 2016/30.

| Cost Area | Methodology Applied |
|-------------------------------|--|
| Ocean freight | Based on the cost details provided in the customs declarations |
| Marine insurance ¹ | Based on a percentage of the invoiced amount of the goods to estimate the amount applicable to the shipment. |
| Customs fees | Based on the actual cost, invoice by freight forwarder applicable to the shipment |
| Port service charges | Based on the actual cost, invoice by freight forwarder applicable to the shipment |
| Bank charges | Based on the actual cost (i.e. letter of credit, interest payment related to trade finance repayment), invoice by banks applicable to the shipment |
| Delivery and storage | Based on the actual cost, invoice by freight forwarder applicable to the shipment |

Table 1 - Cost calculation method

The verification team did not identify any issues with the allocation of import costs. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

3.4 Verification of import costs accuracy

The verification team verified the accuracy of the import costs provided in the questionnaire response by reconciling it to source documents in accordance with ADN No. 2016/30. The verification team identified the issues outlined below during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

3.4.1 Exceptions during verification of import costs accuracy

| No. | Exception | Resolution |
|-----|---------------|--|
| 1 | Exchange rate | Exchange rate did not reconcile to the amounts stated on the trade repayment finance invoices. DAMOS accepted that the exchange rate should be the rate stated on the bank invoice. The verification team has revised the import listing with the verified expenses. |

¹ For selected shipments imported on CFR terms

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| 2 | Delivery costs | Some delivery costs did not reconcile to the amounts stated on invoices. The verification team is of the view that the source documents reflect the actual costs related to the goods under consideration and as such has revised the import listing with the verified expenses. |
| 3 | Bank charges | Some bank charges did not reconcile to the amounts stated on invoices. The verification team is of the view that the source documents reflect the actual costs related to the goods under consideration and as such has revised the import listing with the verified expenses. |
| 4 | Marine insurance | A small quantity of the goods are imported on CFR terms. DAMOS takes out an annual insurance premium covering the marine insurance of the goods, marine insurance of other materials imported and onshore transport. The cost of marine insurance is not allocated to the goods imported as the amount is immaterial. The verification team accept the immateriality and find the methodology employed to estimated cost of marine insurance for the relevant shipments reasonable. |

3.5 Forward orders

The verification team verified DAMOS' forward orders by reconciling the listing provided in the questionnaire response to the company's records. The verified list of forward orders is at **Confidential Appendix 2**.

With regard to forward orders, the verification team queried if DAMOS had any capacity for storing HDPE. DAMOS states that it does not have capacity to store a large quantity of HDPE in its manufacturing plant, although it may be able to utilise 21 days of storage while in detention prior to clearing customs.

3.6 Import costs verification finding

The verification team is satisfied that the cost to import provided by DAMOS, including any required amendments as outlined in the exception table above, is accurate.

A table detailing the weighted average unit CTI is at **Confidential Appendix 2**.

4 SUPPLY CONTRACTS AND GENERAL COMMENTS

4.1 DAMOS Trade Arrangements

As stated above at chapter 3, DAMOS imports HDPE from Thailand and Singapore as well as from Australian industry. DAMOS is considered to be an end-user of the goods and therefore does not on-sell these goods.

4.2 Information provided by DAMOS related to supply contracts

DAMOS sources HDPE from both Qenos and suppliers overseas through both long term supply contracts and spot orders.

4.2.1 Supply contracts

DAMOS negotiates supply contracts periodically with specific suppliers, signing an agreement with one supplier once negotiations and prices are settled. The practice is a closed process whereby only those suppliers contacted directly by DAMOS are able to provide a quote to DAMOS. The agreed supply contract will set out the minimum quantity of HDPE to be ordered from DAMOS's preferred supplier, as well as the guaranteed maximum quantity DAMOS is able to purchase from that supplier.

Pricing in the supply contract is based on a changing amount linked to the South East Asian Independent Chemical Information Service (ICIS) index plus a static contract price that is agreed on during contract negotiations.

DAMOS did not request a quote from Qenos for its most recent supply contract, however has requested quotes for spot orders during the investigation period.

4.2.2 Spot Orders

DAMOS at times requests supply of HDPE on a spot order basis. This price for spot orders is generally based on South East Asian ICIS pricing.

