



Australian Government
**Department of Industry, Science,
Energy and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

TERMINATION REPORT

NO. 515

**ALLEGED DUMPING OF HIGH DENSITY POLYETHYLENE
EXPORTED TO AUSTRALIA FROM
THE REPUBLIC OF KOREA, THE REPUBLIC OF SINGAPORE,
THE KINGDOM OF THAILAND AND
THE UNITED STATES OF AMERICA**

27 February 2020

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ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 515	<i>Consideration Report No. 515</i>
CPCA	Chevron Phillips Chemicals Asia Pte. Ltd
CPC LP	Chevron Phillips Chemical Company LP
CPSC	Chevron Phillips Singapore Chemicals (Private) Limited
CTMS	cost to make and sell
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
the Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
FOB	Free On Board
GCM	GC Marketing Solutions Company Limited
the goods	the goods the subject of the application (also referred to as the goods under consideration)
HDPE	high density polyethylene
injury analysis period	the period from 1 April 2015
investigation period	1 April 2018 to 31 March 2019
IRPC	IRPC Public Company Limited
Korea	the Republic of Korea
KPIC	Korea Petrochemical Ind. Co., Ltd.
the Manual	<i>Dumping and Subsidy Manual</i>
Material Injury Direction	Ministerial Direction on Material Injury 2012
MCC	model control code
the Minister	the Minister for Industry, Science and Technology
NIP	non-injurious price
OCOT	ordinary course of trade
PAD	Preliminary Affirmative Determination

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PAD Direction	<i>Customs (Preliminary Affirmative Determinations) Direction 2015</i>
PET	polyethylene terephthalate
PTT	PTT Global Chemical Public Company Limited
Qenos	Qenos Pty Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
R&D	research and development
REQ	response to the exporter questionnaire
SEF	statement of essential facts
SEF 515	<i>Statement of Essential Facts No. 515</i>
SG&A	selling, general and administrative
Singapore	the Republic of Singapore
the subject countries	collectively, Korea, Singapore, Thailand and the USA
TCO	Tariff Concession Orders
Thailand	the Kingdom of Thailand
TPE	Thai Polyethylene Co., Ltd.
USA	United States of America
USD	United States dollars
YE	year ending

1 SUMMARY AND CONCLUSIONS

1.1 Introduction

This report has been prepared in response to an application by Qenos Pty Ltd (Qenos) for the publication of a dumping duty notice in respect of high density polyethylene (HDPE or 'the goods') exported to Australia from the Republic of Korea (Korea), the Republic of Singapore (Singapore), the Kingdom of Thailand (Thailand) and the United States of America (USA) (collectively, the subject countries). Qenos alleged that the Australian industry producing HDPE has experienced material injury caused by HDPE exported to Australia from Korea, Singapore, Thailand and the USA at dumped prices, and / or there is a threat of material injury caused by HDPE exported to Australia from the USA at dumped prices.

1.2 Authority to make decision

Division 2 of Part XVB of *Customs Act 1901* (the Act)¹ describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner of the Anti-Dumping Commission (the Commissioner) in conducting investigations in relation to the goods covered by an application under section 269TB(1).

1.2.1 Application

On 22 May 2019, Qenos lodged an application alleging that the Australian industry has experienced material injury caused by HDPE exported to Australia from Korea, Singapore, Thailand and the USA and/or that there is a threat of material injury from the USA at dumped prices.

Having considered the application and further information provided by Qenos, the Commissioner decided not to reject the application and on 24 June 2019 initiated an investigation into the alleged dumping of HDPE from Korea, Singapore, Thailand and the USA.

Consideration Report No. 515 (CON 515) and the public notice (Anti-Dumping Notice (ADN) No. 2019/83) provide further details relating to the initiation of the investigation and are available on the Anti-Dumping Commission (the Commission) website at www.adcommission.gov.au.²

¹ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

² Electronic public record (EPR) 515, document nos. [2](#) and [3](#) refer.

1.2.2 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as is allowed under section 269ZHI(3), place on the public record a statement of essential facts (SEF) on which the Commissioner proposes to base a recommendation to the Minister in relation to the application.³

After receiving an extension of time to the original publication date of 12 October 2019,⁴ the Commissioner published his *Statement of Essential Facts No. 515* (SEF 515) on 15 January 2020.⁵

1.2.3 Final report

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Minister by no later than 29 February 2020, unless the investigation is terminated earlier or a further extension of time to provide the final report is granted.⁶

1.3 Findings

A summary of the Commissioner's findings is provided below.

1.3.1 The goods and like goods (Chapter 3)

The Commissioner considers that the locally produced HDPE is 'like' to the goods the subject of the application.

1.3.2 Australian industry (Chapter 4)

The Commissioner is satisfied that the goods are wholly manufactured in Australia and therefore there is an Australian industry producing like goods.

1.3.3 Australian market (Chapter 5)

The Australian HDPE market is supplied by Qenos and by imports from the subject countries, as well as from other countries.

1.3.4 Dumping assessment (Chapter 6)

The Commission's assessment of dumping margins is set out in Table 1.

³ On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to ADN No. 2017/10 for further information.

⁴ ADN No. 2019/124 at EPR 515, document no. [35](#) refers.

⁵ EPR 515, document no. [51](#) refers.

⁶ As this day is a Saturday, the effective due date is 2 March 2020.

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Country	Exporter	Dumping margin
Korea	Korea Petrochemical Ind. Co., Ltd.	-5.1%
	Uncooperative and all other exporters	-1.5%
Singapore	Chevron Phillips Singapore Chemicals (Private) Limited	-0.9%
	Uncooperative and all other exporters	5.0%
Thailand	IRPC Public Company Limited	1.8%
	PTT Global Chemical Public Company Limited	0.6%
	Thai Polyethylene Co., Ltd.	0.7%
	Uncooperative and all other exporters	8.8%
USA	Chevron Phillips Chemical Company LP	9.3%
	Uncooperative and all other exporters	13.9%

Table 1: Dumping margins

As a result of its analysis, the Commissioner is satisfied that:

- the goods exported from Korea were not dumped;
- the goods exported by Chevron Phillips Singapore Chemicals (Private) Limited (CPSC) from Singapore were not dumped;
- the goods exported by uncooperative and all other exporters from Singapore were dumped, however the volume of these dumped goods was less than three per cent of the total volume of Australian imports;
- the goods exported by IRPC Public Company Limited (IRPC), PTT Global Chemical Public Company Limited (PTT) and Thai Polyethylene Co., Ltd (TPE) from Thailand were dumped, however these dumping margins were below two per cent;
- the goods exported by uncooperative and all other exporters from Thailand were dumped with a dumping margin above two per cent;
- the volume of dumped goods exported from Thailand was greater than three per cent of the total volume of Australian imports;
- the goods exported from the USA were dumped, but the volume of dumped goods from the USA was less than three per cent of the total volume of Australian imports; and
- the total volume of dumped goods from countries with less than three per cent of the total volume of Australian imports (i.e. dumped goods from Korea, Singapore and the USA) did not collectively exceed seven per cent of the total volume of Australian imports.

1.3.5 Economic condition of the Australian industry (Chapter 7)

The Commissioner assessed the economic condition of the Australian industry from 1 April 2015.

1.3.6 Material injury caused by dumped goods (Chapter 8)

The Commissioner is satisfied that the injury, if any, to the Australian industry caused by the dumping of the goods exported from Thailand to Australia is negligible.

1.4 Conclusion

Section 269TDA provides for when the Commissioner must terminate an investigation. Based on the above findings, the Commissioner must terminate the investigation:

- in relation to all exporters from Korea, and CPSC from Singapore in accordance with section 269TDA(1)(b)(i), on the basis that no dumping was found to have occurred;
- in relation to IRPC, PTT and TPE from Thailand, in accordance with section 269TDA(1)(b)(ii), on the basis that the dumping margins were less than two per cent and therefore negligible;
- in relation to Korea, Singapore and the USA, in accordance with section 269TDA(3), on the basis that the volume of dumped goods is negligible, pursuant to sections 269TDA(4) and (5); and
- in relation to Thailand, in accordance with section 269TDA(13), on the basis that the injury, if any, to the Australian industry that has been caused by dumped exports from Thailand is negligible.

2 BACKGROUND

2.1 Initiation

On 22 May 2019, Qenos lodged an application under section 269TB(1) seeking the publication of a dumping duty notice in respect of HDPE exported to Australia from the subject countries. Qenos provided further information in support of the application under section 269TC(2A) on 30 May 2019.

Qenos alleged that the Australian industry has experienced material injury caused by exports of HDPE from the subject countries at dumped prices. Qenos alleged that the Australian industry has experienced injury in the form of:

- loss of sales volume;
- reduced market share;
- price depression (throughout 2018/19);
- price suppression
- loss of profits;
- reduced profitability;
- reduced employment;
- reduced capacity utilisation;
- reduced return on investment; and
- reduced investment.

The Commission was satisfied that the application complied with section 269TB(4) and was not required to reject it pursuant to section 269TC(1). The Commissioner therefore decided not to reject the application and initiated the present investigation on 24 June 2019. ADN No. 2019/83 and CON 515 provide further details relating to the initiation of the investigation.⁷

In respect of the investigation:

- the investigation period⁸ for the purpose of assessing dumping is 1 April 2018 to 31 March 2019 (investigation period); and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped goods is from 1 April 2015 (injury analysis period).

⁷ EPR 515 document nos. [2](#) and [3](#) refer.

⁸ Section 269T(1) refers.

2.2 Conduct of the investigation

2.2.1 Preliminary affirmative determination

In accordance with section 269TD, the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or a countervailing duty notice, or if satisfied that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation and the Commonwealth may require and take securities at the time a PAD is made or at any time during the investigation after a PAD has been made if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (PAD Direction), 60 days after the initiation of such an investigation, the Commissioner must either make a PAD or publish a status report outlining the reasons why he has not made a PAD.

On Day 60 of this investigation, a status report was published advising that the Commissioner, at that time, was unable to establish that there appear to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.⁹

The PAD Direction also requires the Commissioner to reconsider making a PAD after the publication of a status report at least once prior to the publication of the SEF. In preparing SEF 515, the Commissioner reconsidered whether to make a PAD in view of the additional evidence available. As set out in in SEF 515, the Commissioner was again not satisfied that there appeared to be, or that it appeared there would be, sufficient grounds for the publication of a dumping duty notice. Therefore, he did not make a PAD.

2.2.2 Statement of essential facts

The initiation notice advised that the SEF would be placed on the public record by 12 October 2019. However, as advised in ADN No. 2019/124, the Commissioner approved an extension of time for the publication of the SEF until 15 January 2020.

The SEF 515 was published on that date. In that report, the Commissioner proposed to terminate the investigation in its entirety, subject to further submissions received in response to the SEF.

⁹ EPR 515, document no. [17](#) refers.

2.2.3 Australian industry

The Commissioner is satisfied that the applicant for the investigation, Qenos, represents the Australian industry producing like goods to the goods the subject of the investigation.¹⁰ The Commission conducted a verification visit to Qenos' premises in June 2019. The verification report is available on the public record.¹¹

2.2.4 Importers

The Commission identified six of the largest importers in the Australian Border Force (ABF) import database that collectively accounted for approximately 87 per cent of the importations of the goods from the subject countries during the investigation period.¹² These importers were contacted and invited to participate in the investigation. The Commission received importer questionnaire responses from the following importers:

- Chevron Phillips Chemicals Australia Pty Ltd (CPCAU);
- David Moss Corporation Pty Ltd;
- Polymer Direct Pty Ltd;
- Primaplas Pty Ltd;
- Redox Pty Ltd; and
- VIP Plastic Packaging Pty Ltd.

