



**Australian Government**  
**Australian Customs and  
Border Protection Service**

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R E P O R T

**CUSTOMS ACT 1901 - PART XVB**

**INTERNATIONAL TRADE REMEDIES BRANCH  
CONSIDERATION REPORT NO. 187**

**CONSIDERATION OF AN APPLICATION  
FOR A DUMPING DUTY NOTICE**

**POLYVINYL CHLORIDE HOMOPOLYMER RESIN  
EXPORTED FROM  
THE REPUBLIC OF KOREA**

19 APRIL 2012

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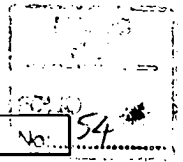
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### 2 SUMMARY AND RECOMMENDATIONS



This report provides the results of the Australian Customs and Border Protection Service's (Customs and Border Protection) consideration of an application by Australian Vinyls Corporation Pty Ltd (AVC) for the publication of a dumping duty notice on polyvinyl chloride (PVC) exported to Australia from the Republic of Korea (Korea).

#### 2.1 Recommendations

Customs and Border Protection recommends that the Chief Executive Officer (CEO) of Customs and Border Protection decide not to reject the application.

If the CEO accepts this recommendation, to give effect to that decision, the CEO must publish the attached notice at **Appendix A** indicating that Customs and Border Protection will inquire into whether the grounds exist to publish a dumping duty notice.

#### 2.2 Application of law to facts

Division 2 of Part XV B of the *Customs Act 1901*<sup>1</sup> sets out procedures for considering an application for a dumping duty notice.

##### 2.2.1 The role of the International Trade Remedies Branch

The International Trade Remedies Branch is responsible for preparing a report for the CEO examining an application for a dumping duty notice.

In this report, the following matters are to be considered in relation to the application:

- whether the application complies with subsection 269TB(4);
- whether there is, or is likely to be established, an Australian industry in respect of like goods; and
- whether there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

##### 2.2.2 The role of the CEO of Customs and Border Protection

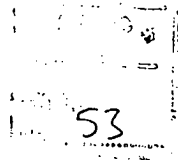
The Division empowers the CEO, after having regard to the International Trade Remedies Branch report, to reject or not reject an application for the publication of a dumping duty notice.

If the CEO decides not to reject the application, the CEO must give public notice of the decision providing details of the investigation.

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<sup>1</sup> All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

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### 2.2.3 Findings and conclusions

Customs and Border Protection has examined the application and is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (the reasons for being satisfied are set out in section 4 of this report);
- there is an Australian industry in respect of like goods (as set out in section 5 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in sections 6 and 7 of this report).

**3 BACKGROUND**

**3.1 Application**

On 16 March 2012, AVC lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of PVC exported to Australia from Korea.

The applicant alleges that the Australian industry has suffered material injury caused by PVC exported to Australia from Korea at dumped prices. The applicant claims that material injury commenced in mid-2010 following the expiration of anti-dumping measures on PVC exports from Korea and that the industry had been injured through:

- loss of sales;
- reduced market share;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability,
- reduced production volumes; and
- reduced return on investment;

**3.2 Consideration of the application**

Under subsection 269TC(1), the CEO must examine the application and within 20 days of lodgement decide whether or not to reject the application. This decision must be made no later than 5 April 2012.

Subsection 269TC(1) specifies that the CEO shall reject the application if he/she is not satisfied that:

- the application complies with subsection 269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

The above matters are examined in the following sections of this report.

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### 4 COMPLIANCE WITH SUBSECTION 269TB(4)

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Customs and Border Protection is satisfied that the application complies with subsection 269TB(4).

#### 4.1 Legislative framework

Subsection 269TB(4) requires that the application must be in writing, be in an approved form, contain such information as the form requires, be signed in the manner indicated by the form and be supported by a sufficient part of the Australian industry.

#### 4.2 Customs and Border Protection assessment

##### 4.2.1 Approved form

The application is in writing, is in an approved form, contains such information as the form requires (as discussed in the following sections) and is signed in the manner indicated in the form.

The applicant submitted confidential and public record versions of the application along with numerous appendices and attachments. Customs and Border Protection considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information.

