

PUBLIC RECORD



Australian Government
Australian Customs and
Border Protection Service

PUBLIC FILE
FOLIO 41

R E P O R T

POLYVINYL CHLORIDE
HOMOPOLYMER RESIN (PVC)

CONTINUATION INQUIRY

PVC EXPORTED FROM JAPAN

AND

REVIEW OF ANTI-DUMPING MEASURES

PVC EXPORTED FROM

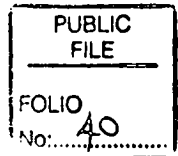
JAPAN AND THE UNITED STATES OF AMERICA

IMPORTER VISIT REPORT

CHEMIPLAS AUSTRALIA PTY LTD

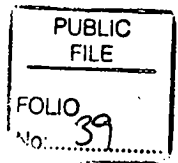
**THIS REPORT AND VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE
REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT CUSTOMS'
FINAL POSITION**

March 2012



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2. ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
CEO	Chief Executive Officer
CFR	Cost and Freight
CIF	Cost, Insurance and Freight
Customs and Border Protection	Australian Customs and Border Protection Service
FOB	Free on Board
EXW	Ex Works
Minister	Minister for Home Affairs
NIFOB	Non-injurious free on board price
USA	United States of America
Chemiplas	Chemiplas Australia
AVC	Australian Vinyl Corporation



3. BACKGROUND

On 9 December 2011, the Australian Customs and Border Protection Service (Customs and Border Protection) published a notice in *The Australian* newspaper inviting certain persons to apply to the Chief Executive Officer (CEO) of Customs and Border Protection for the continuation of anti-dumping measures on Polyvinyl Chloride Homopolymer Resin (PVC) exported from Japan.¹

On 7 February 2012, Australian Vinyls Corporation (AVC), the sole Australian manufacturer, lodged an application for the continuation of the measures.²

On 2 February 2012, Chemiplas Australia lodged an application requesting a review of anti-dumping measures applying to PVC exported to Australia from Japan and the United States of America (USA).

Following consideration of the applications the review and inquiry commenced on 24 February 2012, Australian Customs Dumping Notices (ACDN) 2012/08 and 2012/09 refer.

3.1 Existing measures

Anti-dumping measures were imposed on PVC resin from Japan in October 1992 and have since been subject to continuation inquiries every five years. The current measures for Japan are due to expire on 21 October 2012.

Anti-dumping measures were imposed on PVC resin from the USA since January 1992 and have recently been continued for a further five years; International Trade Remedies Report No 174 (REP 174) refers, and will apply to 23 January 2017 unless revoked earlier.

Measures imposed before 1 January 1993 ('old measures') are reviewed using the provisions of section 269TAD of the *Customs Act 1901* (the Act³) which were repealed in 1992 but remain in force under transitional arrangements. Section 269TAD provided that the Minister for Home Affairs (the Minister), if satisfied that any factor relevant to the ascertainment of normal values had altered, may re-ascertain normal values.

The non-injurious free on board prices (NIFOBs) may be varied according to subsection 8(5) of the *Customs Tariff (Anti-Dumping Act) 1975*, by virtue of section 33(3) of the *Acts Interpretation Act 1901* which provides that where an

¹ In accordance with s.269ZHB

² In accordance with s.269ZHC(2)

³ A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless specified.

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Act confers a power to issue an instrument the power shall be construed as including a power to vary the instrument.

There are no legislative timeframes for the completion of reviews under section 269TAD of the Act however the practice is to follow the same manner and time frame as reviews of the post 1 January 1993 measures.

Division 5 of Part XVB of the Act sets out, among other things, the procedures to be followed by the CEO in dealing with an application for the review of measures imposed from 1 January 1993.

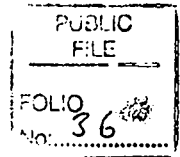
3.2 The goods subject to the measures

The goods subject to anti-dumping measures are PVC.

PVC is a white free flowing powder that is used in combination with other chemicals to produce a variety of products. PVC is sold to a range of processors who either extrude, inject, mould or blow mould the PVC to make a wide variety of goods. The major end-use of PVC based products is in the building and construction sector (e.g. pipes and fittings, cables, house cladding, gutters, down pipes, flooring and window frames). PVC based products are also used in packaging, upholstery and domestic appliances.