The Commission undertook on-site verification visits to each of these importers. The verification reports relating to each importer are available on the public record.¹³

The Commission placed a copy of the importer questionnaire on its website for completion by other importers who were not contacted directly. An importer questionnaire response was also received from Kantfield Pty Ltd trading as Martogg & Company, however a verification visit was not conducted for this importer. The Commission reviewed the data provided and found it to be reliable.

2.2.5 Exporters

The Commission identified six of the largest suppliers of the goods as identified in the ABF import database and provided them with an exporter questionnaire and associated spreadsheets for completion. The exporter questionnaire and associated spreadsheets were also placed on the Commission website for completion by other exporters who were not contacted directly.

The identified suppliers accounted for approximately 97 per cent of the total shipments (by volume) of the goods reported in the ABF import database from the subject countries.

¹⁰ Chapter 4 refers.

¹¹ EPR 515 document no. [32](#) refers.

¹² See **Confidential Attachment 1** for the Commission's analysis of import volumes.

¹³ EPR 515, document nos. [33](#), [34](#), [38](#), [39](#), [40](#) and [49](#) refer.

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The Commission received a response to the exporter questionnaire (REQ) from the following entities:

- Asia Peak Pte Ltd;
- CPSC;
- Chevron Phillips Chemicals Asia Pte. Ltd. (CPCA);
- Chevron Phillips Chemical Company LP (CPC LP);
- IRPC;
- Korea Petrochemical Ind. Co., Ltd (KPIC);
- Montachem International, Inc. (Montachem);¹⁴
- SCG Plastics Co., Ltd. and SCG Performance Chemicals Co., Ltd. (SCG);
- TPE;
- PTT; and
- GC Marketing Solutions Company Limited (GCM).

Non-confidential versions of the REQs are available on the Commission website.¹⁵ The Commission conducted on-site verification visits to CPSC, CPCA, CPC LP, IRPC, KPIC, SCG and TPE. The Commission also undertook a desktop verification of data provided by GCM and PTT. The exporter verification reports in relation to these verifications are also on the Commission website.

No verification was undertaken of the REQ provided by Asia Peak Pte Ltd as it was identified as a trading entity. All goods exported to Australia by this trading entity were identified and verified throughout the verifications undertaken at all other manufacturers of the goods.

2.2.6 End users

The Commission contacted 19 end users of HDPE and forwarded an Australian Market Questionnaire to these end users to seek additional information in relation to the HDPE market and to better understand purchasing decisions. The Commission received responses from the following end users:

- ACP Australian Custom Pipes Pty Ltd;
- Enviropipes Pty Ltd;
- Iplex Pipelines Australia Pty Ltd;
- Quality Blow Moulders Pty Ltd;
- RX Plastics Pty Ltd;
- Shamrock Poly Pty Ltd; and
- Sulo MGB Australia Pty Ltd.

¹⁴ A confidential REQ was received from Montachem International, INC. (Montachem). Montachem, however, does not produce the goods; rather, it is a trader of goods supplied by a number of other (unnamed) producers in the USA. The Commission has not sought a public record version of Montachem's REQ as a result of its trader status, but has nevertheless had regard to its information because, when compared with the ABF import database, the Commission considers the information to be largely accurate.

¹⁵ EPR 515, document nos. [18](#), [19](#), [20](#), [21](#), [22](#), [23](#), [24](#), [25](#), [26](#), [29](#) and [42](#) refer.

2.3 Submissions received from interested parties

The Commission has received submissions from interested parties throughout the course of the investigation as set out in the table below. Non-confidential versions of all submissions received are available on the EPR.

All submissions published prior to 31 December 2019 were considered in SEF 515. All submissions (including those received after that date) have now been considered in preparing this report.

Submission from	Date published on EPR	Document No.
Martogg & Company	22 July 2019	4
Shamrock Poly Pty Ltd	31 July 2019	5
Polymer Direct Pty Ltd	1 August 2019	6
Iplex Pipelines Australia Pty Ltd	2 August 2019	7
Chevron Phillips Chemicals Australia Pty Ltd	2 August 2019	8
Dow Chemical (Australia) Pty Ltd	2 August 2019	9
Pact Group Holdings Ltd	2 August 2019	10
Visy Group	2 August 2019	11
Redox Pty Ltd	2 August 2019	12
PTT	16 August 2019	16
CPC LP	26 August 2019	27
Qenos	13 September 2019	28
PTT and GCM	16 September 2019	30
IRPC	16 September 2019	31
Qenos	4 October 2019	36
Qenos	4 October 2019	37
Pact Group Holdings Ltd	2 January 2020	48
Qenos	4 February 2020	52
CPC LP	5 February 2020	53
IRPC and PTT	5 February 2020	54
Martogg & Company	5 February 2020	55
TPE	10 February 2020	56

Table 2: Submissions received

2.3.1 Submissions concerning Qenos' application

The Commission received a number of submissions from interested parties which claimed that Qenos' application did not contain sufficient information and contained calculation errors in the alleged dumping margins. In one instance, a submission requested that the Commissioner terminate the investigation as a result.¹⁶

As noted in ADN No. 2019/83 and for the reasons set out in CON 515, the Commissioner was satisfied of the matters outlined in section 269TC(1), including that the application complied with section 269TB(4) and that there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application. The Commissioner was therefore required to initiate an investigation.

The basis for the termination of an investigation is set out in section 269TDA, which indicates that, if the Commissioner is satisfied of certain factual circumstances, he must terminate the investigation in respect of particular exporters and / or particular countries (as appropriate). This is a different test to the one which must be passed to initiate an investigation.

2.3.2 Other submissions

For completeness, the Commission notes that the submissions received from IRPC, PTT, Martogg & Company and TPE have all endorsed the Commissioner's proposed termination decision that was set out in SEF 515.

The matters raised by Qenos and CPC LP have been addressed in relevant chapters of this report.

¹⁶ EPR 515, document no. [27](#) refers.

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner considers that the locally manufactured HDPE is a like good to the goods the subject of the application and is satisfied that there is an Australian industry, which comprises of Qenos, producing those like goods.

3.2 Legislative framework

Section 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods. Section 269T(1) defines like goods as:

“Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.”

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must, however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods

The goods the subject of the application (the goods) 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.

3.3.1 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings:

Tariff classification (Schedule 3 of the <i>Customs Tariff Act 1995</i>)			
Tariff Code	Statistical code	Unit	Description
3901.20.00	03	kg	Polymers of ethylene, in primary forms: - Polyethylene having a specific gravity of 0.94 or more
3901.90.00	27	kg	Polymers of ethylene, in primary forms: - other

Table 3: Tariff classification for the goods

There are currently a number of Tariff Concession Orders (TCO) applying to tariff subheadings 3901.20.00 and 3901.90.00. Further details of the TCO can be found on the ABF website.¹⁷

3.4 Model control codes

The Commission has used a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values (refer ADN No. 2018/128).

Qenos provided sales data for the Australian industry in accordance with the MCC structure detailed in Table 4.

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			

Table 4: Model control code for HDPE

¹⁷ [ABF – Tariff Concession Orders.](#)

Interested parties were invited to make submissions with proposals to modify the MCC structure. Any issues with the proposed MCC structure were raised at verification visits and addressed in the relevant verification visit reports, available on the Commission website.¹⁸ In some instances, the Commission found that it was not appropriate to rely on the MCC structure for model matching and instead matched models based on actual grades sold domestically with those exported to Australia. Details of the Commission's approach with respect to each exporter are set out in chapter 6 of this report.

3.5 Like goods

The following sets out the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'.

For the purposes of the findings below, the Commission has relied on information obtained from a verification of Qenos' manufacturing facilities and those of exporters in the subject countries.

Physical likeness

The Commission found that the goods exported to Australia from the subject countries are physically similar to the HDPE produced by the Australian industry. Both the goods and like goods are available in different grades. The goods and like goods have identical or similar mechanical properties, thermal properties and chemical properties. Both the goods produced by Qenos and those exported to Australia from the subject countries have specific density and melt index specifications applicable to each manufacturer. Whilst these vary, the goods and the like goods have a cloudy white appearance (unless additives are present) and HDPE is predominantly produced in pellet form. All grades are HDPE having a specific gravity greater than 0.94 grams per cubic centimetre.

Commercial likeness

The various grades of HDPE are intended for application in various market sectors (chapter 5 sets out more detail on the market generally). Qenos directly competes in the same markets as the goods imported from the subject countries, for the same customers.

Functional likeness

The imported goods and the goods manufactured by the Australian industry are functionally alike as they can be used interchangeably in the production of downstream products through intermediate manufacturing processes (e.g. blow moulding, injection moulding, film and pipe extrusions).

Production likeness

The domestically manufactured goods and the imported goods are manufactured via similar manufacturing processes, using the same or similar raw materials in the production process. The Commission understands that the production of HDPE requires specific chemical reactions to make the goods. Whilst these processes may vary in terms of technology or methodology, they all rely on essentially the same raw material inputs to

¹⁸ Chapter 6 of this report refers.

produce HDPE. The equipment and processes required to produce HDPE is therefore alike in most significant practical aspects.

3.5.1 Submissions in relation to like goods assessment

A number of submissions from interested parties made claims that the imported goods are not “like goods” to those manufactured by Qenos.¹⁹ The basis of this claim is that the grades produced by Qenos are not identical to the grades produced by the relevant exporters making these claims. Some exporters (such as CPC LP) have claimed that the MCC structure is flawed as a result of this lack of commonality.

3.5.2 The Commission’s assessment

The primary purpose of the MCC structure is to provide a fair comparison of goods sold domestically (and their associated normal value) with those exported by each exporter (and their associated export price). The MCCs may also be used for other purposes, such as for price undercutting analysis and/or calculating an appropriate deductive export price. The MCC structure is not fixed, in that it may be appropriate to vary the structure or to even abandon it depending on the exact circumstances of an exporter (see chapter 6 of this report).

The Commission has found during the investigation that HDPE is comprised of a number of different grades. Although the imported grades may not be identical to the locally manufactured grades, the Commission found that the locally produced goods have characteristics that closely resemble those of the goods under consideration, and therefore are like goods, given that:

- the primary physical characteristics of the locally produced goods closely resemble the imported goods;
- the imported and locally produced goods are commercially alike as they are sold to the same customers and compete in the same markets;
- the imported and locally produced goods are functionally alike as they have the same end uses and are substitutable; and
- the imported and locally produced goods are manufactured in a similar manner.

¹⁹ EPR 515, document nos. [9](#), [10](#), [27](#) and [53](#) refer.

4 THE AUSTRALIAN INDUSTRY

4.1 Finding

The Commissioner finds that there is an Australian industry producing like goods, which consists solely of Qenos, and that the goods are wholly manufactured in Australia.

4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Sections 269T(2) and (3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Australian industry

The Australian industry producing HDPE comprises of Qenos only. Qenos is a polyethylene manufacturer and has manufacturing plants in Altona VIC and Botany Bay NSW. The Altona complex consists of three manufacturing plants being Qenos Olefins, Qenos Plastics and Qenos Resins. The Botany site consists of four plants, identified as Olefines, Alkatuff, Alkathene and Site Utilities.

The Commission received no other information or submissions suggesting any other entity produced the like goods in Australia.