##### 4.2.2 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if Customs and Border Protection is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50% of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25% of the total production or manufacture of like goods in Australia.

In its application, AVC is identified as the sole producer of PVC in Australia. Based on the evidence provided, Customs and Border Protection considers the application is supported by a sufficient part of the Australian industry.

##### 4.2.3 Conclusion – compliance with subsection 269TB(4)

Based on the information submitted by the applicant, Customs and Border Protection considers that the application complies with subsection 269TB(4).

**5 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?**

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Customs and Border Protection is satisfied that there is an Australian industry in respect of like goods.

**5.1 Legislative framework**

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

**5.2 The goods the subject of the application**

The goods the subject of the application are described as follows:

*Polyvinyl chloride homopolymer resin (PVC) is a white powder produced by the polymerisation of vinyl chloride monomer ("VCM"). PVC can be manufactured through a suspension process or a mass process, and the final goods are considered to be similar and interchangeable.*

*The application excludes paste (or emulsion), compound grades and recycled PVC*

**5.2.1 Tariff classification**

The goods are classified to tariff subheading 3904.10.00 statistical code 18 of Schedule 3 to the *Customs Tariff Act 1995*. The duty rate for Korea is currently 5%.

**5.3 Locally produced like goods**

Subsection 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'.

**5.3.1 Applicants' claims**

The applicant states that previous PVC inquiries conducted by Customs and Border Protection have found and concluded that PVC produced by AVC had the same physical characteristics, end-use and substitutability as PVC exported from Korea. Therefore Customs and Border Protection has satisfied itself that an Australian industry producing like goods existed.

AVC highlights that since Trade Measures Report No. 151 Continuation of Measures on PVC exported from Korea (dated 25 February 2010) there has been no substantial change in the manufacture of PVC by AVC.

AVC's production facility is located in Laverton North, Victoria. The company manufactures PVC and wood-plastic compounds, as well as supplying a range of imported chemicals including caustic soda, PVC processing additives, synthetic rubbers and speciality elastomers.

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Customs and Border Protection notes that Trade Measures Report No. 174 found that there is an Australian industry producing like goods and that AVC is the sole manufacturer of PVC in Australia. Also, Customs and Border Protection has visited AVC's production facility as part of the current review of measures applying to Japan and USA imports of PVC and observed that a substantial process of manufacture continues to be undertaken by AVC.

Therefore Customs and Border Protection has examined the evidence presented in the application and from previous inquiries and is satisfied that there is at least one substantial process of manufacture performed in Australia and that the Australian industry produces like goods to the goods the subject of the application.

### 5.4 Australian market

#### 5.4.1 Background

The applicant provided the following commentary on the Australian market.

The major uses for PVC in Australia are in the manufacture of pipes and fittings and wire and cables for the construction and building industry. AVC estimates that approximately 70 per cent of the PVC market is for pipe grade resin. Other uses for PVC include hoses and tubing, and injection mouldings (such as shoes).

The Australian market consists of the following market segments:

- plumbing and electrical fittings;
- pressure pipe; and
- general purpose.

The Australian market for PVC is supplied through local production and imports from a number of source countries (including Korea, Taiwan and Thailand).

PVC is the preferred product in pressure pipe, plumbing and electrical fittings, and other general purpose applications. There exists limited substitutability at the margin with polyethylene in certain applications. The annual demand for PVC, however, is not impacted by any minor substitutability.

