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31 August 2012

Mr John Bracic
Director, Operations 1
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Mr Bracic

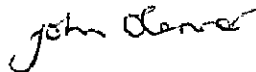
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Investigation into the review of anti-dumping measures on PVC Resin exported from Japan and the USA (Investigation No. 185) – Submission in response to Statement of Essential Facts No. 185

Please find attached a submission on behalf of Australian Vinyls Corporation Pty Ltd in respect of Statement of Essential Facts No. 185.

If you have any questions concerning the attached, please do not hesitate to contact me.

Yours sincerely



John O'Connor
Director

Cc: Mr Peter Flinn
Manager – Sales & Marketing
Australian Vinyls Corporation Limited

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Executive Summary

Customs and Border Protection has published Statement of Essential Facts ("SEF") No. 185 in respect of its review of anti-dumping measures applicable to polyvinyl chloride homopolymer resin ("PVC") exported from Japan and the United States of America ("USA").

The investigation followed an application for review of measures by Chemiplas Australia Pty Ltd ("Chemiplas").

The applicant did not apply for the revocation of the measures. Customs and Border Protection therefore did not examine revocation of the measures.

Customs and Border Protection has determined that normal values for all exporters (in Japan and the USA) have increased, and the applicable non-injurious prices have decreased.

Australian Vinyls Corporation Pty Ltd ("AVC") is concerned that the non-injurious prices determined in SEF No. 185 are based upon a methodology that is 'insufficient to remove the injurious effects of dumping'. AVC therefore requests Customs and Border Protection to revert the USP methodology to that recently used in Preliminary Affirmative Determination ("PAD") No. 187 using the Australian industry's cost to make and sell ("CTM&S").

Background

The anti-dumping measures applicable to PVC exported from Japan and the USA were last reviewed in 2005 when all normal values and non-injurious prices were re-established for all exporters (Trade Measures Report No. 100 refers).

Anti-dumping measures were recently continued on all PVC exporters from the USA (refer Trade Measures Report No. 174) until 23 January 2017. The measures applicable to exports from Japan are currently the subject of a continuation inquiry (Investigation No. 184) and are presently due to expire on 22 October 2012.

Basis for revised normal values

Customs and Border Protection contacted exporters of the goods under consideration ("GUC") as identified in earlier inquiries, however, no exporter provided requested information on domestic sales and costs for the investigation period (i.e. January to December 2011).

In the absence of cooperation, Customs and Border Protection has determined normal values using the best available information. Specifically, Customs and Border Protection has relied on information provided by AVC in its application for the continuation of measures applicable to Japan. This information included monthly data on domestic PVC prices in Japan and the USA during 2011 as published in an industry newsletter.

Normal values were based upon monthly averages sourced from the newsletter.

Non-injurious prices

Current non-injurious prices were established on the basis of the Australian industry's VCM cost in the last review period (2005) plus the margin between the VCM cost and AVC's selling prices for PVC as verified for the 1998/99 year.

AVC notes that Customs and Border Protection has commented that the current methodology for determining the non-injurious price is no longer relevant for the following reasons:

- the margin between VCM and PVC was determined for a period more than 10 years ago;
- prices are not determined by reference to AVC's costs, but to "Asian market prices";

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- AVC has undergone structural changes since the 1998/99 margin was established; and
- AVC is now a major importer of PVC.

Chemiplas proposed that the USP be based upon market selling prices for imported PVC from Taiwan, Korea and Thailand. AVC recommended that the USP should be determined on the basis of its 2011 CTM&S.

An interested end-user, Polvin Compounds Pty Ltd ("Polvin") argued that processors needed to access competitively priced PVC so that they could remain competitive with imported finished goods.

Following Customs and Border Protection's analysis of the USP proposals, it stated:

- 2011 market selling prices are unsuitable as they are influenced by dumped exports of PVC from Korea;
- the prices for imports from other source countries (i.e. other than Korea) are likely to have been influenced by the dumped Korean export prices; and
- its analysis of AVC's sales indicated that *"the basis for PVC selling prices in the Australian market was import parity pricing referenced to South East Asia PVC prices"*¹.

Following this assessment Customs and Border Protection concluded that an *"average import parity price for the investigation period would be representative of a selling price that the industry could be expected to achieve in the absence of dumping"*².

AVC disagrees with Customs and Border Protection's assessment and proposed recommendation for a USP. Firstly, AVC's selling prices are not determined by reference to South East Asia PVC prices only. Certain AVC selling prices have previously reflected a South East Asia PVC price, however, this reference price is not used broadly for AVC negotiations with customers. During the second half of 2011, the reference price became less relevant.

Secondly, the suggested reference price is an injurious price to the Australian industry. AVC recognises the competitive alternatives and negotiates to ensure that it secures volumes for locally-produced PVC. However, agreement of the import parity price does not mean that the negotiated price is *"non-injurious"*. The referenced South East Asia PVC price is not a domestic price – it is a regional export price that suppliers reference for the supply of excess tonnes that are not consumed domestically. The referenced regional price, therefore, is a dumped price particularly when there is excess production and supply in the region as was evident during 2011 and has continued in 2012.

The key point is that large customers will seek out alternative sources of supply utilising the dumped regional price as a means of negotiating a reduced (or suppressed) price from AVC. As AVC is reliant on maximizing its production volumes, it is "forced" to accept a regional competitive price for its locally produced sales. The alternative is that it will not supply from local production as it is uncompetitive (against a price that reflects less than full cost recovery). As indicated, Customs and Border Protection has previously determined that³:

"...there is a high level of substitutability between PVC from various sources and that, therefore, price is a critical factor in consumers' purchasing decisions. Price continues to be a key factor in the purchasing of PVC."

AVC therefore does not consider the South East Asia import parity price to be *"non-injurious"*. The only true non-injurious price for AVC is one that is based upon full cost

¹ Statement of Essential Facts No. 185, P.16.

² SEF No. 185, P.16.

³ Statement of Essential Facts No. 187, P.27.

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recovery with an allowance for profit (as was used by Customs and Border Protection in the PAD).

AVC requests that Customs and Border Protection recognise that the import parity price referenced cannot be considered a non-injurious price. AVC further requests that Customs and Border Protection revert to the USP methodology as used in PAD No. 187 to arrive at a correct non-injurious price for the Australian industry.

Conclusions

SEF No. 185 proposes revised normal values and non-injurious prices for PVC exported to Australia from Japan and the USA. In the absence of cooperation from exporters in Japan and the USA, Customs and Border Protection has relied upon monthly industry newsletters containing published domestic prices as the basis for revised normal values.

For non-injurious prices, Customs and Border Protection has proposed using referenced South East Asia import parity prices as a price that the Australian industry can expect to achieve in the absence of dumping. This is not the case. AVC contends that the proposed benchmark is injurious to the Australian industry as it reflects regional export PVC prices that are marginally costed. AVC recommends that a non-injurious price is appropriately based upon AVC's 2011 CTM&S.