4.4 Production process

Approximately 90 per cent of HDPE is produced at the Altona plant with less than 10 per cent of HDPE produced at the Botany plant. The Commission completed an Australian industry verification visit to Altona and undertook a tour of Qenos’ manufacturing facilities.²⁰

Qenos is a fully integrated manufacturer. The main raw material for HDPE is ethylene, which is manufactured by Qenos using ethane gas or liquid petroleum gas (LPG) as the feedstock; it then uses its own produced ethylene in the production of HDPE.

Ethylene is a colourless gas, a hydrocarbon molecule consisting of carbon and hydrogen atoms and represented by the chemical formula C_2H_4 . The Olefins plant processes the ethane into ethylene using steam cracking technology in which steam is injected into the ethane in the furnace. Cracking is the process by which heavier hydrocarbon molecules are broken up into lighter molecules by means of heat.

The Plastics & Resins site obtains the ethylene from the Olefins plant and converts the ethylene into HDPE. The ethylene (monomer) is mixed with hydrogen gas, a catalyst and a co-monomer (butane, pentene or hexene) creating a reaction at controlled pressures

²⁰ EPR 515, document no. [32](#) refers.

and temperatures. A catalyst is used to initiate the reaction and alter its speed and creates a HDPE powder.

The HDPE powder is then extruded through a compounder and cut into small pellets. Additives, such as carbon black, can also be mixed in with the powder to form the final product.

4.5 Conclusion

Based on the information obtained from the verification visit to Qenos and submissions, the Commission considers that the goods were wholly manufactured in Australia.

Accordingly, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia by Qenos;²¹ and therefore,
- there is an Australian industry, consisting solely of Qenos, which produces like goods in Australia.²²

²¹ Section 269T(2) refers.

²² Section 269T(4) refers.

5 AUSTRALIAN MARKET

5.1 Background

As discussed above at chapter 4, Qenos is the sole producer of HDPE in Australia. In addition to HDPE produced locally, the Australian market is supplied by imports, particularly those from the subject countries, as well as Malaysia, Saudi Arabia, the United Arab Emirates and, to a lesser extent, from a number of other countries. Qenos acknowledges that it lacks the capacity to supply the entire Australian market for HDPE, and describes the import supply chain in Australia as well established.²³

While it appears there are no commercially significant substitutes for HDPE, responses to the Australian Market Questionnaire do note that gas pipes can be manufactured from nylon, and water pipes from polyvinyl chloride. Particular bottles can also be manufactured from polyethylene terephthalate (PET), which the Commission understands to be a cheaper resin. In addition, the Commission is aware that some products (such as packaging materials or shampoo) can be imported as finished products into Australia, placing competitive pressure on Qenos' customers' own pricing.

5.2 Market structure

The Australian market for HDPE comprises of:

- Qenos, the sole manufacturer of like goods in Australia (chapter 2.2.4 refers);
- importers of HDPE (either for distribution or own use), of which seven provided a response to the importer questionnaire (chapter 2.2.5 refers); and
- purchasers (or end users) of HDPE, of which seven provided a response to the Australian Market Questionnaire (chapter 2.2.7 refers).

The following analysis is based on information obtained from Qenos, importers and end users throughout the investigation.

5.2.1 Market segmentation and end use

In Australia, HDPE is primarily supplied into four key applications: pipe, film, blow moulding and injection moulding.²⁴

Pipe

Pipes manufactured from HDPE are primarily used in mining, coal seam gas, irrigation and other distribution (e.g. water, gas) applications. Demand is impacted by:

²³ EPR 515, document nos. [28](#) and [32](#) refer.

²⁴ 'Tape and monofilament' is also considered a relevant end use application; however, this appears to be less significant within the context of the overall Australian market.

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- activity in the mining sector (either new mine or 'sustenance' capital);
- drilling activity for coal seam gas operators (number of wells drilled);
- farm sector output;²⁵ and
- dwelling commencements and construction output.²⁶

Demand for 'pressure pipe' (PE100) is often project driven.

Film

Films produced from HDPE are typically used for carton liners for meat and produce, and cereal box liners. Demand is chiefly driven by domestic final demand (i.e. key economic indicators) and the substitution effect of other packaging materials and imported finished goods (e.g. film on roll, or unfilled packages).

Blow moulding

HDPE used in blow moulding ends up in a wide array of products, with differing demand drivers (as shown in the table below).

End Uses	Demand Drivers
Bottles (less than four litres) used for milk, cream, yoghurt, water and juice	<ul style="list-style-type: none">• Domestic drinking milk sales (based on customer demand and population)• Long term contracts for private label milk supply• Consumer preference for packaging²⁷
Household industrial chemicals, i.e. bottles (up to ten litres) primarily used for non-food packaging such as detergent/household cleaners and personal care products	<ul style="list-style-type: none">• Domestic final demand (key economic indicator)• Real retail sales (key economic indicator)• Imported finished goods substitution²⁸• Demographic changes, e.g. professional cleaners²⁹• Demand for 'greener' packaging through increased use of PET, biopolymers and light weighting bottles, plus polypropylene
High molecular weight, i.e. large containers greater than ten litres used for packaging both dangerous good chemicals and food, such as drums, jerry cans and industrial bulk containers	<ul style="list-style-type: none">• Manufacturing sector output (key economic indicator)• Agricultural and environmental (e.g. weather) conditions• Imported finished goods substitution³⁰

Table 5: End used and demand drivers for HDPE in blow moulding applications

²⁵ The impact of farm sector output on HDPE volume is difficult to predict as (for example) periods of drought may reduce farm sector output, but increase the incentive to invest in irrigation systems.

²⁶ Construction output is increasingly becoming a lead indicator, as a large part of this segment is represented by the rehabilitation of existing pipelines (e.g. replacing metal or concrete pipes with HDPE).

²⁷ HDPE is used almost exclusively for two and three litre fresh milk bottles; however, substitute products include cartons, and to a lesser extent glass bottles.

²⁸ For example, shampoo.

²⁹ This effect can be offset during times of stagnating wages and increased costs of living.

³⁰ Dangerous good containers tend to be made locally (for example, weed spray is imported in bulk).

Injection moulding

HDPE used in injection moulding ends up in a wide array of products, with differing demand drivers (as shown in the table below).

End Uses	Demand Drivers
General purpose (e.g. caps and closures, pails, sealant / adhesive cartridges)	<ul style="list-style-type: none"> • Consumer demand
Mobile garbage bins	<ul style="list-style-type: none"> • Local government policies with respect to household and industrial waste management • Domestic building construction rates • The inclusion of recycled content such as 'recyclate' in products • Thin walling of bins, and reduction in average bin capacity
Large storage, e.g. crates for fruit and produce storage and milk	<ul style="list-style-type: none"> • Increasing popularity of using collation shrink wrap as an alternative to cartons and crates (beer, bottled water, milk) • Seasonal factors

Table 6: End used and demand drivers for HDPE in blow moulding applications

Interested parties have submitted that HDPE manufactured for one application cannot be substituted for another, due to the different melt indexes and densities required (e.g. HDPE for pipe applications cannot be used for injection moulding applications and vice versa).³¹ The Commission considers this to be generally accepted by all interested parties.

5.2.2 Sales and distribution

Geographically, Qenos distributes HDPE to all states in Australia. Production of downstream products is largely concentrated in major cities, with the largest markets for Qenos being Melbourne, Sydney and Brisbane. Based on information obtained at the industry verification visit, the Commission is of the view that Qenos' ability to supply more distant markets such as Brisbane and Perth is impacted by higher distribution costs.

HDPE is sold to both distributors and end users in the Australian market. However, Qenos only sells direct to end users, and does not have any agency or distribution agreements in place.

The market is characterised by some contractual arrangements which include pricing formulas which are discussed in more detail below. In most cases, contractual agreements do not stipulate a purchase volume, instead, they include volume based rebate incentives. Many end users source both locally manufactured HDPE and imported HDPE.

5.2.3 Pricing

The Commission has established, from both the verification visit to Qenos and to exporters the subject of this investigation, that pricing is predicated on a negotiated formula. In the case of Qenos, this formula comprises:

³¹ For example, EPR 515, document no. [7](#) refers.

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- an agreed published benchmark for the relevant application, such as the ICIS South East Asian regional benchmark or S&P Global Platts, expressed in United States dollars (USD);
- a notional amount in USD to bring the 'cost insurance and freight' pricing marker 'to Australia';
- an agreed exchange rate (e.g. Reserve Bank of Australia) to convert the USD value to Australian dollars (\$);
- a notional amount to account for 'local logistics';
- any relevant grade premiums; and
- any relevant rebates.

The majority of suppliers of the goods from the selected countries use a similar pricing formula, which relies on an agreed published benchmark for the relevant application such as the ICIS South East Asian pricing marker.

During the investigation period approximately 70 per cent of Qenos' sales of HDPE (based on volume) were priced using contract formulas. For the remaining customers, a market price is set at a 'negotiated competitive level' and is then adjusted up or down on a monthly basis. Market prices are determined two months ahead of time, taking into account movements in the ICIS benchmark,³² and any broader economic factors at play. This is communicated to customers in a pricing letter. According to Qenos, negotiation typically occurs whenever a gap opens up between the Qenos price and import price offers. Responses to the Australian Market Questionnaire suggest that not all purchasers of HDPE will request a supplier to match on price, although one respondent did indicate that it had sometimes received better pricing as a result of providing feedback to Qenos.

Taking into account the relevant pricing mechanisms described above, which show that HDPE pricing in the Australian market is largely determined by South East Asian regional price, or movement in the South East Asian regional price, it does not appear that Australian HDPE pricing is cost driven.

Price sensitivity

Responses to the Australian Market Questionnaire suggest that while price is often ranked as important to very important,³³ purchasers also ranked a number of other factors as equally or more important (such as quality, ability to meet global standards, reliability, delivery terms/time, access to next day delivery and maintaining dual supply arrangements).³⁴ As a result, while price is certainly one of the factors taken into account by purchasers of HDPE, it is generally not so important as to override all other factors. When purchasers were asked how often they purchased from the supplier that offered the lowest net price, the majority selected 'sometimes' or 'never'.

³² For example, the May benchmark will be considered when pricing for August.

³³ On a scale of one to ten (with zero being 'not important' and ten being 'highly important'), the six purchasers that responded to this question rated 'net price after rebates' somewhere between seven to ten.

³⁴ This was reiterated by the Visy group of companies in its submission (EPR 515, document no. [11](#) refers).

Further, Pact Group Holdings Ltd, an end user in blow and injection moulding applications, has submitted that it has a limited ability to use different grades on its production line without undertaking 'expensive and time-consuming' resetting of the equipment.³⁵ It is also the Commission's understanding that demand for dairy products is significant and requires plants to run on a non-stop basis. As a result, contract supply and reliability are imperative, meaning the likelihood of switching suppliers is significantly minimised. Further, any performance variation of a grade of HDPE can require an end user to make significant adjustments to both its equipment and process, which can be costly. In the Commission's view, on the basis of responses to the Australian Market Questionnaire, these considerations reduce the willingness of purchasers to shift suppliers, at least in the short term. By extension, it is expected that this reduces the sensitivity of those purchasers to price. This is also confirmed by a purchaser of film grade product that indicated it would never look at price when purchasing HDPE, as it has select grades that it has proven will work on its production lines.

In this context, the Commission considers that the market for HDPE in Australia is somewhat price sensitive, although price is only one of a number of factors taken into account by purchasers.

