Australian Customs Notice 1999 08

**CUSTOMS ACT 1901 - PART XVB INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF LINEAR LOW DENSITY POLYETHYLENE FROM THE REPUBLIC OF INDONESIA, THE REPUBLIC OF KOREA, MALAYSIA AND SAUDI ARABIA**

The Australian Customs Service has initiated an investigation into an application lodged by Orica Australia Pty Ltd, for a dumping duty notice in respect of linear low density polyethylene (LLDPE) exported to Australia from Indonesia, Korea, Malaysia and Saudi Arabia.

The application alleges that the goods have been exported to Australia at prices less than the normal values and that the dumping has caused material injury to the Australian industry through:

price depression/undercutting;

reduced profits and effect on profitability; and lost sales and effect on market share

The public version of the application, available to interested parties on request, contains the basis of the alleged dumping.

The goods under investigation are linear low density polyethylene (LLDPE), in a pelletised form and with a density of less than 0.94 grams per square centimetre, in various grades classified within subheading 3901.10.00, statistical code 01 of the *Customs Tariff Act 1995* and a rate of duty of 5%.

A notice under subsection 269TC(4) of the *Customs Act 1901* advising initiation of this investigation was published in the *Australian Financial Review* on 16 February 1999. Interested parties are invited to provide written submissions in response to that notice.

In its investigation, Customs will examine exports to Australia of the goods under consideration from 1 January 1998 onwards for dumping analysis. Customs will examine details of the Australian market after 1 January 1997 for injury analysis.

In reaching its findings Customs must consider whether:

1. the export price of like goods that have already been exported to Australia is less than the normal value of those goods; and
2. the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
3. because of that, material injury to the Australian industry producing like goods has been caused and is likely to continue.

Interested parties are advised to lodge submissions no later than the close of business on 29 March 1999. Parties located within Australia should address their submission to:

The Director Trade Measures, Operations 4 Australian Customs Service Customs House 5 Constitution Avenue CANBERRA ACT 2601

Interested parties located outside Australia may lodge their submissions with either the Director as above or the Senior Australian Customs Representative located at the addresses below:

Europe (Saudi Arabia) Australian Embassy Rue Guimard 6-8 1040 Brussels BELGIUM

Asia (Indonesia, Korea and Malaysia) Australian Embassy 2-1-14 MITA Minato-Ku Tokyo 108 Japan

Interested parties may be granted an extension of time for lodgement of a submission, provided the request is in writing and is reasonable and practical given the circumstances. Parties responding by 29 March 1999 will have an opportunity to lodge a supplementary submission in reply to matters raised by other parties. The due date for any supplementary submissions is 12 April 1999.

All interested parties wishing to participate in the investigation must ensure that submissions are lodged promptly. The legislation confers upon Customs the power to disregard submissions received after specified periods if there is insufficient time remaining for their proper consideration.

Submissions lodged in confidence must be clearly marked "confidential". In addition, two non-confidential copies of the submission must be provided.

Section 269ZJ of the *Customs Act1901* requires that if a person claims information is confidential, or claims that publication of the information would adversely affect their business, that person:

must provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information, or

must satisfy the CEO of Customs that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

The attention of interested parties is also drawn to the World Trade Organization Anti-Dumping Agreement, Article 6.5.2, which states:

*If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.*

This provision is reflected in s. 269ZJ of the Customs Act.

Non-confidential submissions, and a copy of relevant correspondence between Customs and other persons, will be made available to interested parties through the public record. The public record may be examined at:

Trade Measures Branch Customs House 5 Constitution Avenue CANBERRA ACT 2601 To access the public record, contact Mr Phil Hilyard on telephone number (02) 6275 6057.

The dates specified in this notice for lodging submissions must be observed to enable Customs to report to the minister within the legislative timeframe. A preliminary affirmative determination may be made not less than 60 days from the date of initiation (19 April 1999). Provisional measures may be imposed after the preliminary determination has been made.

A statement of essential facts will be placed on the public record on 7 June 1999. The statement will set out the material findings of fact on which Customs intends to base its recommendation to the minister. That statement will invite interested parties to respond, within 20 days, to the issues raised therein.

Submissions received in response to the statement will be taken into account in compiling the report and recommendation to the Minister, due 21 July 1999 (or by such later date as the Minister may allow in accordance with s. 269ZHI).

Enquiries about this notice may be directed to Brian Henry on telephone (02) 6275 6016 and facsimile number

(02) 6275 6990 or Anne Robbie on telephone (02) 6275 6384 and facsimile number (02) 6275 6990.

Paul O'Connor National Manager Trade Measures Branch for Chief Executive Officer CANBERRA ACT 2601 16 February 1999