The goods subject to the measures do not include PVC compounds, pastes or emulsion grades.

PVC is classified under sub-heading 3904.10.00, statistical code 18, in Schedule 3 to the *Customs Tariff Act 1995*. The rate of duty from Japan is 5%. The measures apply to all exporters from Japan. There is currently no general duty imposed on the goods exported from the USA in accordance with the USA-Australia free trade agreement.



4. VISIT DETAILS

4.1 Purpose of visit

The purpose of the visit to Chemiplas Australia Pty Ltd (Chemiplas) was to obtain and verify relevant information regarding:

- the Australian market for the goods;
- export prices for the continuation inquiry and;
- the cost of importing and selling the goods to establish a NIFOB for the review

4.2 Meeting

COMPANY: Chemiplas Australia Pty Ltd

ABN 29 003 056 808

ADDRESS: Level 3, 112 Wellington Parade
East Melbourne, VIC 3002

TEL NO: (03) 9419 7300

FAX NO: (03) 9419 7676

DATE: 14 March 2012

PRESENT: Chemiplas:
Mr David Murton – Business Unit Manager
Mr Andrew Clayton – Account Manager Plastics

Customs and Border Protection:
Mr Rod Jones – Operations 1
Ms Rachel Lohan – Operations 1

Chemiplas has previously been involved in the review of variable factors for PVC resin exported from Hungary, Israel, Japan, the Republic of Korea, Thailand and the USA in 2005 and the continuation inquiry for PVC imported from the USA in 2011.

We advised that this visit was in relation to a continuation inquiry into anti-dumping measures for PVC exported from Japan and a review of anti-dumping measures for PVC exported from Japan and the USA.

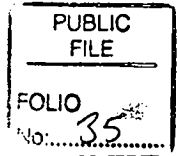
Chemiplas fully cooperated during the visit and provided the team with access to all requested information.

We explained the following aspects of the continuation inquiry and review:

The process including time frames and key dates for the inquiry and review:

- Initiation dates, 24 February 2012;
- Submissions, including exporter questionnaires, due by 4 April 2012;

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- statements of essential facts (SEFs) due by 13 June 2012;
- submissions in response to SEFs due by 3 July 2012;
- final reports to Minister due by 30 July 2012.

In regards to the continuation inquiry in accordance with section 269ZHF the CEO must give a report to the Minister recommending that the Minister either:

- a) takes steps to secure the continuation of the anti-dumping measures the subject of the application or;
- b) that the anti-dumping measure expire on the specified expiry date.

We also explained that the CEO must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the CEO is satisfied that the expiration of the measure would lead, or would be likely to lead, to a continuation of, or a recurrence of, the anti-dumping measure is intended to prevent.

We advised Chemiplas that the review will examine only the NIFOB and normal values, (the variable factors), and that export prices are not a variable factor subject to a review under 'old measures'. At the conclusion of the review the Minister may set new variable factors or leave them unchanged. We also advised Chemiplas that revocation of the measures will not be examined during this review.

We informed Chemiplas that we would compile a confidential report on the visit, and provide the opportunity for Chemiplas to comment on the accuracy of the report. Following approval of this report a non-confidential version would then be prepared for the public record.

We also informed Chemiplas that all information provided by Chemiplas to Customs and Border Protection would be treated as confidential unless advised otherwise.

We explained the operation of the public file system, and the opportunity for Chemiplas and all interested parties to comment on reports and submissions placed on the public record, in particular the statements of essential facts for the continuation and review.

4.3 Company background

4.3.1 Organisational structure and functions of company

Chemiplas is wholly owned by Chemiplas NZ Ltd (Chemiplas NZ); it has no subsidiary companies. Chemiplas is a trading company based in Melbourne, although it also has offices in Sydney, Brisbane and Perth. It acts as agent for a number of suppliers such as Evonik, BASF and Shin-Etsu and employs about 43 people. Chemiplas acts as ■. [Sales arrangements] It uses a third party logistics company for warehousing in Melbourne, Sydney, Brisbane, Adelaide and Perth. Chemiplas has a number of divisions dealing with different product groups; these include chemicals, food, pharmaceuticals and plastics; PVC falls within the plastics division.