Price transparency

Based on the evidence provided, the Commission has found that Qenos is aware, generally, of the price of different imports in the Australian market based on feedback from its customers. The Commission also found that it is not uncommon for purchasers of HDPE to procure supply from more than one source, including a combination of imported and domestically produced HDPE.

Notwithstanding the likely comparison of different prices available in the Australian market, the Commission notes from a response to the Australian Market Questionnaire that the timing of those offers must also be taken into account. For example, most imported products require a lead time of four to ten weeks (depending on the supplier), compared to Qenos which typically offers next day delivery, if available. In this regard, if a purchaser compares the price offered by an importer with the price offered by Qenos at a particular point in time, then it will be comparing a product that can be delivered tomorrow, or in the very near future, against a product that will arrive in four to ten weeks (at which point the price to be offered by Qenos is likely unknown). In the Commission's view, while the Australian market for HDPE does appear to be transparent in that purchasers can compare the different prices available, the timing of those offers potentially reduces the practical effect of that transparency on decision making.

³⁵ EPR 515, document no. [10](#) refers.

5.3 Market size

To estimate the size of the Australian HDPE market, the Commission has combined Qenos' verified sales data³⁶ with information from the ABF import database.

As described in a recent file note regarding 'volumes of goods', the Commission has cross checked the data taken from the ABF import database during the verification of major importers and exporters.³⁷ As a result, the Commission is satisfied that the import volumes are accurate.

The following graph depicts the size of the Australian market for HDPE for the period 1 April 2015 to 31 March 2019. The Commission notes that the size of the Australian market for HDPE was in excess of 355,000 tonnes during the investigation period.

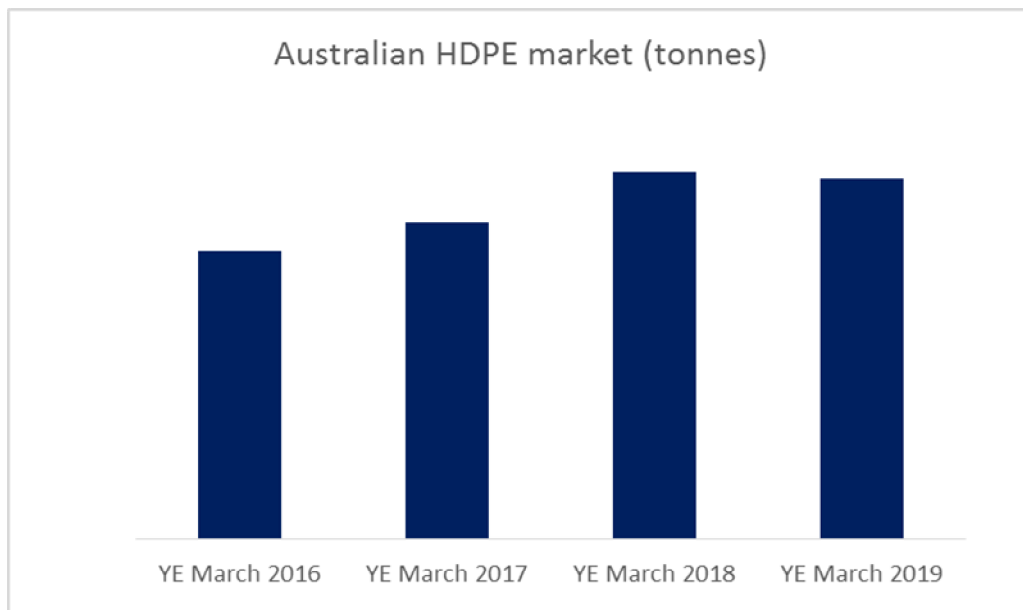


Figure 1: Australian HDPE market size

The graph above shows that the total Australian market size for HDPE has increased by 25 per cent overall since year ending (YE) March 2016; however, the market contracted slightly in YE March 2019.

The Commission's assessment of the Australian market size for HDPE is provided at **Confidential Attachment 2**.

³⁶ As outlined in the relevant verification report, this sales data was found to be complete, relevant and accurate; EPR 515, document no. [32](#) refers.

³⁷ EPR 515, document no. [47](#) refers. Refer to chapter 6.11 for further details.

6 DUMPING INVESTIGATION

6.1 Finding

The Commissioner's findings in relation to HDPE exported to Australia during the investigation period are summarised in Tables 7 and 8, below.

Country	Exporter	Dumping margin
Korea	KPIC	-5.1%
	Uncooperative and all other exporters	-1.5%
Singapore	CPSC	-0.9%
	Uncooperative and all other exporters	5.0%
Thailand	IRPC	1.8%
	PTT	0.6%
	TPE	0.7%
	Uncooperative and all other exporters	8.8%
USA	CPC LP	9.3%
	Uncooperative and all other exporters	13.9%

Table 7: Dumping margins

Country	Findings	Dumped Volume
Korea	Imports from all exporters from Korea were not at dumped prices.	No volume of dumped goods from Korea
Singapore	Imports from CPSC were not at dumped prices	The volume of dumped goods from Singapore was negligible
	Imports from uncooperative and all other exporters from Singapore were at dumped prices.	
Thailand	Imports from IRPC, PTT and TPE from Thailand were at dumped prices however the dumping margins for these exporters are less than two per cent	The volume of dumped goods from Thailand was <u>not</u> negligible.
	Imports from uncooperative and all other exporters from Thailand were at dumped prices.	
USA	Imports from all exporters were at dumped prices.	The volume of dumped goods from the USA was negligible.

Table 8: Volume of dumped goods

The Commissions calculations of export prices, normal values and dumping margins are at **Confidential Attachment 3**.

6.2 Introduction and legislative framework

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC, respectively.

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Section 269TAB(1)(a) provides that, subject to certain conditions, the export price of any goods exported to Australia is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods or any other matter arising after exportation. Where the conditions in section 269TAB(1)(a) are not met, such as when the export transactions are not arms length, the export price is determined under sections 269TAB(1)(b) or (c). Section 269TAB(3) provides that, where the export price cannot be established under those provisions, the export price is determined having regard to all relevant information.

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as being at arms length. These are where:

- there is any consideration payable for or in respect of the goods other than price;
- the price appears to be 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
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Further, where an importer subsequently sells the goods at a loss, the Minister may treat those circumstances as indicating that the importer will be reimbursed, compensated or otherwise receive a benefit. If the goods are sold at a loss, the Minister must have regard to the likelihood that the importer will recover both the price paid to the exporter and the costs necessarily incurred in the importation and sale of the goods within a reasonable time.

Section 269TAC(1) provides that, subject to certain conditions, the normal value of the goods is the price at which like goods are sold in the domestic market of the country of export. However, section 269TAC(1) cannot be used to calculate the normal value of the goods if one of the circumstances in sections 269TAC(2)(a) or (b) is present. Where one or more of these circumstances are present, the normal value of the goods may be calculated under either section 269TAC(2)(c) or (d).

Section 269TAC(2)(c) provides for the normal value to be a constructed amount, being the sum of the cost of production or manufacture of the goods in the country of export, and, on the assumption that the goods had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export instead of being exported, the selling, general and administrative (SG&A) costs and the profit on that sale. If the Minister directs that it applies, section 269TAC(2)(d) provides that the normal value is the price of like goods sold in the OCOT in arms length transactions from the country of export to an appropriate third country.

Section 269TAC(6) provides that, where the normal value cannot be established under sections 269TAC(1), 269TAC(2)(c) or 269TAC(2)(d), the normal value is determined having regard to all relevant information.

Dumping margins are determined under section 269TACB.

6.3 Cooperative exporters

Section 269T(1) provides that, in relation to a dumping investigation, an exporter is a 'cooperative exporter' where the exporter's exports were examined as part of the investigation and the exporter was not an 'uncooperative exporter'.

At the commencement of the investigation, the Commission contacted known suppliers of the goods and each supplier of the goods within the relevant tariff subheading for HDPE as identified in the ABF import database and by the importers of the goods, and invited them to complete an exporter questionnaire.

The Commission received exporter questionnaire responses from the following exporters:

- CPSC (Singapore);
- CPC LP (the USA);
- IRPC (Thailand);
- KPIC (Korea);
- TPE (Thailand); and
- PTT (Thailand).

The Commission undertook onsite verification visits to CPC LP, CPSC, IRPC, KPIC and TPE and also undertook an offsite verification of the data submitted by PTT. All of the exporters listed above are considered to be cooperative exporters.

6.4 Uncooperative exporters

Section 269T(1) provides that, in relation to a dumping investigation, an exporter is an 'uncooperative exporter', where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

In relation to making determinations that an exporter is an uncooperative exporter, the Commissioner has regard to both section 269T(1) and the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction).

6.5 Dumping assessment – Korea

6.5.1 KPIC

The Commission conducted an in-country visit to KPIC in Korea to verify the information provided in its REQ. A more detailed description of the verification process is contained in the verification report published on the public record.³⁸ The Commissioner has accepted those findings for the purpose of this report.

³⁸ EPR 515 document no. [44](#) refers.

Export price

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.

The Commission found that during the investigation period, KPIC exclusively exported the goods to Australia via a related intermediary, KPICC.

The Commission found that KPIC manufactured the goods to Australian standards and is listed as the producer of these goods on the sales contract (such as the pro-forma invoice) between KPIC and the Australian importer, and is also listed as the producer on the export declaration.

The Commission further found that KPIC knowingly placed the goods in the hands of KPICC, as its freight forwarder, for export to Australia. While KPICC is the contracted freight forwarder and therefore arranges the inland transport to the port of loading and arranges ocean freight, KPIC is the entity that ultimately incurs and pays for these costs in relation to the goods exported to Australia, and was closely involved in the decisions that led to the export of the goods from Korea to Australia.

Therefore, having regard to all the circumstances of the exportation of the goods to Australia, the Commissioner is satisfied that KPIC is the exporter of the goods to Australia during the investigation period.

In respect of all Australian sales of HDPE made by KPIC during the investigation period, the Commission has considered the following factors to determine whether exports from KPIC were arms length transactions.

The Commissioner is satisfied that there was no evidence that:

1. there was any consideration payable for, or in respect of, the goods other than their price; or
2. 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 buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The sales to Australia were conducted through an intermediary of KPIC, KPIC Corporation. Therefore, the export price for KPIC was calculated under section 269TAB(1)(c), having regard to all the circumstances of the exportation and determined using the price between KPIC and KPIC Corporation at Free On Board (FOB) terms.

Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for the one grade that was exported to Australia. The Commissioner is therefore satisfied

that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic packaging	Deduct the cost of domestic packaging
Domestic inland freight	Deduct the cost of domestic inland freight
Export packaging	Add the cost of export packaging
Export inland freight	Add the cost of export inland freight
Export handling	Add the cost of export handling
Export credit	Add the cost of export credit

Table 9 - Adjustments for KPIC normal values

Dumping margin

In undertaking the dumping margin calculation, the Commission was satisfied that significant differences in prices occurred between different grades within the same MCC categories. As a result, the Commission instead had regard to the actual models sold to ensure a proper comparison between export prices and normal values.

The Commission has calculated the dumping margin for KPIC as **negative 5.1 per cent**.

6.5.2 Uncooperative and all other exporters dumping margin

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under section 269TAB(3) and normal values are to be calculated under section 269TAC(6).

As there was only one cooperating exporter of HDPE from Korea, the Commission has relied on the weighted average export price for that exporter during the investigation period, pursuant to section 269TAB(3).