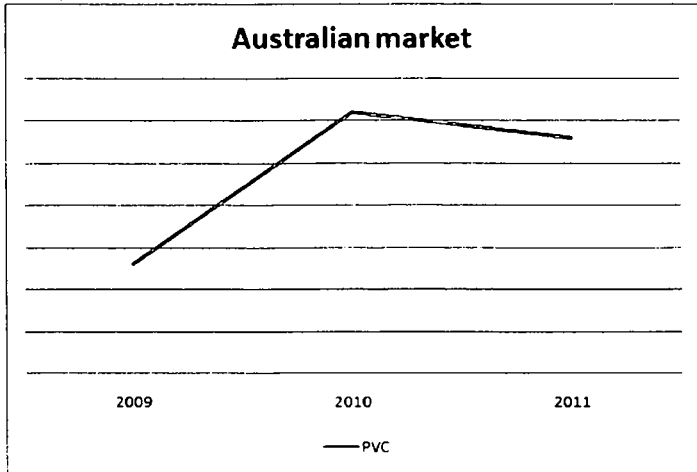
Previous inquiries have found that PVC is sold to a range of processors who either extrude, inject, mould or blow mould the PVC to make a wide variety of goods. The major end-use of PVC based products is in the building and construction sector (such as pipes and fittings, cables, house cladding, gutters, down pipes, flooring and window frames). PVC based products are also used in packaging, upholstery and domestic appliances.

Customs and Border Protection has previously estimated the size of the Australian market using information from its import database and information supplied by Australian Vinyls. The Australian market increased from 2009 to be around 200,000 tonnes in 2010 and 2011. Movements in the size of the Australian market are illustrated in the following chart.



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**5.5 Australian industry information**

**5.5.1 Australian industry's sales**

The applicant has provided necessary information including a summary of domestic and export sales volumes, revenue, discounts and rebates as required in appendices A2, A3, A5 and A6. Customs and Border Protection examined the detail in, and link between, these appendices, and considers they are reliable for the purposes of assessing the economic condition of the industry for the purposes of this report.

As required by Appendix A4, the application included a detailed listing of domestic sales for the most recent 12 months.

**5.5.2 General accounting/administration information**

The applicant provided charts of accounts and audited financial reports for relevant periods. It also provided details of general accounting and administration information.

**5.5.3 Cost information**

AVC also completed Appendix A6 for domestic sales. The information provided included production and sales volumes, manufacturing costs, selling, distribution and administrative expenses and sales volumes from January 2006 through to end of 2011.

The submitted information has been examined and verified as part of the current reviews and continuation inquiries. The cost to make and sell information was found to be accurate and reliable for the purposes of assessing the economic condition of the industry.

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### 5.5.4 Other economic factors

The applicant also completed Appendix A7 showing movements in assets, capital investment, research and development expenses, return on investment, capacity, capacity utilisation, employment, productivity, stocks, cash flow measures and wages.

### 5.5.5 Conclusion – Australian industry

Based on the information in the application, Customs and Border Protection is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the information contained in the application is sufficient for the purposes of a preliminary analysis of the economic condition of the industry from 2009 to 2011.

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**6 REASONABLE GROUNDS – DUMPING**

Customs and Border Protection is satisfied that PVC appears to have been exported to Australia from Korea at dumped prices.

**6.1 Legislative framework**

Subsection 269TC(1) requires that the CEO must reject an application for a dumping duty notice if, inter alia, he is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice. Under section 269TG, one of the matters that the relevant Minister must be satisfied of to publish a notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods.

**6.2 Export prices**

The applicant identified the producer and exporter of PVC from Korea as LG Chemicals and the importers as Primaplas Pty Ltd and Vinidex Pty Ltd.

AVC has relied upon Australian Bureau of Statistics (ABS) import data and third party export statistics to identify Korean imports/exports to Australia during 2011 and earlier years. However, the applicant does not consider that either ABS or the export statistics can be relied upon for the purposes of assessing prima facie dumping margins on Korean PVC exported to Australia.

It is claimed that published import statistics do not properly reflect actual export prices in Australia, when compared to a deductive export price based on actual market offers for Korean PVC. To support this, AVC has provided customer information reports which include references from customers that Korean exporters were absorbing the 5% Customs duty applicable to Korean imports to remain competitive with Thai imports of PVC which were duty free under the Australia-Thailand Free Trade Agreement.

**6.2.1 Methodology for deductive export prices**

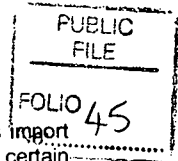
The applicant has calculated monthly deductive export prices for PVC using available market prices quoted by existing customers in the Australian market. The following deductions were used in calculating FOB prices:

- Local delivery;
- Importer's margin;
- Importation charges;
- Ocean freight, and
- Customs duty.