DAMOS has, at times, been unable to get supply of HDPE from Qenos through spot orders and therefore has had to limit their requests for spot orders from Qenos as continued supply is vital.

Some end-users of the PE pipe manufactured by DAMOS specify which manufacturer to source raw material from. Where Qenos is the end-user's preferred manufacturer of HDPE, DAMOS will seek quotes from Qenos and provide these alongside offers from other suppliers to the end-user. The end user of the pipe manufactured by DAMOS may make the ultimate decision of who to seek supply of HDPE from.

DAMOS provided the verification team with a copy of a quote it received from Qenos and an alternate supplier for long term supply of HDPE of PE pipe for a specific project in order to highlight the different pricing structure used by each supplier.

The two quotes are at **Confidential Attachments 3 and 4**.

4.3 Supply decisions

DAMOS has a preference for an entire order to be supplied by a single supplier and therefore, will not seek partial supply where a supplier cannot meet this requirement and will seek alternate supply. Qenos is not always able to supply HDPE on a spot order and therefore, DAMOS is required to approach overseas suppliers for supply short notice.

Additionally, DAMOS provided a copy of the Polyethylene Pipe and Fittings Compounds Industry Guidelines that is published by the Plastics Industry Pipe Association of Australia Limited (PIPA).² PIPA is the peak industry body who publishes a list of raw material manufacturers of HDPE who manufacture to the Australian requirements. This list limits which suppliers DAMOS is able to source HDPE.

As DAMOS operates on low profit margins it makes on sales of PE pipe, many of DAMOS's HDPE purchase decisions are based on pricing and availability of HDPE.

DAMOS have experienced higher quoted prices for HDPE from Qenos than those available from preferred suppliers in Thailand and/or Singapore for similar or equivalent grades. Sourcing from Qenos in these instances would limit DAMOS's ability to be competitive in their bids on pipe projects and therefore, pricing is an important factor.

² The guidelines can be accessed from the PIPA website at: <https://www.pipa.com.au/>

5 EXPORT PRICE

5.1 The importer

The verification team considers DAMOS to be the beneficial owner of the goods at the time of importation and therefore the importer of the goods, as DAMOS is:

- named on the commercial invoice from its supplier;
- named as the consignee on the bill of lading;
- declared as the importer on the importation declaration to ABF;
- pays for all the importation charges; and
- arranges delivery from the port.

5.2 The exporter

The goods were imported to Australia by DAMOS. Subject to further inquiries, the verification team considers DAMOS' three suppliers from Thailand and Singapore to be the exporters of the goods³, as they are:

- named on the commercial invoice;
- named as consignor on the bill of lading;
- pays for ocean freight for consignments on CFR and CIF terms; and
- pays for marine insurance for consignments on CIF terms

5.3 Profitability of imports

As DAMOS consumes the HDPE it imports during the manufacture of PE pipe and does not sell the goods in the same condition in which it is imported, the verification team were not able to assess the profitability of selected shipments.

5.4 Related party suppliers

The verification team did not find any evidence that DAMOS is related to its suppliers of the goods exported from Thailand and Singapore during the investigation period.

5.5 Arms length

Subject to further enquiries, the verification team is satisfied that the imports between DAMOS and its suppliers are arms length transactions. This is on the basis that, in respect of imports of the goods to Australia by DAMOS during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or

³ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

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- the buyer, or an associate of the buyer, was directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.

Therefore, subject to further inquiries, the verification team is satisfied that the imports between DAMOS and its suppliers are arms length transactions.

5.6 Export price assessment

Subject to further enquiries with the exporters, the verification team recommends that the export price for HDPE, imported by DAMOS, be established under subsection 269TAB(1)(a) of the *Customs Act 1901*, using the invoiced price, less transport and other costs arising after exportation, as

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporters; and
- the purchases of the goods by the importer were arms length transactions.

6 ATTACHMENTS

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| Confidential Appendix 1 | Export price |
| Confidential Appendix 2 | Forward orders |
| Confidential Appendix 3 | Weighted average unit importation and selling costs |
| Confidential Appendix 4 | Profitability of sales |
| Confidential Attachment 1 | Verification Work Program |
| Confidential Attachment 2 | Supply contract |
| Confidential Attachment 3 | Quote 1 |
| Confidential Attachment 4 | Quote 2 |