The Commission has determined a normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has had regard to the normal value calculated for the sole cooperating exporter from Korea. In calculating the normal value for uncooperative and all other exporters, no favourable adjustments were made.

The dumping margin for uncooperative and all other exporters is **negative 1.5 per cent**.

6.6 Dumping assessment – Singapore

6.6.1 CPSC

The Commission conducted an in-country visit to CPSC in Singapore to verify the information provided in its REQ. A more detailed description of the verification process is contained in the verification report published on the public record.³⁹ The Commissioner has accepted those findings for the purpose of this report.

Export price

CPSC produced the goods and exported these to its unrelated customers in Australia directly. The Commissioner is therefore satisfied that CPSC is the exporter and that the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter. The export price for CPSC for these sales was therefore calculated under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

In respect of all Australian sales of HDPE made by CPSC from Singapore during the investigation period, the Commission has considered the following factors to determine whether exports from CPSC were arms length transactions.

The Commissioner is satisfied that there was no evidence that:

1. there was any consideration payable for, or in respect of, the goods other than their price; or
2. 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 buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all grades exported to Australia. The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic packaging	Deduct an amount for domestic packaging
Domestic commissions	Deduct an amount for domestic commissions

³⁹ EPR 515, document no. [41](#) refers.

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Domestic credit cost	Deduct an amount for domestic credit cost
Export inland transport	Add an amount for export inland transport
Export packaging	Add an amount for export packaging
Export commissions	Add an amount for export commissions
Export credit cost	Add an amount for export credit cost
Export handling & other	Add an amount for export handling & other

Table 10 - Adjustments for CPSC normal values

Dumping margin

In undertaking the dumping margin calculation, the Commission was satisfied that significant differences in prices occurred between different grades within the same MCC categories. As a result, the Commission instead had regard to the actual models sold to ensure a proper comparison between export prices and normal values.

The Commission has calculated the dumping margin for CPSC as **negative 0.9 per cent**.

6.6.2 Uncooperative and all other exporters dumping margin

For uncooperative and all other exporters, the export price has been calculated under section 269TAB(3) and normal value under section 269TAC(6).⁴⁰

As there was only one cooperating exporter of HDPE from Singapore, the Commission has relied on the weighted average export prices for that exporter during the investigation period under section 269TAB(3).

The Commission has determined a normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the normal value for the sole cooperating exporter from Singapore. In calculating the normal value for uncooperative and all other exporters, no favourable adjustments were made.

The dumping margin for uncooperative and all other exporters is **5.0 per cent**.

6.7 Dumping assessment – Thailand

6.7.1 IRPC

The Commission conducted an in-country visit to IRPC in Thailand to verify the information provided in its REQ. A more detailed description of the verification process is contained in the verification report published on the public record.⁴¹ The Commissioner has accepted those findings for the purpose of this report.

⁴⁰ Section 269TACAB(1) refers.

⁴¹ EPR 515, document no. [46](#) refers.

Export price

In respect of all Australian sales of HDPE made by IRPC from Thailand during the investigation period, the Commission has considered the following factors to determine whether exports from IRPC were arms length transactions.

The Commissioner is satisfied that there was no evidence that:

1. there was any consideration payable for, or in respect of, the goods other than their price; or
2. 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 buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

IRPC produced the goods and exported these to its unrelated customers in Australia directly. The Commissioner is therefore satisfied that IRPC is the exporter and that the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

The export price for IRPC for these sales was therefore calculated under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all grades exported to Australia. The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic packaging	Deduct an amount for domestic packaging
Domestic credit cost	Deduct an amount for domestic credit cost
Domestic handling and other costs	Deduct an amount for domestic handling & other costs
Export inland transport	Add an amount for export inland transport
Export packaging	Add an amount for export packaging
Export credit cost	Add an amount for export credit cost
Export handling & other costs	Add an amount for export handling & other costs

Table 11 - Adjustments for IRPC normal values

Dumping margin

In undertaking the dumping margin calculation, the Commission was satisfied that significant differences in prices occurred between different grades within the same MCC categories. As a result, the Commission instead had regard to the actual models sold to ensure a proper comparison between export prices and normal values.

The Commission has calculated the dumping margin for IRPC as **1.8 per cent**.

6.7.2 PTT

The Commission did not undertake an in-country visit to PTT's facilities in Thailand. PTT's REQ was subject to remote verification. Relying on the information available, the Commissioner is satisfied that PTT is the producer of the goods. A report setting out the Commission's findings from the verification is available on the public record.⁴² The Commissioner has accepted those findings for the purpose of this report.

Export price

The Commissioner is satisfied that PTT is the exporter and the goods have been exported to Australia otherwise than by the importer, however the goods were not purchased by the importer from the exporter. The sales to Australia were conducted through an intermediary of PTT, GCM.

PTT submits that the Commission should consider PTT and GCM to be a single entity as GCM is merely a selling company owned by PTT.⁴³ The Commission considers the functions of GCM as that of an intermediary. As outlined in the *Dumping and Subsidy Manual* (the Manual), the export price is generally the price received by the exporter when selling to the intermediary. In rare cases where the manufacturer has no knowledge that these goods are destined for export, the intermediary may be found to be the exporter.⁴⁴ The sales data in the REQ submitted by PTT provides the intended end destination of the goods. For this reason, the Commission is of the view that PTT is aware that the goods are destined for export. The Commission also notes that PTT and GCM are separate legal entities.

Therefore, the Commission has calculated the export price for PTT under section 269TAB(1)(c), having regard to all the circumstances of the exportation, and determined using the price paid by GCM to PTT at FOB terms.

Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all grades exported to Australia. The Commission is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

⁴² EPR 515, document no. [45](#) refers.

⁴³ EPR 515, document no. [16](#) refers.

⁴⁴ The Manual, pages 28 to 31 refer.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic packaging	Deduct an amount for domestic packaging
Domestic handling and other costs	Deduct an amount for domestic handling & other costs
Export inland transport	Add an amount for export inland transport
Export packaging	Add an amount for export packaging
Export handling & other costs	Add an amount for export handling & other costs

Table 12 - Adjustments for PTT normal values

Dumping margin

In undertaking the dumping margin calculation, the Commission had regard to the MCC structure to ensure a proper comparison between export prices and normal values.

The Commission has calculated the dumping margin for PTT as **0.6 per cent**.

6.7.3 TPE

The Commission conducted an in-country visit to TPE in Thailand to verify the information provided in its REQ. A more detailed description of the verification process is contained in the verification report published on the public record.⁴⁵ The Commissioner has accepted those findings for the purpose of this report.

Export price

The Commission has found the following in relation to TPE and their related trader:

- TPE was the sole manufacturer of the goods exported to Australia from Thailand during the investigation period;
- TPE arranges for, and incurs the cost of, inland transport of the goods to the port of export;
- TPE were aware that the goods were destined to Australia when making sales to the traders;
- in general, TPE keeps inventory of the goods stocked at distribution centres, from which the traders will order the goods;
- the traders do not act like distributors because they don't have their own inventory for export sales – that is, they do not take physical possession of the goods;
- the traders do not undertake any further manufacturing, fabrication or alteration of the goods exported to Australia.

⁴⁵ EPR 515, document no. [43](#) refers.

The Commissioner is satisfied that TPE is the exporter and the goods have been exported to Australia otherwise than by the importer, however the goods were not purchased by the importer from the exporter.

The sales to Australia were conducted through an intermediary of TPE, SCG. Therefore, the export price for TPE was calculated under section 269TAB(1)(c), having regard to all the circumstances of the exportation and determined using the price paid by SCG to TPE at Free Carrier terms.

Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all grades exported to Australia. The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic inland transport cost	Deduct an amount for domestic inland transport
Domestic packaging cost	Deduct an amount for domestic packaging
Export inland transport cost	Add an amount for export inland transport
Export packaging cost	Add an amount for export packaging

Table 13 - Adjustments for TPE normal values

Dumping margin

In undertaking the dumping margin calculation, the Commission had regard to the MCC structure to ensure a proper comparison between export prices and normal values.

The Commission has calculated the dumping margin for TPE as **0.7 per cent**.

6.7.4 Uncooperative and all other exporters dumping margin

The Commission has determined an export price for uncooperative and all other exporters pursuant to section 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest weighted average export price of those that were established for cooperating exporters from Thailand in the investigation period.

The Commission has determined a normal value for uncooperative and all other exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest weighted average normal value of those that were

established for the cooperating exporters from Thailand in the investigation period. This dumping margin for uncooperative and all other exporters is **8.8 per cent**.⁴⁶

6.8 Dumping assessment – USA

6.8.1 CPC LP

The Commission conducted an in-country visit to CPC LP in the USA to verify the information provided in its REQ. A more detailed description of the verification process is contained in the verification report published on the public record.⁴⁷ The Commissioner has accepted those findings for the purpose of this report.

Export price

In respect of all Australian sales of HDPE made by CPC LP during the investigation period, the Commissioner does not consider that sales are between the exporter and the importer and therefore considers that the export price cannot be determined under sections 269TAB(1)(a) or (b).

The Commission therefore recommends that the export price be calculated under section 269TAB(1)(c), having regard to all the circumstances of the exportation. The Commission ascertained the export price on FOB terms, having regard to the net amounts received by CPC LP for its sales of the goods to its related entity CPCA, which then on-sold the goods to Australia.

Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all grades exported to Australia. The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic inland transport cost	Deduct an amount for domestic inland transport
Domestic packaging cost	Deduct an amount for domestic packaging
Domestic credit cost	Deduct an amount for domestic credit costs
Export credit cost	Add an amount for export credit costs
Export inland transport cost	Add an amount for export inland transport
Export packaging cost	Add an amount for export packaging

⁴⁶ Section 269TACAB(1) refers.

⁴⁷ EPR 515, document no [050](#) refers.

Table 14 - Adjustments for CPC LP normal values

Dumping margin

In undertaking the dumping margin calculation, the Commissioner was satisfied that significant differences in prices occurred between different grades within the same MCC categories. As a result, the Commission instead had regard to the actual models sold to ensure a proper comparison between export prices and normal values.

The Commission has calculated the dumping margin for CPC LP as **9.3 per cent**.

6.8.2 Uncooperative and all other exporters dumping margin

For uncooperative and all other exporters, the export price has been calculated under section 269TAB(3) and normal value under section 269TAC(6).⁴⁸

As there was only one cooperating exporter of HDPE from the USA, the Commission has relied on the weighted average export price for that exporter during the investigation period under section 269TAB(3).

The Commission has determined a normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the normal value for the sole cooperating exporter from the USA. In calculating the normal value for uncooperative and all other exporters, no favourable adjustments were made.

The dumping margin for uncooperative and all other exporters is **13.9 per cent**.

⁴⁸ Section 269TACAB(1) refers.

6.9 Summary of dumping margins

A summary of the Commission's dumping margins are set out below:

Country	Exporter	Dumping margin
Korea	KPIC	-5.1%
	Uncooperative and all other exporters	-1.5%
Singapore	CPSC	-0.9%
	Uncooperative and all other exporters	5.0%
Thailand	IRPC	1.8%
	PTT	0.6%
	TPE	0.7%
	Uncooperative and all other exporters	8.8%
USA	CPC LP	9.3%
	Uncooperative and all other exporters	13.9%

Table 15: Dumping margins

6.10 Termination - level of dumping

Section 269TDA(1)(b)(i) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that there has been no dumping by the exporter of any of those goods. Section 269TDA(1)(b)(ii) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if there has been dumping by the exporter of some or all of those goods, but the dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than two per cent.