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Chemiplas' sales representatives are allocated specific products to market. In the case of PVC, this is handled by the Business Unit Manager, Plastics, David Murton.

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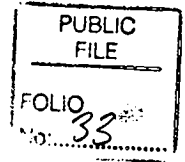
PVC is a minor part of business for Chemiplas, comprising approximately █ of revenue for 2011.

4.3.2 Accounting structure

Chemiplas' financial year is 1 April to 31 March.

During the verification visit, we requested a copy of Chemiplas' audited financial statements from 1 April 2010 to 31 March 2011 and management accounts for the period April to December 2011.

Chemiplas provided those details as well as an audit opinion for the company. These documents are at **Confidential Attachment 1**.



5. Imports

5.1 Supplier and ordering

Chemiplas operates [redacted] for its sales of PVC in Australia due to the existence of anti-dumping measures and the number of reviews and continuations. Effectively [redacted] and all purchases and sales are determined by market conditions.

Chemiplas advised that it receives price offers via email from Shinetsu [redacted]. Chemiplas' main customers include [redacted]. Sales of PVC are made on a policy of offer and acceptance. [redacted] [Sales arrangements].

Chemiplas then places an order with Shinetsu based on demand from its customers. Chemiplas was unclear as to whether there is an historical agreement between the two companies. [redacted] [Payment terms].

Chemiplas no longer imports PVC product from the United States as it is deemed too expensive due to high domestic transportation and port costs, in addition to the current dumping measures. In addition, Chemiplas also highlighted the long lead time of 10 weeks for shipments from the United States.

5.2 Volume of imports

No imports of PVC resin were made by Chemiplas from the USA during 2011. Chemiplas advised that the list of its imports from Japan in 2011 extracted from the Customs and Border Protection import database is complete and accurate. On that basis, Chemiplas imported [redacted] kilograms of PVC resin from Japan in 2011.

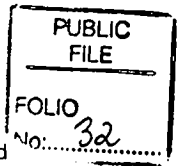
Chemiplas stated that it imported [redacted] types of PVC grades over the year from 1 January 2011 to 31 December 2011 in [redacted] shipments from Japan. These [redacted] types include:

- TK 700
- TK 800

[redacted] Chemiplas explained that [redacted] are higher grades, used in specialty markets and as a result, attract a premium. Chemiplas informed us that product from Shinetsu is packaged in 25 kilogram bags.

The equivalent K grades are as follows:

Shinetsu product name	K value
TK 700	58.4
TK 800	61.5
[redacted]	[redacted]
[redacted]	[redacted]



5.3 Verification of imports

We selected [REDACTED] shipments from Japan for verification. Chemiplas provided details of each of the selected shipments.

We compared the details of each shipment provided by Chemiplas with the details of each of the selected shipments recorded in Customs and Border Protection's import database. The data provided matched the records.

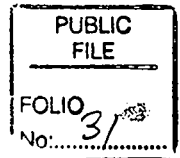
Chemiplas provided copies of documentation for each of the selected shipments including:

- supplier's commercial invoice;
- Bill of lading;
- Packing list;
- Certificate of origin;
- Payment to exporter;

- product analysis reports;
- import declaration forms;
- freight tax invoice; and
- invoices to customers and payment received.

Documents relating to the exporter are at **Confidential Attachment 2**, for import costs at **Confidential Attachment 3**, customer details **Confidential Attachment 4** and Chemiplas costing for the imports and sales at **Confidential Attachment 5**.

We verified that payment had been made for each shipment for the total amounts of each invoice. No discrepancies were found. The terms from Shinetsu were [REDACTED] [terms of sale].



6. SALES

6.1 Australian market

Chemiplas advised that the Australian market for Polyvinyl chloride homopolymer resin, PVC, is to compounders who convert the powder into plastic and large pipe extruders. PVC products are mainly used in the production of products used by the building/ construction industry. The products use also extends to packaging, upholstery and domestic appliances.

The Australian market is divided into two segments:

- Larger manufacturers who take large shipments in bulk and are unwilling to deal with smaller shipments
- Smaller manufacturers who take smaller shipments and use 25 kilogram bags.