**6.2.2 Customs and Border Protection's assessment**

Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet this requirement, but such information must be reasonably available to the applicant.

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In the first instance, Customs and Border Protection will typically rely on its import database for establishing a reliable estimate of export prices. Only in certain circumstances will it consider it preferable to deviate from using this import data to other sources. Examples of such circumstances are:

- where there is sufficient information provided by an applicant to doubt the arms length nature of transactions between importers and exporters, or
- insufficient detail about the model/type of goods to properly establish an export price for the relevant goods.

In this instance, Customs and Border Protection does not consider that sufficient information has been provided by the applicant to suggest that declared free-on-board export prices for imports of PVC from Korea are unreliable. Sales staff information reports are an example of a claim made by an interested party in their self interest. For this reason they are generally considered to possess lower evidentiary value, but may identify issues for further investigation.

Therefore Customs and Border Protection considers that a deductive export price approach is not appropriate in this case. For the purposes of calculating a weighted average export price, it has used the actual declared monthly import volumes and free on board export prices.

### 6.3 Normal values

The applicant submitted domestic price information for PVC sold in Korea sourced from a recognised and reliable industry publication. Domestic prices for PVC sold in Korea were provided on a monthly basis and are outlined below.

Month	Price Range
January 2011	KRW 1160-1190/kg
February 2011	KRW 1170-1200/kg
March 2011	KRW 1250-1300/kg
April 2011	KRW 1300-1340/kg
May 2011	KRW 1320-1350/kg
June 2011	KRW 1290-1350/kg
July 2011	KRW 1230-1250/kg
August 2011	KRW 1230-1250/kg
September 2011	KRW 1210-1250/kg
October 2011	KRW 1090-1110/kg
November 2011	KRW 1020-1050/kg
December 2011	KRW 1020-1050/kg

Domestic prices have been determined at the FOB level (as were export prices) and the applicant does not consider that any adjustments are required.

#### 6.3.1 Customs and Border Protection's assessment

Customs and Border Protection considers that, based on the information submitted in the application, the amounts used by the applicant to estimate domestic selling prices in Korea appear to be reasonable. The applicant has supported its estimates with information that is reliable and reasonably available to it and, where assumptions have been made, has explained the basis for those assumptions.

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Customs and Border Protection is also satisfied that, based on the information submitted in the application, no adjustments to domestic selling prices are required. To calculate a weighted average normal value, Customs and Border Protection has weighted the unit domestic prices by the declared monthly import volumes of PVC from Korea.

**6.4 Dumping margins**

The revised dumping margins are shown in the table below:

Normal value	A\$1.04 - \$1.07 / kg
Export price	A\$0.97 / kg
Dumping margin	A\$0.07 - \$0.10 / kg
Dumping margin percentage	6.9% to 9.8%

Customs and Border Protection is satisfied that, based on the information submitted in the application, the applicant has demonstrated that there appear to be reasonable grounds for concluding that PVC has been exported to Australia from Korea at dumped prices.

**7 REASONABLE GROUNDS – MATERIAL INJURY CAUSED BY DUMPED IMPORTS**

Customs and Border Protection is satisfied that exports to Australia of PVC from Korea at allegedly dumped prices appear to have caused material injury to the Australian industry.

The following injury analysis is based on the financial information submitted by AVC and import information from Customs and Border Protection's import database. Volume effects