Accordingly, the Commissioner is satisfied that he must terminate the dumping investigation in relation to:

- all exporters from Korea (pursuant to section 269TDA(1)(b)(i));
- CPSC from Singapore (pursuant to section 269TDA(1)(b)(i)); and
- IRPC, PTT and TPE from Thailand (pursuant to section 269TDA(1)(b)(ii)).

6.11 Termination - volume of dumped imports

Pursuant to section 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Section 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period if section 269TDA(5) does not apply.

Section 269TDA(5) provides that imports of dumped goods will be “aggregated”; the import volumes of dumped goods from subject countries that individually constitute less than 3 per cent of the total Australian import volume are not considered negligible if, cumulatively, they account for more than 7 per cent of the total Australian import volume over the investigation period. Pursuant to section 269TDA(6), the volume of goods at negligible dumping margins are not prevented from being taken into account for the purposes of section 269TDA(3).

The Commission published a file note on 16 December 2019 setting out its preliminary findings on these issues.⁴⁹

6.11.1 Export volumes at initiation

At initiation, the Commission found that on analysing the ABF import database, there appeared to be goods which may have been classified under incorrect tariff subheadings and the relevant consignment had not been described in sufficient detail to assess the classification further. The Commission also observed that some consignments had been declared with volumes which were either over or understated (e.g. declared in kilograms rather than tonnes, and vice versa).⁵⁰

For these reasons, the Commission expressed some uncertainty as to the volume of goods that were actually exported from the USA during the investigation period. Qenos’ application suggested that the volume of exports from the USA accounted for approximately two per cent of all Australian imports during the investigation period. Noting the potential for the goods to have been misclassified and / or incorrectly declared in terms of volumes in the ABF import database, the Commission concluded that there still appeared to be reasonable grounds for the publication of a dumping duty notice with respect to exports from the USA on the basis of the information available at that time.

6.11.2 Verification of data

As discussed at chapters 2.2.4 and 2.2.5, the Commission undertook importer verification visits and verified more than 86 per cent of the goods imported from the subject countries (by volume), and more than 70 per cent of the goods imported from all countries. The Commission also undertook exporter verifications and verified more than 96 per cent of the goods exported to Australia from the subject countries (by volume) and almost 80 per cent of the goods exported to Australia from all countries.

The Commission has compared the volumes recorded in the ABF import database, which were relied on at initiation, with verified volumes from the above suppliers. The variance between the total volumes reported in the ABF import database for the subject countries and those verified for the subject countries is less than one per cent. The Commission is therefore satisfied that, the volumes reported in the ABF import database for other suppliers that were not examined in the course of this investigation is likely to be substantially accurate.

⁴⁹ EPR 515, document no. [47](#) refers.

⁵⁰ CON 515, available on EPR 515, document no. [2](#) refers.

The analysis of import volumes is at **Confidential Attachment 1**.

6.11.3 Treatment of export volumes from the USA

As discussed above, the Commission undertook a verification visit to CPC LP in the USA. Based on this verification, the Commission is satisfied that the sales and cost data provided by CPC LP is complete, relevant and accurate.

As part of the sales verification of CPC LP, the Commission has observed a particular sales arrangement between CPC LP and its related party CPCA. The Commission observed that, for all sales of the goods manufactured by CPC LP, CPCA acted as a trader and was responsible for on-selling the goods to Australia. There were two distinct selling methods in relation to the goods manufactured by CPC LP to Australia, namely:

- certain goods were shipped directly from the USA to Australia; and
- certain goods were shipped from the USA to a warehouse controlled by CPCA in Malaysia, prior to being sold and shipped to Australia (by CPCA).

The Commission therefore undertook a verification visit to CPCA. The Commission tested the completeness, relevance and accuracy of CPCA's sales and was satisfied that the data provided by CPCA is complete, relevant and accurate.

As part of the sales verification of CPCA, the Commission examined the sales arrangements occurring between CPC LP, CPCA and, ultimately, the importers of the goods. The Commission undertook verification visits to importers that purchased the goods from CPC LP and / or CPCA, and was able to reconcile the importation volumes identified at these importer visits with the export volumes identified at the corresponding supplier verification visits. The Commission is therefore satisfied that the export volumes of the goods from CPC LP in the USA and via its related trading entity (CPCA) are complete, relevant and accurate.

6.11.4 Assessment of export volumes from the USA

To establish the volume of the goods exported from the USA, the Commission has relied on the verified volume of the goods exported to Australia from CPC LP, either directly or through CPCA, as a result of being able to reconcile the sales of the goods to verified importers. The Commission has *included* the goods which have been supplied via Malaysia. In addition, the Commission notes that Montachem⁵¹ reported a marginally higher volume of exports of the goods in its questionnaire response than was reported in the ABF import database. To be conservative, the Commission has relied on the *larger* of the two volumes for the purposes of its import volume analysis.

⁵¹ Trading entity from the USA.

Additionally, whilst undertaking the importer verification visits, the Commission observed that one importer had incorrectly classified an importation from Thailand as an importation from the USA. Further verification of this importation was undertaken by the Commission and relevant supporting evidence has been collected and reviewed. The Commission is satisfied that this importation originated from Thailand and at no stage did this importation relate to goods manufactured and / or exported from the USA.⁵² The Commission was also able to verify this transaction when undertaking the verification visit of the relevant exporter in Thailand.

In addition to the above export volumes (verified in the case of CPC LP / CPCA, unverified in the case of Montachem), the Commission has had regard to the information that was declared in the ABF import database as being exported from the USA that has not already been captured in the above. In this calculation, data drawn from the ABF import database (relevant to the unverified exporters from the USA) therefore accounted for less than 25 per cent of the total volume found for the USA.

6.11.5 Assessment of export volumes from all other countries and negligible volume

The Commission has relied on the actual, verified export volumes for the goods exported to Australia by the examined exporters from all other subject countries. The balance (which accounts for a little over 20 per cent of all HDPE imported to Australia, the majority of which is from countries not subject to this investigation) has been derived from the ABF import database.

The volume of the goods exported from the USA when expressed as a percentage of the total Australian import volume is **2.7 per cent**, and is therefore a negligible volume.

Sensitivity analysis

The Commission has undertaken a sensitivity analysis on its calculations. The analysis examines both the numerator (the volume of goods found to have been exported from the USA) and the denominator (the overall volume of goods imported into Australia).

The Commission has considered whether some portion of the unverified export volumes declared in the ABF import database (i.e. those from uncooperative exporters, or from suppliers that are not from the subject countries) might have been misdeclared in terms of volume or source. The Commission has calculated the degree to which either the export volume of dumped goods from a given country (the numerator) or the total Australian imports of the goods (the denominator) would need to change to result in the calculation exceeding 3 per cent:

- In terms of increasing the numerator, the USA volumes would need to increase by approximately 10 per cent. This could occur in two ways:
 1. the goods declared to have been exported from non-subject countries have been misdeclared, and those goods have actually been supplied from the USA; or

⁵² Details of the verification of this transaction are contained in the verification visit report for Polymer Direct Pty Ltd; refer to document no. [38](#) on EPR 515.

2. the volume of the goods exported from the USA by the unexamined suppliers (i.e. accounting for the remaining 25 per cent of the goods from the USA) has been understated.
- In terms of reducing the denominator, at least 30 per cent of the total volume of the unverified imports would have to be overstated.⁵³

The Commission's sensitivity analysis is at **Confidential Attachment 1**.

6.11.6 Other country volumes

Using the same analysis, the Commission has established that:

- as all exports from Korea are undumped, the volume of dumped goods is zero;
- with respect to exports from Singapore, the volume of dumped goods (when expressed as a percentage of the total Australian import volume of the goods) was not greater than three per cent, and is therefore negligible; and
- with respect to exports from Thailand, the volume of dumped goods (when expressed as a percentage of the total Australian import volume of the goods) was greater than three per cent, and is therefore not negligible.

The Commission has analysed all countries with dumped import volumes below three per cent, and the Commissioner is satisfied that the aggregated volume of dumped imports from Korea, Singapore and the USA is less than seven per cent and is therefore negligible pursuant to section 269TDA(5).

6.11.7 Conclusion

Accordingly, pursuant to sections 269TDA(3), (4), (5) and (6), the Commissioner is satisfied that he must terminate the dumping investigation in relation to:

- Korea;
- Singapore; and
- the USA.

⁵³ The Commission recognises that, should both the numerator and the denominator be under or overstated (respectively), different combinations of error rates may result in the calculation exceeding 3 per cent. However, given the processes undertaken by the Commission in its analysis of the ABF import database described above, and noting that both instances would have to exceed the estimated one per cent error rate identified above, there is little likelihood that this has occurred.

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Finding

Having regard to the information contained in the application and information obtained and verified during this investigation, the Commissioner considers that the Australian industry has experienced injury in the form of:

- loss of sales volume;
- reduced market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced value of assets;
- reduced research and development (R&D) expenditure;
- reduced return on investment;
- reduced employment;
- reduced productivity; and
- lower wages paid.

7.2 Approach to injury analysis

This chapter outlines the economic condition of the Australian industry, and provides an assessment as to whether the industry has experienced injury.

In its application, Qenos claimed that material injury commenced in 2017/18 when exports of HDPE to Australia from the subject countries undercut its selling prices. It also claimed that it experienced a threat of material injury from goods exported to Australia from the USA.

The analysis detailed in this chapter is based on verified financial information submitted by Qenos, as well as data from the ABF import database. The information provided by Qenos, and verified by the Commission, was used as the primary basis for assessing Qenos' claims of injury caused by the alleged dumping of HDPE.

The Commission has examined the economic condition of the Australian industry from 1 April 2015 for the purposes of its injury analysis. As such, the figures presented show the data for years ending 31 March. The Commission's assessment (including other injury factors) is provided at **Confidential Attachment 4**.

7.3 Volume effects

7.3.1 Sales volume

The following graph shows Qenos' total sales volume for HDPE⁵⁴ in the Australian market since 1 April 2015.

⁵⁴ This includes sales of both own production and imports.

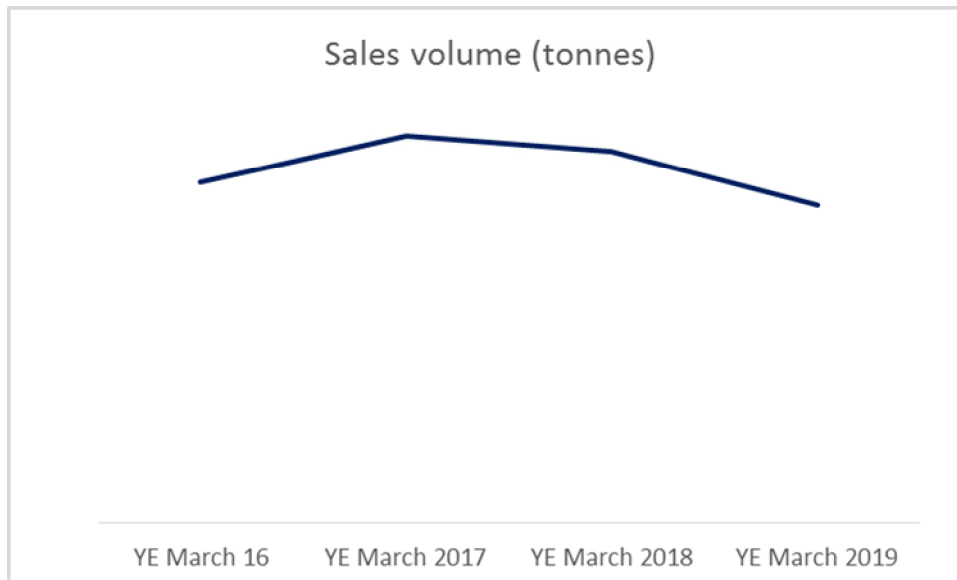


Figure 2: Qenos' domestic sales volume of HDPE

This graph shows that Qenos' domestic sales volume of HDPE increased in 2016/17, before decreasing in both 2017/18 and 2018/19. As outlined in chapter 5.3, this occurred at a time when the overall size of the Australian market for HDPE had grown.

