

Date 06 July 2018

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Sent via email: statsdetermination@treasury.gov.au

**RE: Automatic sunseting of legislative instruments - Proposal to remake the Statistics Determination 1983 Consultation paper**

LyondellBasell Australia Pty Ltd. (hereafter LyondellBasell Australia) welcomes the opportunity to provide a submission to the Treasury consultation paper “Automatic sunseting of legislative instruments Proposal to remake the Statistics Determination 1983” and the subsequent Treasury summary of consultation paper submissions “Proposal to remake the Statistics Determination 1983”

LyondellBasell Australia has very recently been in dialogue with the Australian Bureau of Statistics regarding confidentiality restrictions of import trade statistics and had done so also in 2015. LyondellBasell Australia regards the Proposal to remake the statistics Determination 1983 as an excellent opportunity to receive input from Australian manufacturers about the legislation that may have unintended consequences to manufacturing viability in Australia. LyondellBasell Australia notes that many Australian manufacturers have responded to this consultation with similar concerns.

**Introduction**

LyondellBasell Australia is the only manufacturer of polypropylene in Australia. Polypropylene is also imported into Australia.

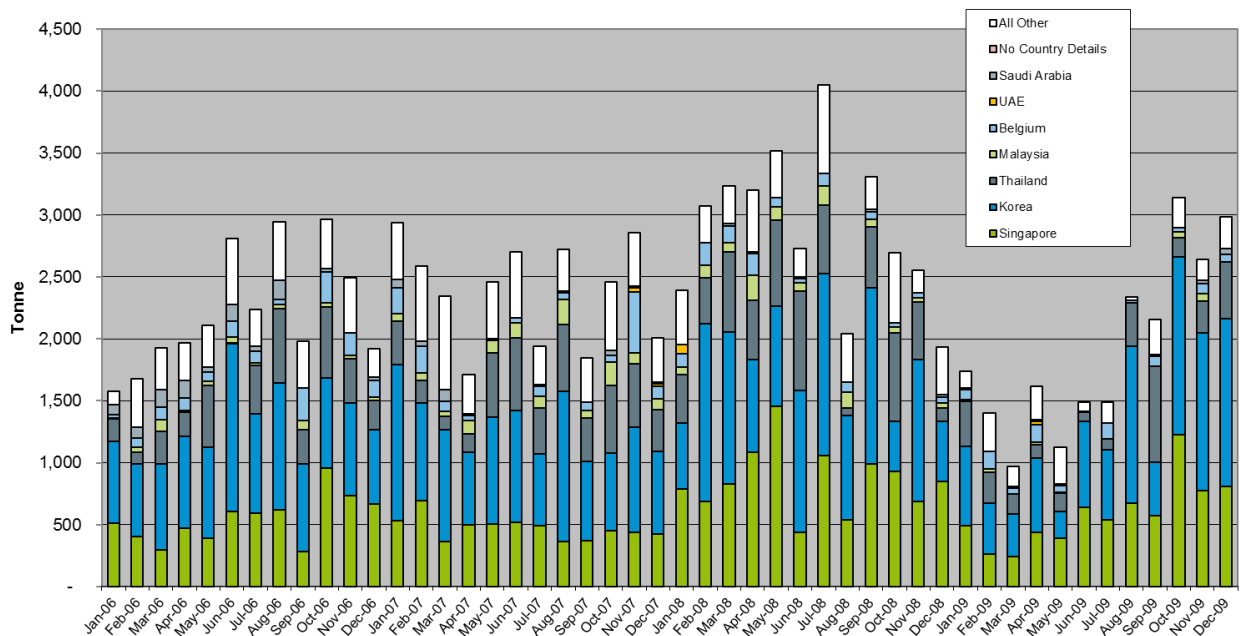
Polypropylene resins are manufactured at LyondellBasell Australia’s Geelong Polypropylene Plant in Victoria from propylene feedstock obtained from local refineries and petrochemical plants.

LyondellBasell Australia employees approximately 90 people, including chemical process operators, engineers, laboratory staff, instrument/electrical tradespeople, finance management and support, logistics, sales, marketing, product development personnel and others.