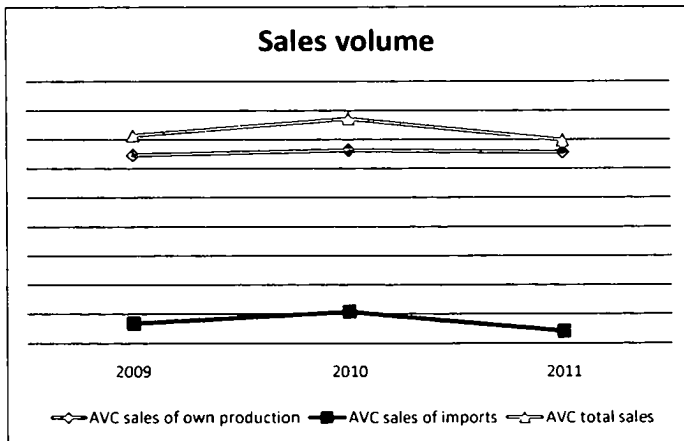
**7.1 Legislative framework**

Subsection 269TC(1) requires that the CEO must reject an application for a dumping duty notice if, inter alia, he is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice. Under section 269TG, one of the matters that the relevant Minister must be satisfied of to publish a dumping duty notice is that because of the dumping, material injury has been or is being caused or is threatened to the Australian industry producing like goods.

**7.2 Volume Effects**

**7.2.1 Sales volume**

Movements in the applicants' sales volumes are illustrated in the following chart.



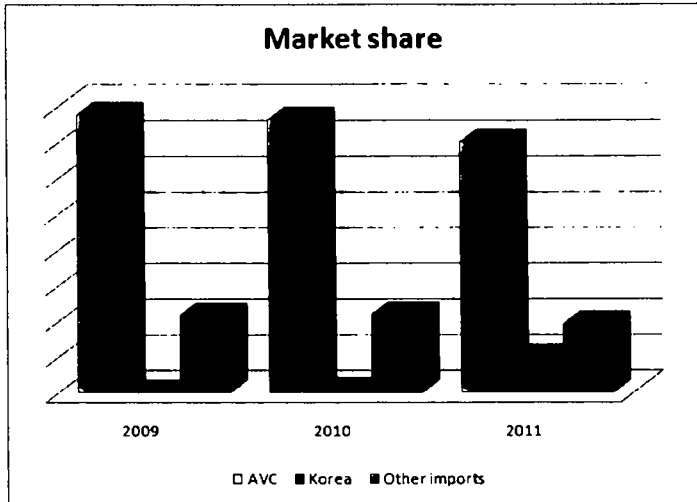
The data shows that AVC's sales of PVC fell by approximately 10% in 2011, largely reflecting the fall in imports of PVC by the applicant.

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### 7.2.2 Market shares

Movements in the market shares are illustrated in the following chart.



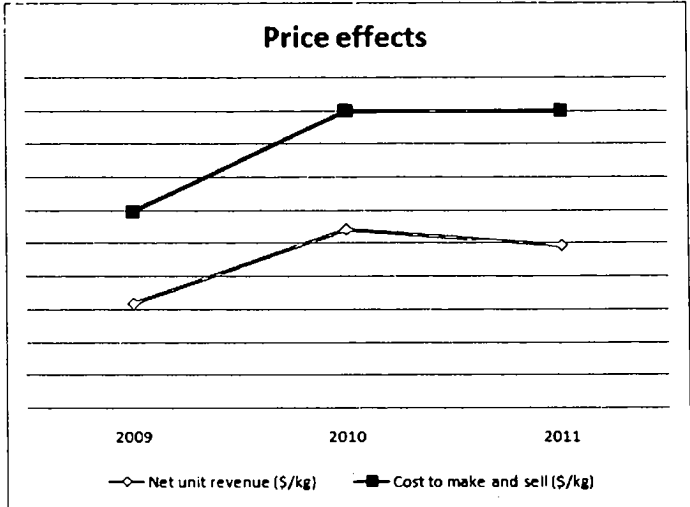
The applicant's market share fell from 2009 to 2011, reflecting a fall in imports by the applicants compared to increase of Korean imports over the same period.

