



29 April 2004

Secretary
Senate Select Committee on the FTA
Between Australia and the USA
Suite S1.30.1
The Senate
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Re: **Submission to the Senate Select Committee on the Free Trade Agreement
between Australia and the United States of America**

The Company

Qenos Pty Ltd ("Qenos") is Australia's leading manufacturer of ethylene, polyethylene, polypropylene and synthetic rubber. The company employs more than 1,000 people at its two large manufacturing sites located at Botany, New South Wales and Altona, Victoria.

The Botany site manufactures ethylene and three types of polyethylene (low, linear-low and high density). The ethylene is produced from ethane sourced by a 1400 km pipeline from South Australia's Moomba gasfields (constructed in 1995 at a cost of \$240 million).

Qenos also manufactures ethylene, propylene and butadiene raw material at Altona from ethane and gas/oil derivatives sourced from Bass Strait. Further production of the raw materials results in rubber, high density polyethylene resin and polypropylene resin.

Qenos is involved in substantial value-adding processes to Australia's indigenous raw material reserves through its manufacturing operations at Botany and Altona. The Company's annual turnover of \$700 Million makes it one of the largest petrochemical companies in the region and the largest in Australia (with a capital replacement cost of \$2.5 billion).

Free Trade Agreements

Qenos has been involved in representations to the Federal Government in respect of recent Free Trade Agreements (FTAs) completed with the governments of Singapore, Thailand and the United States through the Plastics and Chemicals Industries Association (PACIA). Qenos' turnover makes it the second largest member within PACIA.

PACIA was actively involved with submissions and advice to the Department of Foreign Affairs and Trade (DFAT) outlining the impact of an FTA with Singapore, Thailand and the United States.

PACIA and its members have been supportive of the Federal Government's push to open market opportunities for Australian exporters. Qenos, as a major exporter of polyethylene resin, could benefit from reduced barriers to trade in certain export destinations.

Tariffs

The removal of the remaining five per cent tariff under various FTAs poses considerable risk to the ongoing viability of Australian manufacturers.

Qenos operates within a very competitive environment where prices are determined by imported products. Qenos has no control or influence over prices to achieve a pre-determined return. The company is attuned to the market and must remain competitive relative to imports. Whilst an Australian manufacturer must accept the volatility of a floating exchange rate – all import prices are impacted equally – it is extremely difficult to absorb immediate price reductions of up to five per cent (additional to any exchange rate appreciation). Qenos requires adequate time to deliver cost improvements from investment in new technologies and restructuring to offset a permanent five per cent reduction in pricing. A phasing of tariffs under the Australia-United States FTA would have permitted this.

Qenos' exposure to import prices was recently highlighted in the example of high density polyethylene (HDPE) exports from Singapore. In this case, import prices for HDPE produced in Singapore immediately declined by the full five per cent in value following commencement of the FTA with Singapore. Qenos was recently forced to match these prices in order to maintain its market.

In the lead-up to the FTA with Thailand, PACIA (with full support from Qenos) actively pursued a staged reduction of the five per cent tariff which remains for certain goods still produced in Australia. DFAT sought, and successfully obtained, a staging of tariffs on imported goods from Thailand through until 2010.

Rules of Origin

A further concern emerging with recently negotiated FTAs involves the apparent complexity associated with Rules of Origin for determining whether exported goods can rightfully claim concessional entry from the source country which is a party to the FTA with Australia.

Throughout the late 1990's there was a substantial push by the WTO to attempt to harmonize Rules of Origin for international trade. A Rules of Origin Working Party was established to attempt to streamline the extremely complex rules which are individually enforced by WTO members. Suggestions which moved away from value added (or local content) rules to simplified rules which define substantial transformation as a change in tariff classification, were considered by the WTO.

The FTAs with Singapore and Thailand have Rules of Origin based upon local content or value added principles. Such methodologies can be counter to the original intent of simplifying trade between members under an FTA – they are extremely cumbersome and confusing, often requiring substantial technical knowledge of the complete manufacturing process of the exported good.

Complex Rules of Origin can substantially diminish the benefits which arise from FTA's through high administrative and compliance costs associated with establishing the correct origin of exported goods.

Anti-Dumping

The removal of a five per cent tariff to the advantage of an exporting country in an FTA can cause considerable harm to the domestic industry of the importing country.

Bi-lateral agreements which provide one exporting country with an advantage over another can result in dumping and material injury in the importing country. These instances are a hidden cost in bilateral FTAs and are less apparent with multi-lateral agreements (e.g. under the WTO). The cost to an Australian industry of exporting countries "dumping" into Australia to match exports from an FTA member will be the loss of volume and/or the reduction in price to match the "dumped" imports.

Any FTA needs to promote and encourage the principles of free and fair trade with contracting parties committing to robust and effective anti-dumping mechanisms within their own territory.