Chemiplas is an importer who sells PVC resin to Australian manufacturers [REDACTED] [sales terms]. The company acts as an agent for a number of suppliers including Evonik, BASF and Shin-Etsu. Shinetsu will only ship to Australia via 25 kilogram bags and does not offer shipments in bulk. As such, Chemiplas' customers are usually small to medium manufacturers who order smaller shipments. Chemiplas views Australian Vinyls Corporation (AVC) as the largest player in the industry and a price setter in the market. Chemiplas also views AVC as one of the biggest importers of PVC resin. Major buyers of PVC resin in Australia are the major pipe extruders.

6.2 Distribution and sales process

Chemiplas supplies PVC resin to plastic compounders across Australia which convert the powder to plastic. Chemiplas stated that it tries to supply PVC resin to its customers [REDACTED] [sales terms].

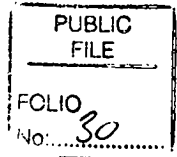
Chemiplas advised that the PVC resin market operates on a spot market. Chemiplas stated it receives price offers from Shinetsu [REDACTED] and then offer prices to customers based on this figure.

Chemiplas advised that it [REDACTED] [sales terms].

6.3 Verification of sales

Chemiplas provided a list of sales of PVC resin in 2011, these sales details are included with **Confidential Attachment 1**.

Chemiplas advised the terms of sale were [REDACTED] [payment terms]. For sales to the [REDACTED] [REDACTED] PVC resin sales involved delivery in 25 kg bags.



6.4 Administrative, selling and general expenses

Chemiplas advised that its PVC imports [REDACTED] [import costs].

We obtained selling general and administration expenses from Chemiplas' accounts for the year ending March 2011 and deducted expenses not related to Chemiplas' PVC activities, and expressed the result as a percentage of Chemiplas' total revenue. We deducted expenses that were already in the import costs, such as interest expenses and bank charges, and other expenses that would not be related to the PVC imports such as travel expenses and motor vehicle expenses.

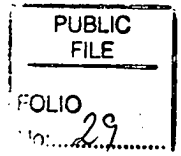
We calculated a SG&A expense of [REDACTED] these calculations are at **Confidential Attachment 1**.

6.5 Profitability of sales

We undertook calculations to examine whether the imports of the goods by Chemiplas were sold profitably onto the Australian market during the review period. The calculations were based on the sales route spreadsheet prepared by Customs and Border Protection and information gathered from Chemiplas.

The average profitability of the shipments from Japan during the review period was [REDACTED]. The calculations of profitability and import costs are at **Confidential Appendix 1**.

Chemiplas noted that [REDACTED] [comments re profitability of PVC].



7. IMPORTER – EXPORTER

7.1 Arms length transactions

Chemiplas stated that it does not receive any rebates from its supplier and the invoice price is the price paid (subject to payment terms). Chemiplas stated it has no relationship with its supplier other than a normal commercial relationship.

Chemiplas stated that it has no formal agreements, contracts or arrangements with its supplier and does not receive any financial assistance or support from supplier.

During our examination of the documents we found no evidence to the contrary, nor any other indication that Chemiplas' relationship with its supplier was other than that of buyer and seller.

In particular we found no evidence in respect of Chemiplas' purchase of PVC resin from its supplier that:

- There is any consideration payable for, or in respect of, the goods other than their price; or
- The price is 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
- That the buyer, or an associate of the buyer, will subsequent to the purchase or sale, directly or indirectly, be reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We are therefore of the view that sales between the supplier and Chemiplas were arms length.

7.2 Who is the importer?

From the information obtained during the visit we found the following in respect of transactions between Chemiplas and the suppliers of the PVC resin:

- Chemiplas places orders for PVC resin with Shinetsu;
- Shinetsu raises a commercial invoice for PVC for goods sourced from Japan;
- Chemiplas pays the full purchase price of the goods (subject to terms) to Shinetsu;
- [REDACTED] [Terms of sales] From that point responsibility for the goods transfers from Shinetsu to Chemiplas;
- Chemiplas is responsible for arranging and paying for ocean freight and Australian port and inland transportation costs;

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- Chemiplas is identified as the consignee on the bill of lading for the selected shipments; and
- Chemiplas is responsible for port clearances in Australia and arranging the transport and warehousing of the goods.