### 7.3 Price effects

#### 7.3.1 Price depression and price suppression

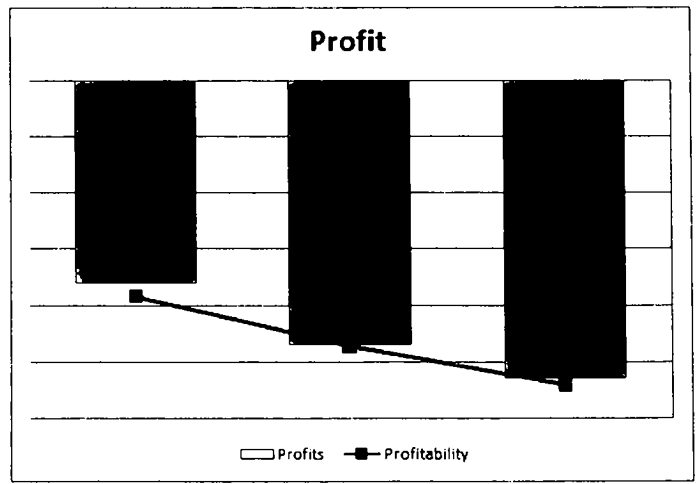
Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Movements in the applicant's unit revenues and costs are illustrated in the following chart. It shows that costs have exceeded selling prices over the period of analysis and that, whilst costs remained unchanged in 2011, prices fell slightly in that same period.



#### 7.4 Profit effects

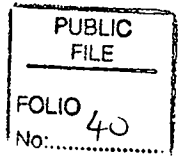
Movements in the applicant's profits and profitability are illustrated in the following chart.



AVC continued to trade unprofitably over the analysis period, with losses steadily increasing year on year.



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### 7.5 Other injury factors

The applicant completed an Appendix A7, which looks at other injury factors. In summary, the data provided shows that assets are steady, return on investment has decreased, capacity utilisation is steady and employment (both in terms of persons and hours worked) has increased.

### 7.6 Link between injury and dumped imports

#### 7.6.1 Import trends

Movements in import volumes according to Customs and Border Protection's import database shows that import volumes from Korea have increased significantly since 2010 which coincides with the expiration of anti-dumping measures in March 2010 on Korean imports of PVC.

#### 7.6.2 Causation

Based on information provided in the application and information from Customs and Border Protection's import database, the Australian industry's share of the Australian market has fallen but this has almost entirely impacted on AVC's import volume rather than the sales of its own production. While imports from other countries have remained relatively stable since 2009, imports of PVC from Korea have captured 10% of the Australian market over approximately a 12 to 15 month period. This compares to almost no presence in the Australian market during 2009 when anti-dumping measures were applicable.

The applicant claims that its selling prices have been undercut by the selling prices of Korean imports in 2011. To support this claim, the application contains customer information reports outlining comments by AVC's customers relating to competitive price offers into the Australian market from LG Chemicals. These information reports reveal that Korean imports have been marketed aggressively on price and beneficial sales terms such as extended credit and free-into-store delivery. Some customers informed AVC that Korean imports were being offered on a duty-free basis to remain competitive with PVC imports from Thailand which are duty free.

Further, AVC has provided evidence to demonstrate that one of its major customers is sourcing Korean imports and using those import prices to change the way local prices are negotiated which has led to reduced AVC prices. It is claimed that the price undercutting has translated to depressed and/or suppressed prices of PVC by AVC. The increased unit loss and reduced sales volumes has led to a worsening of overall losses 2011.

#### 7.6.3 Injury caused by factors other than dumping

AVC does accept that the global downturn experienced in 2009 has contributed to the company's profit performance. However it is claimed that the increasing volumes of PVC from Korea at prices that have undercut AVC's prices have made the industry more susceptible to further material injury.

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Customs and Border Protection notes that a key determinant of demand for PVC is construction activity. Given the downturn in housing activity since late 2010 and early 2011, it is expected that this would have also impacted on AVC's economic performance.

### 7.6.4 Comparison of export prices and estimated non-injurious prices

As an additional test of the causal link between the alleged dumping and injury, Customs and Border Protection compared the estimated weighted average export price for Korean PVC in 2011 with an estimated non-injurious price based on the applicant's costs to make and sell in 2011 with a zero profit margin.

The comparison showed that export prices were significantly below the non-injurious price, a further indication of the dumping causing injury to the Australian manufacturers.

### 7.6.5 Customs and Border Protection's assessment

Based on available information, Korean imports have dramatically increased in 2010 and 2011 since the expiration of anti-dumping measures in March 2010. This increase in market share has been at the expense of AVC's sales of import PVC and to a lesser extent impacted on the share held by other imports.