7.3.2 Market share

The following graph shows changes in the domestic market share between Qenos and importing countries for the period 2015/16 to 2018/19.⁵⁵

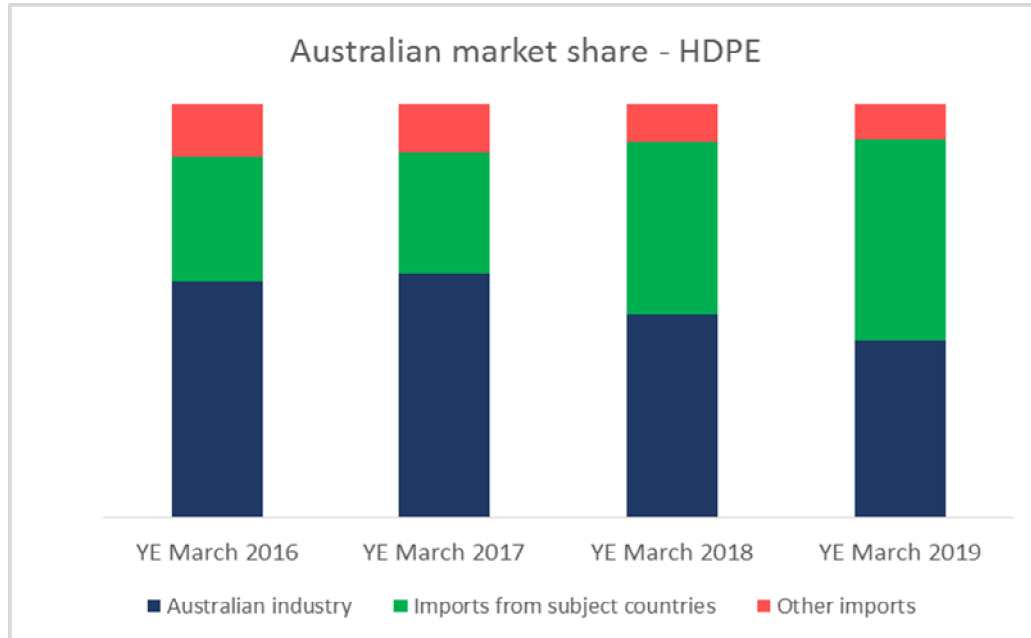


Figure 3: Australian market share

⁵⁵ Using data from the ABF import database and Qenos' domestic sales data.

The above graph shows that Qenos' share in the Australian HDPE market has decreased progressively from YE March 2017. The graph also shows that the share of imports from the subject countries has increased over the same period.

7.3.3 Conclusion – volume effects

Based on this analysis, the Commission considers that the Australian industry has experienced injury in the form of loss of sales volume and reduced market share during the injury analysis period.

7.4 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

In its application Qenos claimed the Australian industry has experienced material injury in the form of price depression (throughout YE March 2019) and price suppression. Qenos alleges that, as a result of price undercutting by dumped imports, it has been required to lower its prices in order to maintain volume.

The following graph shows the trends in Qenos' unit price and unit cost to make and sell for HDPE from YE March 2016 to YE March 2019.

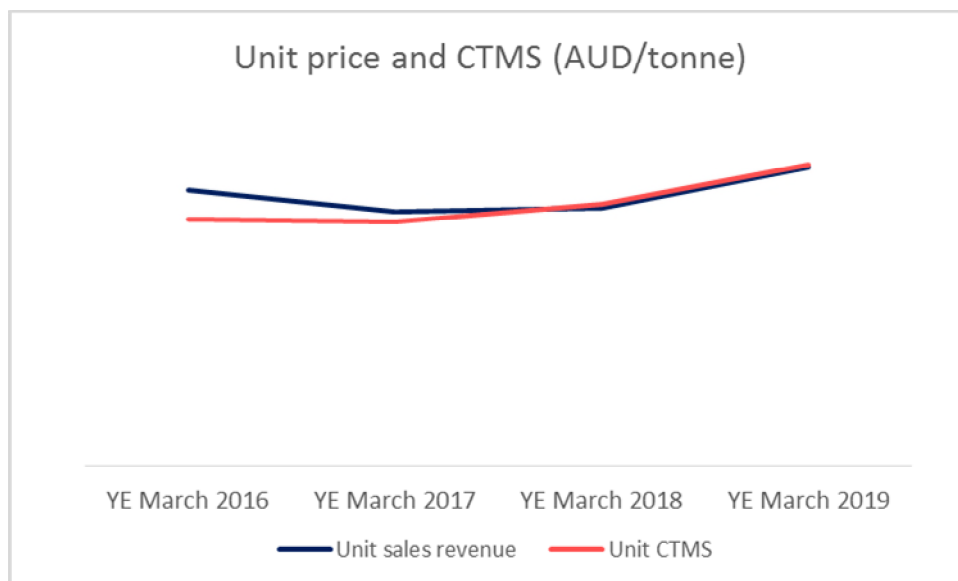


Figure 4: Qenos' HDPE unit price and cost

The graph above shows that unit price has decreased in YE March 2017, remained relatively steady in YE March 2018 and increased in YE March 2019 (to be higher than the unit price in YE March 2016). This does not appear to indicate price depression, as prices overall have risen during the period.

However, the graph also shows that between YE March 2017 and YE March 2019 Qenos' unit cost increased steadily. Although it remained relatively in line with unit price during this period, the Commission notes that unit cost was slightly higher than price in both YE March 2018 and YE March 2019 (compared to YE March 2016 when there was a clear margin between the two), indicating price suppression.

7.4.1 Conclusion – price effects

Based on this analysis, the Commission considers that the Australian industry has experienced injury in the form of price suppression, but not price depression during the injury analysis period.

7.5 Profits and profitability

Qenos claims that the Australian industry has experienced injury in the form of loss of profits and reduced profitability, as a result of the suppression of its margin between selling prices and costs.

The following graph shows the trend in Qenos' domestic profit and profitability during the period YE March 2016 to YE March 2019.

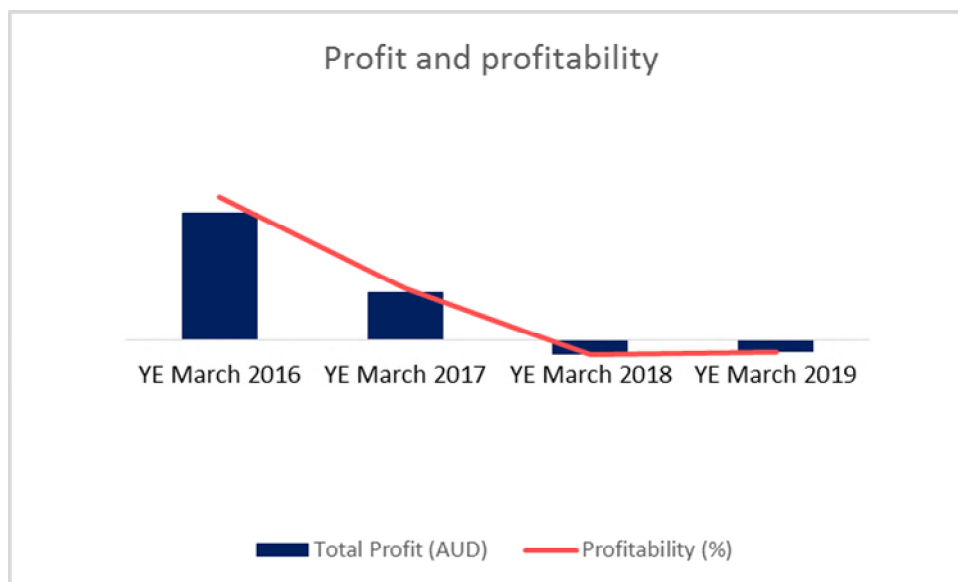


Figure 5: Qenos' profit and profitability for HDPE

The graph above shows a continuing decrease in Qenos' profit and profitability between YE March 2016 and YE March 2019. Notwithstanding the slight improvement to profit and profitability in YE March 2019, compared to the previous year, this is still a loss compared to the profitable position at the beginning of the injury period.

7.5.1 Conclusion – profit and profitability

Based on this analysis, the Commission considers that the Australian industry has experienced injury in the form of loss of profits and reduced profitability.

7.6 Other economic factors

Qenos has also claimed that the Australian industry experienced injury in respect of other economic factors, including reduced capital expenditure, reduced return on investment, lower capacity utilisation and reduced levels of employment. Qenos further claims that the eroding of its profit and profitability has impacted negatively on its shareholders' willingness to reinvest in the business.

Qenos provided information pertaining to other economic factors during the period YE March 2016 to YE March 2019. These factors were assessed as part of the Australian industry verification.⁵⁶ From this information, the Commission notes the following trends across the relevant period:

- the value of assets used in the production of like goods decreased progressively from YE March 2016;
- capital expenditure increased both in YE March 2019, and across the injury period;
- R&D expenditure decreased progressively from YE March 2018;
- revenue increased both in YE March 2019, and (slightly) across the injury period;
- return on investment decreased from YE March 2018;⁵⁷
- employment (measured by number of persons) decreased from YE March 2018;
- productivity (measured as tonnes produced per employee) decreased both in YE March 2019, and across the injury period;
- receivables turnover increased in YE March 2019, although there was a slight decrease across the injury period;
- inventory turnover increased both in YE March 2019, and across the injury period;
- total wages paid to employees involved in the production of like goods decreased progressively from YE March 2018; and
- the average wage per employee decreased in YE March 2019, but increased over the injury period.

The Commission has not been provided with sufficient evidence to indicate Qenos' actual plant production capacity, and therefore no finding has been made on the economic indicator of Qenos' production capacity utilisation.

Qenos has not provided any specific evidence to support its claim of reduced ability to raise capital for reinvestment.

⁵⁶ EPR 515, document no. [32](#) refers.

⁵⁷ The Commission notes that data provided to support return on investment was provided in aggregate only, as Qenos advised that it does not calculate a 'return on capital employed' for individual segments of its business.

7.6.1 Conclusion – other economic factors

Based on this analysis, the Commission considers that the Australian industry has experienced injury in the form of:

- reduced value of assets;
- reduced R&D expenditure;
- reduced return on investment;
- reduced employment;
- reduced productivity; and
- lower wages paid.

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Finding

The Commissioner is satisfied that the injury, if any, to the Australian industry caused by the dumping of goods exported to Australia from Thailand is negligible.

8.2 Legislative framework

For the publication of a dumping duty notice under section 269TG, the Minister must be satisfied that there is dumping, and that because of that dumping material injury to an Australian industry producing like goods has been, or is being, caused or is threatened.