Based on the available evidence, we are satisfied that Chemiplas is the beneficial owner of the goods at the time of their arrival in Australia and is therefore the importer of the goods.

7.3 Who is the exporter?

Chemiplas stated that all of its purchases of PVC resin from Japan are sourced through Shinetsu. During our examination of the documents provided at the verification visit we found that:

- Chemiplas placed its orders with Shintetsu;
- The commercial invoices identify Chemiplas as the owner of the goods;
- The bills of lading and certificate of origin identify either Shinetsu as the shipper/exporter of the goods;
- The exporter invoiced Chemiplas for the goods;
- Chemiplas pays the exporter directly.

Based on the information available, we are satisfied that Shinetsu is the exporter of the goods.

7.3.1 Export price

Subject to further inquiries we are satisfied that the export price for the PVC imported by Chemiplas from Japan can be calculated using section 269TAB1(a), the price paid by the importer to the exporter.

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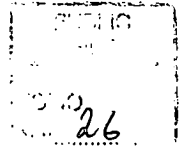
8. GENERAL COMMENTS

Chemiplas stated that imports from Japan do not pose a threat to AVC as Shinetsu is only able to provide PVC resin in 25 kg bags. The six largest PVC resin customers which are currently serviced by AVC will only accept the goods in sea bulk and as a result, will not be affected by imports from Shinetsu.

Chemiplas views that AVC is the price setter in the Australian market for PVC resin as the company is the only major importer and the only manufacturer. Chemiplas views that the only threat to AVC would come through imports from Thailand, however at present the volumes are too low to impact the market in a significant way. Chemiplas believe last year's import statistics show Thailand as a major exporter.

Chemiplas also highlighted that AVC may be uncompetitive against other manufacturers as the company needs to import its VCM for the production of PVC resin, whilst many other manufacturers are located in close proximity to VCM plants and as such, do not pay for transportation costs. Shin-Etsu VCM is within their plant.

Chemiplas deems imports of PVC resin to Australia from the USA to be too expensive due to high transportation costs.



9. UNSUPPRESSED SELLING PRICE

At the visit we explained to Chemiplas the concepts of unsuppressed selling price (USP) and non-injurious free on board price (NIFOB). It was explained that Customs and Border Protection used either one of three methodologies in approaches to establishing an USP as follows:

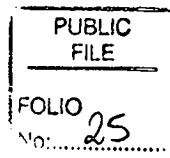
- market approach using industry selling prices at a time unaffected by dumping;
- construction approach using recent industry cost to make and sell data plus a reasonable amount for profit (profit maybe established with reference to a period unaffected by dumping or it may be based on a similar category of goods) or
- market approach using selling prices in Australia of goods imported from undumped sources.

A NIFOB is calculated by deducting all post exportation charges from the USP, including the importer's profit.

We explained that we cannot use a USP linked to a changing value such as the price of the major raw material vinyl chloride monomer (VCM) in PVC or the rate for the US dollar to the Australian dollar. The USP is the basis for the NIFOB, the NIFOB is fixed at a set value until it is changed by a subsequent review. It could be set using the average VCM price in the S.E. Asia region and the average rate of exchange for the review period.

We asked Chemiplas its views on which of the three methodologies it considered the most appropriate for establishing a NIFOB in the event dumping margins are applied. Chemiplas suggested using the marked based approach using selling prices in Australia based on the price of goods imported from Formosa Plastics Group, Taiwan; LG Corp, South Korea and Thailand.

Chemiplas said that AVC was setting the price in the market with its imports from Taiwan and suggested that the selling prices of goods imported from Taiwan, South Korea and Thailand could be used as the basis for a USP.



10. RECOMMENDATIONS

From the information reasonably available to us at this time, we consider that:

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



11. ATTACHMENTS AND APPENDICIES

Confidential Appendix 1	Profitability analysis and import costs.
Confidential attachment 1	Extract of audited accounts
Confidential attachment 2	Exporter documents
Confidential attachment 3	Import charge costs
Confidential attachment 4	Customer documents
Confidential attachment 5	Chemiplas costings