Proposed Australia-U.S. FTA

Tariffs

Qenos recognizes that Australian industry is moving toward minimal or zero tariffs. However, just as the petrochemical industry required a gradual reduction in tariffs in the early 1990's to adjust its cost base through new technologies and restructuring, time is required in the period to 2010 to enable further defining efficiencies to be achieved.

The petrochemical industry in Australia has demonstrated it can adjust to a changing economy – in the early 1990's there were three polyethylene producers in Australia. In late 1999 the formation of Qenos resulted in the company becoming the sole Australian polyethylene manufacturer. During the intervening period further rationalization of the industry has occurred to address the company's international competitiveness.

The pressures brought about by accelerated tariff reductions significantly jeopardize the longer-term competitive viability of Qenos. A clearly documented path of tariff phasing to 2010 was the model anticipated by industry and that promoted by the Federal Government under APEC.

It was anticipated that following the oversight which emerged from the Australia-Singapore FTA to reduce the full five per cent tariff from July 2003, any future negotiations would see the staging of the remaining five per cent tariff as appropriate to enable Australian manufacturing to gradually adjust to a free trade environment.

An examination of the proposed tariff reductions intended under the Australia-United States FTA indicates – curiously, with the exception of one product line in the Chemicals and Plastics' Chapters 28-40 (goods in 2918.90.00) – a reduction in tariffs to zero from the start date of the agreement.

Qenos is concerned that Australian negotiators did not seek from the United States a “phasing” of tariff reductions similar to that achieved with Thailand. In the petrochemical industry, a five per cent reduction in selling prices will eliminate any future opportunity for reinvestment in the industry by Australian manufacturers. Further, Qenos considers that if it were possible to seek a staging of the remaining five per cent tariff for one Australian manufacturer (the producer of 2,4 Dichlorophenoxyacetic acid under tariff sub-heading 2918.90.00), why were other Australian producers not afforded similar treatment under the proposed FTA?

Qenos suggests that a gradual phasing of the five per cent tariff for items in Chapters 28 to 40 (the company does not seek to comment on other industries to which it is not privy) by 2010 would have enabled Australian industry to adequately adjust to lower prices brought about by zero tariffs for imports from the United States.

Qenos considers that it will only be possible to reduce its cost base by five percentage points through investment in new technologies and restructuring – a process which was considered realistic under a phasing tariff regime.

Rules of Origin

Consistent with comments which apply to Rules of Origin negotiated under FTAs with Singapore and Thailand, Qenos considers that the benefits of an FTA will only be fully realized with the harmonization of Rules of Origin.

It would appear from the draft text of the Australia-U.S. FTA that the agreed Rules of Origin are as complex (if not more) as those previously negotiated under earlier FTA's. Qenos considers that the proposed FTA would have been an ideal opportunity to negotiate simplified rules of origin similar to those that have been considered under the WTO.

This opportunity appears to have been lost in the rush to consummate an FTA with the United States.

Anti-Dumping

The formal acceptance of an FTA with the United States will test the effectiveness of Australia's anti-dumping rules and administration to ensure that other exporting countries do not reduce prices to dumped levels to remain competitive on the Australian market.

The Federal Government is requested to ensure the ongoing effectiveness of Australia's anti-dumping system by boosting the resources of this essential trade policy function to ensure it is robust and provides Australian manufacturing with adequate coverage.

Summary

Qenos supports the initiative of an FTA with the United States. The company also recognizes that free trade will benefit the Australian economy over the longer term. It is Qenos' view, however, that Australian industry should have been afforded a nominated period over which a reduction in the five per cent tariff could have occurred.

Consistent with the FTA with Thailand a zero duty rate by 2010 would have provided Australian industry with sufficient time to adjust.

Qenos believes that there were opportunities for sectors to be identified as "sensitive" to the immediate withdrawal of the tariff – as demonstrated by the industry covered by sub-heading 2918.90.00 – and is concerned that the Government did not consider this option more broadly for certain other industries as necessary.

Negotiations for FTA's with differing outcomes and commencement dates results in a skewed competitive market-place which benefits certain FTA exporting countries and attracts non-FTA exporting countries to "dump" into the importing country. The cost to Australian industry from other exporting countries matching prices of U.S. exports to Australia will cause material damage to Australian manufacturers, placing considerable stress upon Australia's anti-dumping system.

Qenos calls upon the Federal Government to boost its resources in the administration of Australia's anti-dumping system, to ensure trade remedies are acted upon without delay.

Finally, FTA's should attempt to ensure that Rules of Origin are harmonized and simplified to ensure benefits are not lost in the administration and compliance of these rules. The proposed Rules of Origin for the Australia-United States FTA are extremely complex and cumbersome and do not assist in simplifying trade between the two countries.

If you have any questions concerning this submission, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stephen Bell', with a stylized flourish at the end.

Dr Stephen Bell
General Manager - Commercial