Chapter 6 sets out the Commission's findings and the Commissioner's required termination decisions with respect to dumping margins and dumped volumes, which would result in the investigation remaining active only in relation to dumped goods exported from Thailand by 'uncooperative and all other exporters'. This chapter therefore details the Commission's assessment as to whether material injury has been, or is being, caused by the dumped goods from Thailand.

Section 269TAE(1) provides a non-exhaustive list of factors that the Minister may take into account in determining whether material injury to an Australian industry has been, or is being, caused or is threatened. In undertaking this assessment, the Commission has also had regard to the *Ministerial Direction on Material Injury 2012* (the Material Injury Direction).

8.3 Analysis

As outlined in chapter 6, the Commission has found that during the investigation period:

- the goods exported to Australia from Thailand by IRPC, PTT and TPE were dumped, but at a margin of less than two per cent;
- the goods exported to Australia from Thailand by all other exporters were dumped at a margin of 8.8 per cent; and
- the volume of goods exported to Australia from Thailand that were dumped comprised more than three per cent of total imports.

HDPE exported to Australia from Thailand by IRPC, PTT and TPE was dumped at margins of less than two per cent, and as a result, the Commissioner must terminate the investigation in so far as it relates to those exporters (chapter 6.10 refers). For the reasons stated above, references to dumped exports from Thailand in the remainder of this report should therefore be taken to exclude those goods exported to Australia by IRPC, PTT and TPE.

In regards the dumping margin of 8.8 per cent attributed to all other exporters from Thailand, while a margin of this magnitude could be sufficient in general terms to provide importers of HDPE with a competitive advantage on price when those goods are sold in the Australian market, the Commission does not consider that any such advantage has been afforded in this case, given:

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- Qenos' prices are driven by a published regional benchmark for South East Asia that is unaffected by the price of dumped goods from Thailand;⁵⁸
- there is a lack of evidence to show that dumped prices of HDPE exported to Australia from Thailand were used to influence negotiations with Qenos;⁵⁹ and
- the small volume of these imports as a proportion of both total imports and the total Australian market.⁶⁰

Taking into account the relevant pricing mechanisms described in chapter 5.2.3 of this report, the Commission is satisfied that HDPE pricing in the Australian market is largely determined by South East Asian regional pricing (ICIS) movements.

The Commission compared the average monthly ICIS benchmark (in \$) for each end use application against Qenos' corresponding quarterly weighted average selling price for own production. This analysis (at **Confidential Attachment 5**) shows that Qenos' prices for each end use application are above, and generally consistent with, movements in the ICIS benchmark. As a result, the Commission is satisfied there is a correlation between the two.

In a submission, Qenos suggested that the benchmark price will be impacted by dumping where there is oversupply in the region.⁶¹ The Commission sought information regarding the data gathering and reporting methodology that informs the ICIS benchmark, the details of which are at **Confidential Attachment 6**. This advice suggests that pricing information from suppliers in a range of countries (both subject and non-subject) in the South East Asia region forms the basis for the benchmark. The ICIS benchmark does not include data based on export prices to Australia. The Commission's view is that, whilst some exports from Thailand to Australia during the investigation period were dumped, there is no positive evidence which indicates that these dumped goods have materially influenced or impacted the benchmark.

Further, the Commission has no evidence to suggest that the price of dumped imports from Thailand were being used to place pressure on the pricing formulas (including any rebates) determined during contract negotiations. The Commission also has no evidence to suggest that the prices of dumped imports from Thailand were being used as leverage by customers subject to market pricing.

⁵⁸ Section 269TAE(1)(f) states that the Minister may have regard to the effect that the exportation of goods of that kind to Australia from the country of export in those circumstances has had, or is likely to have, on the price paid for goods of that kind, or like goods, produced or manufactured in the Australian industry and sold in Australia.

⁵⁹ As above.

⁶⁰ Section 269TAE(1)(a) states that in determining whether material injury has been caused by dumping the Minister may have regard to the quantity of goods of that kind that, during a particular period, have been or are likely to be exported to Australia from the country of export.

⁶¹ EPR 515, document no. [28](#) refers.

The Commission notes that Qenos made a submission following publication of the Australian industry verification report, seeking to further detail the price-effect injury it sustained during the investigation period.⁶² *Confidential Attachment A* to that submission contained a summary of both the current and former supply agreement terms (including pricing) for three major customers. Qenos, in its submission in response to SEF 515, indicates that it does not agree with the Commission's assessment that no evidence has been provided to support its claims that prices were reduced in response to competition from imports from the subject countries.⁶³

The Commission has again examined the supply agreements provided by Qenos and all other evidence provided in support of the claims that prices were reduced in response to competition from imports from the subject countries. The Commission's observations are that price is not the only factor that has changed between former and current arrangements, with minimum volumes and payment terms changing as well. In this instance, to be satisfied that dumping has *caused* material injury to the Australian industry, any negotiations with customers would need to demonstrate that the negotiation process has been affected by the pricing of the dumped goods. There is no evidence before the Commission that the only goods found to have been dumped at margins above two per cent, being the goods exported by the uncooperative and all other exporters from Thailand, has had any impact on Qenos' pricing negotiations with its customers.

Given there is no indication that the price of dumped goods (or imports generally) has had any impact on the pricing of the Australian industry, the Commission is not satisfied that Qenos either reduced its prices, or was prevented from raising its prices, as a result of dumped imports. While Qenos has submitted that it elects to price in accordance with a regional benchmark at the request of its customers,⁶⁴ the Commission does not consider that the rationale underpinning Qenos' pricing mechanism is relevant to the current analysis. The Commission has also observed that the pricing mechanism used by Qenos is similar to those of the majority of suppliers from the subject countries, and is merely the way in which the market for the goods operates.

As an additional observation, the Commission notes that the volume of the dumped goods from Thailand (i.e. excluding IRPC, PTT and TPE) equated to approximately one per cent of total imports during the investigation period, and less than one per cent of the total Australian market.⁶⁵ While the Material Injury Direction provides that there is no minimum standard used to determine whether the dumped imports have a sufficient share of the Australian market to cause material injury, the Commission considers that imports of this limited quantity, in the absence of positive evidence that Qenos lost sales to or set its prices by reference to the dumped goods from Thailand, did not materially impact

⁶² EPR 515, document no. [37](#) refers.

⁶³ EPR 515, document no. [52](#) refers

⁶⁴ EPR 515, document no. [28](#) refers.

⁶⁵ **Confidential Attachment 1** to this report refers.

Qenos. In other words, the Commission is satisfied that the impact (if any) of the dumped imports is likely to have been insubstantial or insignificant.⁶⁶

8.3.1 Submissions

In response to SEF 515, Qenos has submitted that its claims of injury caused by dumping (regardless of margin) are reasonable when considering the aggregate volumes of dumped goods from Singapore, Thailand and the USA.⁶⁷ Qenos also submitted that dumped prices from CPC LP has had a pervasive effect on pricing in the Australian market as importers seek to match CPC LP's declining prices.

As noted in chapter 6.11.7, the Commissioner must terminate the investigation in respect of all exporters from the USA, Korea and Singapore. Dumping from these countries therefore cannot be a cause of material injury in the context of section 269TG (i.e. for the purpose of the Minister publishing a dumping duty notice).

The only remaining potential source of injury caused by dumping is therefore in relation to the goods exported from Thailand. As noted in chapter 6.10, the Commissioner must terminate the investigation with respect to IRPC, PTT and TPE. However, when considering the *volume* of dumped goods from Thailand, exports from these exporters must nevertheless be included even when the dumping margins are *de minimis* (i.e. positive, but less than two per cent). The sole potential cause of material injury in the context of section 269TG is therefore the exports from uncooperative exporters from Thailand, which (as noted in chapter 8.3) accounted for a very small portion of the Australian market.

This approach is similar to one previously examined and confirmed by the Anti-Dumping Review Panel.⁶⁸ Accordingly, there is no mechanism available under the Act to have regard to the effect of exports from exporters against which this investigation must be terminated, and nevertheless publish a dumping duty notice because of their alleged effect on the market generally. The Commission remains of the view that the dumped goods from Thailand did not cause material injury to Qenos.

Finally, the Commission considers there is insufficient evidence to support Qenos' assertion that CPC LP's prices had an impact on the prices paid by importers generally. As most prices were set by reference to the ICIS benchmark, the Commission considers that a reduction in prices to follow CPC LP's relatively lower pricing would have resulted in lower export prices; lower export prices would result in *increased* dumping margins during the investigation period.

8.3.2 Conclusion

Accordingly, the Commissioner is satisfied that dumped goods from Thailand have not materially influenced Qenos' prices and have not caused Qenos to experience reduced

⁶⁶ The Material Injury Direction provides that material injury is '... injury that is not be immaterial, insubstantial or insignificant'.

⁶⁷ EPR 515, document no. [52](#) refers.

⁶⁸ [Report No. 61](#), paragraphs 103 to 128 refer.

sales volumes. It follows that the dumped goods from Thailand have not caused Qenos to experience adverse profit effects. Taking this into account, the Commissioner is satisfied that the injury, if any, to Qenos caused by the dumping of goods exported to Australia from Thailand is negligible.

8.4 Injury caused by factors other than dumping

Section 269TAE(2A) states that the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods and any such injury or hindrance must not be attributed to the exportation of those goods.

The Commission has received a number of submissions from interested parties, as well as feedback in responses to the Australian Market Questionnaire, suggesting potential causes of injury to Qenos other than dumped goods.⁶⁹ These include:

- capacity issues, particularly in the pipe segment where Qenos relies on imports to supplement its own manufactured supply;
- the scale, age and resulting inefficiency of Qenos' production facilities compared to larger global operations;
- supply issues, including Qenos' use of allocations to address any short falls in production (noting the importance to customers of reliability of supply);
- Qenos' trading terms; and
- the increase in local gas prices, occurring at a time when polyethylene producers in the USA and Middle East were experiencing reduced gas feedstock and power costs.

Noting the Commission's finding that the injury, if any, suffered by Qenos that was caused by the dumped goods is negligible, the Commission has not examined these factors in detail for the purpose of this report.

⁶⁹ See, for example, document nos. [4](#), [5](#), [6](#), [7](#), [8](#), [10](#), [11](#), [12](#), [27](#), [30](#) and [31](#) on the EPR 515.

9 TERMINATION OF INVESTIGATION

Section 269TDA provides for when the Commissioner must terminate an investigation.

Based on the findings in this report, the Commissioner must terminate the investigation in relation to:

- all exporters from Korea, on the basis that there has been no dumping by those exporters of the goods the subject of the application, in accordance with section 269TDA(1);
- CPSC from Singapore, on the basis that there has been no dumping by that exporter of the goods the subject of the application, in accordance with section 269TDA(1);
- IRPC, PTT and TPE from Thailand, on the basis that there has been dumping but the dumping margin by those exporters of the goods the subject of the application is less than two per cent, in accordance with section 269TDA(1) as far as it relates to the exporters;
- Korea, Singapore and the USA, on the basis that the total volume of dumped goods from each of those countries is negligible in accordance with sections 269TDA(3) and (4); and
- Thailand, in accordance with section 269TDA(13), on the basis that the injury, if any, to the Australian industry that has been caused by dumped goods from Thailand is negligible.

10 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Import volumes
Confidential Attachment 2	Australian market
Confidential Attachment 3	Dumping margins
Confidential Attachment 4	Economic condition of Australian industry
Confidential Attachment 5	Pricing comparison with benchmark
Confidential Attachment 6	ICIS benchmark methodology information