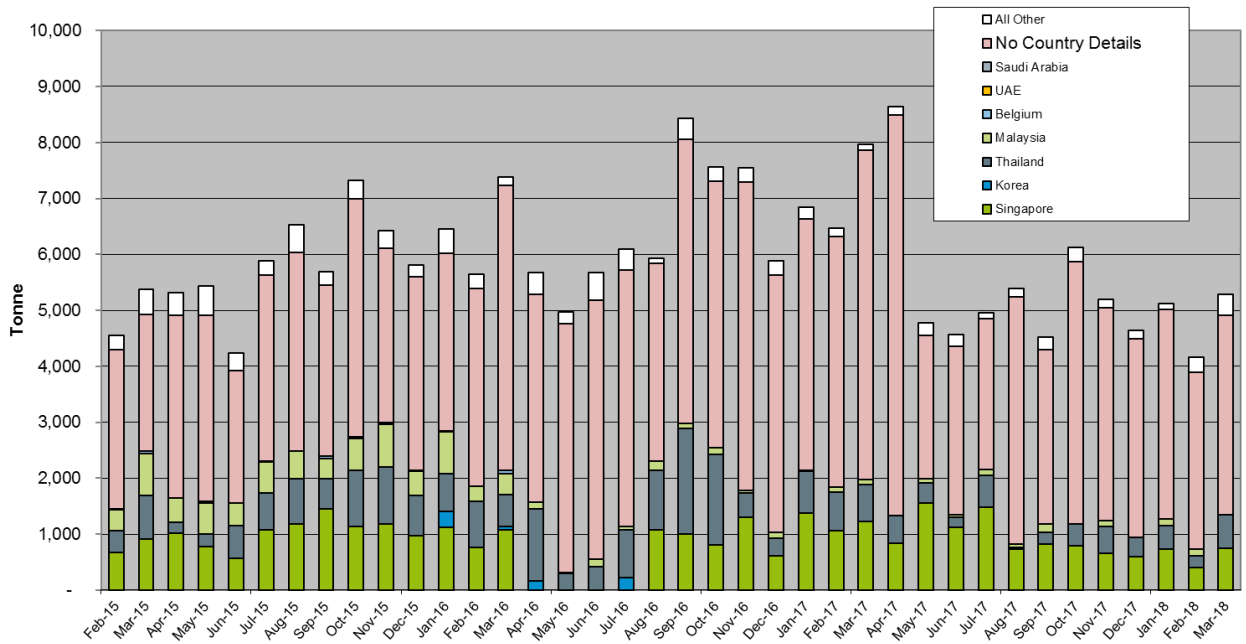
With a local Market Development Laboratory providing advanced technical and product development support, combined with LyondellBasell's industry-defining innovations, superior technical expertise and global reach, we are able to provide a strong foundation for LyondellBasell Australia’s commitment to the Australian and New Zealand markets.

The Australian Bureau of Statistics has historically provided meaningful and informative import trade statistics that have significantly contributed to allowing LyondellBasell Australia access to determine if dumping is occurring in the Australian polypropylene market. The present-day status of data, with confidentiality restrictions employed at the importers request and approval of the Australian Bureau of Statistics, in line with it's legislative obligation, is insufficient for the purpose of assessing if polypropylene dumping is occurring in the Australian market and fails to provide the data required for this local manufacturer to utilise the anti-dumping system the Australian government provides as a protection and prevents LyondellBasell Australia from accessing it right under Australian law to protect itself from "Material Injury" as defined by the Australian government, Department of Industry and Science, Anti-dumping Commission.