The application contains probative evidence that the prices of Korean PVC imports have consistently undercut the applicant's prices of locally manufactured product. The evidence appears to suggest that the price undercutting is driven by an aggressive pricing strategy by Korean exporters.

Using quoted prices for Korean PVC referenced in the customer information reports, Customs and Border Protection has undertaken a price undercutting analysis by comparing to AVC's net selling prices in the corresponding months. The analysis shows that Korean imports undercut the applicant's prices by between 6% to 13%. Therefore it is reasonable to consider that the price undercutting has prevented AVC from increasing its prices which has resulted in a further increase in losses and profitability in 2011.

The increase in market share, apparent price undercutting and price suppression indicates that the allegedly dumped imports from Korea caused injury to the Australian industry. The estimated product dumping margin for Korean imports during 2011 is considered material. On the available information, the injury caused by the dumping appears to be material.

## 7.7 Conclusion on material injury caused by dumped imports

Customs and Border Protection is satisfied that, based on the information submitted in the application, the applicant has demonstrated that it appears to have suffered injury and that there appear to be reasonable grounds for concluding that the dumping of PVC exported to Australia from Korea has caused material injury to the Australian industry producing like goods.

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**8 CONCLUSION**

Customs and Border Protection has examined the application and is satisfied that:

- the application complies with s. 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application exported from China.

Accordingly, the delegate of the CEO has not rejected the application for the publication of dumping duty notices under s. 269TC(1).

For the purposes of the investigations:

- the investigation period to determine whether dumping has occurred will be from 1 January 2011 to 31 December 2011; and
- Customs and Border Protection will examine the Australian market and the economic condition of the industry from January 2009 for the purposes of injury analysis.

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9 APPENDIX A

**Customs Act 1901 – Part XVb**  
**Polyvinyl Chloride Homopolymer Resin**  
**exported from the Republic of Korea**  
**Initiation of an Investigation into alleged dumping**  
**Notice under s. 269TC**

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation into alleged dumping of polyvinyl chloride homopolymer resin (PVC) from the Republic of Korea (Korea) following an application lodged on behalf of Australian Vinyls Corporation Pty Ltd, the sole manufacturers of PVC in Australia. The investigation will commence on 23 April 2012.

The goods the subject of the application are described as follows:

*Polyvinyl chloride homopolymer resin (PVC) is a white powder produced by the polymerisation of vinyl chloride monomer ("VCM"). PVC can be manufactured through a suspension process or a mass process, and the final goods are considered to be similar and interchangeable.*

*The application excludes paste (or emulsion), compound grades and recycled PVC.*

PVC is classified under sub-heading 3904.10.00, statistical code 18, in Schedule 3 to the *Customs Tariff Act 1995*. The general rate of duty for PVC from Korea is 5%.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through lost sales volume, lost market share, price undercutting, price depression, price suppression, reduced profits and profitability, reduced production volumes, reduced revenue and deteriorating returns on investment.

The CEO specifies that goods exported to Australia during the period 1 January 2011 to 31 December 2011 will be examined to determine whether dumping has occurred. The Australian market will be examined from 1 January 2009 for injury analysis purposes.

The date of initiation of this investigation is the date of publication of this notice.

Interested parties, as defined by subsection 269T(1) of the *Customs Act 1901* (the Act), are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on 4 June 2012, addressed to:

Director Operations 1  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601  
Or by email: [tmops1@customs.gov.au](mailto:tmops1@customs.gov.au)

Australian Customs Dumping Notice (ACDN) No. 2012/14, containing important procedural details, and Consideration Report No 187 are available at [www.customs.gov.au](http://www.customs.gov.au). Both documents should be read in conjunction with this notice.

The ACDN and the consideration report are also available on the public record. Documents included in the public record are available at <http://ador.customs.gov.au/Customs/>. Alternatively, the public record may be examined at the above office address during business hours by contacting the International Trade Remedies Branch on 02 6245 5434.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6245 5434, fax number (02) 6275 6990 or email [tmops1@customs.gov.au](mailto:tmops1@customs.gov.au).

Kim Farrant  
Delegate of the Chief Executive Officer  
19 April 2012