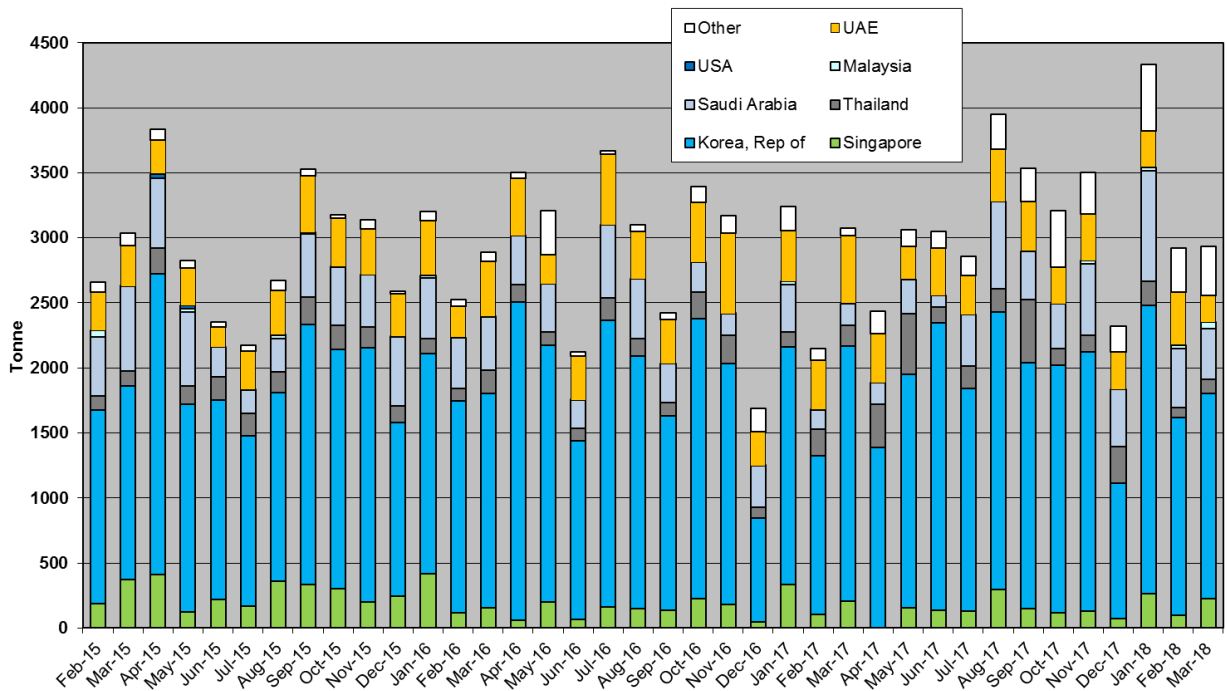
Figures 1 and 2 illustrate the change in data confidentiality and subsequently usability.



**Figure 1** *Australian Bureau of Statistics trade import statistics for polypropylene tariff codes 3902100007, 3902300009 and 3902300010 (2006 to 2009 data)*



**Figure 2** Australian Bureau of Statistics trade import statistics for polypropylene tariff codes 3902100007, 3902300009 and 3902300010 (prior 3 years)



**Figure 3** Statistics New Zealand trade import statistics for polypropylene tariff codes 3902100007, 3902300009 and 3902300010 (prior 3 years)

## **LyondellBasell Australia's Response to the Determination**

LyondellBasell Australia's response to the proposed changes to the Determination consultation paper and the summary of consultation paper submissions (Proposal to Remake the Statistics Determination 1983) is as follows:

- The access to Australian Bureau of Statistics collated import trade statistics is fundamentally important to Australian manufacturers seeking to determine if their organisation is being subjected to dumping and material injury. The access to collated import trade statistics allows an Australian manufacturer to investigate if it believes dumping is occurring and allows it to apply for instituted legislated anti-dumping measures on the importer. Clear unrestricted access to import trade statistics allows Australian manufacturers to protect their businesses and Australian workers employment in a manufacturing industry as administered by the Department of Industry and Science, Anti-dumping Commission.  
The current status quo (as illustrated in Figure 2) whereby import trade statistics are categorised as confidential (at the request of the Importer) fails to allow Australian manufacturers to protect its business from dumping. In essence, as a result of the current legislation and proposed "no change" governing the Australian Bureau of Statistics degrees of freedom to release import trade statistics that have been categorised as confidential, a potential and likely consequence is that the Australian governments current legislation in this area is inadvertently favouring importers over Australian manufacturers.
- The access to Australian Bureau of Statistics collated import trade statistics allows Australian manufacturers to determine if importers are correctly subject to import tariffs where they are applicable. This allows Australian manufacturers to pursue anomalies it identifies with another Australian federal government entity, Department of Home Affairs, with respect to Tariff Concession Orders.  
The current status quo (as illustrated in Figure 2) whereby import trade statistics are categorised as confidential (at the request of the Importer) fails to allow Australian manufacturers to protect its business, and entitlement, that imported materials are subject to the correct tariffs. It is the legislative right of Australian manufacturers to apply for a Tariff Concession Order revocation. In essence, as a result of the current legislation and proposed "no change" governing the Australian Bureau of Statistics degrees of freedom to release import trade statistics that have been categorised as confidential, a potential and likely consequence is that the Australian governments current legislation in this area is inadvertently favouring importers over Australian manufacturers.

- The access to Australian Bureau of Statistics collated import trade statistics is very important information to Australian manufacturers, including LyondellBasell Australia, for obtaining marketing intelligence that assists with understanding competitive business threats. This information also assists in understanding where resources need to be deployed and when technical and development initiatives need to be instigated. The current status quo (as illustrated in Figure 2) whereby import trade statistics are categorised as confidential (at the request of the Importer) fails to allow Australian manufacturers access to this data in contrast to other international jurisdictions which do not have the same approach as the Australian Bureau of Statistics. For LyondellBasell Australia, it is able to access the import trade statistics pertaining to polypropylene from the New Zealand Bureau of Statistics without confidentiality restrictions (refer to Figure 3).  
The review of legislation in this area should involve a review of practices of other statistical gathering bodies belonging to other national jurisdictions to ensure parity. In LyondellBasell Australia's experience, as an Australian manufacturer, it is able to purchase import trade statistics from Statistics New Zealand that are not restricted by confidentiality, yet from LyondellBasell Australia's domicile Australian Bureau of Statistics organisation it is not.

Additionally, LyondellBasell Australia should advise that it provides information pertaining to its business to the Australian Bureau of Statistics (as legally required to) including producer prices, business structure update, economic activity, new capital expenditure, foreign currency exposure, international investments and provide a quarterly business indicator survey at no cost to the tax payer. In supplying this data, LyondellBasell Australia required 36 hours of a person time last year (2017). In contrast, LyondellBasell Australia purchases, at a cost, import trade statistics that have almost zero usable information except for the ability to determine the total polypropylene Australian market size.

## **Recommendations**

LyondellBasell Australia recommends to this Determination that import trade statistics be made available in an unrestricted fashion such that country of origin, state of final destination, nature of tariff together with the other parameters that are currently reported are fully transparent and not confidential to Australian manufacturers. LyondellBasell Australia recommends that the Determination reflect the overwhelming response from Australian manufacturers in this area of import trade statistic confidentiality restrictions and recommends that it review the intent and wording that the Treasury and Australian Bureau of Statistics have articulated in their responses to issues raised as documented in the “Proposal to remake the Statistics Determination 1983, Summary of consultation paper submissions”(June 2018) specifically the response to “Other changes suggested in submissions”. If on review, the Treasury and Australian Bureau of Statistics still believe it is bound to not incorporate changes proposed by Australian manufacturers then it should, in good conscience, advise of a potential and /or perceived legislative conflicting ambiguity between Treasury / Australian Bureau of Statistics and the Department of Industry and Science and the Department of Home Affairs as articulated in this submission.

LyondellBasell Australia welcomes the opportunity to participate in further consultation with Treasury or the Australian Bureau of Statistics in relation to this Determination.

LyondellBasell Australia is available to provide further information or clarification of matters included in this submission. Any questions regarding this submission can be directed to Robert Moran, Business Manager, LyondellBasell Australia on 0417 383 300.

For LyondellBasell Australia Pty Ltd.

A handwritten signature in black ink, appearing to read 'Robert Moran'.

Robert Moran  
Business Manager