

APPLICATION
FOR
CONTINUATION OF A DUMPING DUTY NOTICE

AMMONIUM NITRATE

exported from

THE RUSSIAN FEDERATION

1. Provide details of the name, street and postal address, of the applicant seeking the continuation.

The applicant industry requesting the continuation (or extension) of anti-dumping measures applicable to ammonium nitrate exported from the Russian Federation includes Orica Australia Pty Ltd and CSBP Limited.

The addresses for both companies are as follows:

(i) Orica Australia Pty Ltd
Level 2
15 Help St
Chatswood NSW 2067

(ii) CSBP Limited
Kwinana Beach Road
Kwinana W.A. 6966

2. Provide details of the name of the contact person, including their position, telephone number and facsimile number, and e-mail address.

The contact person at Orica Australia that can readily assist with inquiries regarding this application is:

Name: Mr Malcolm Hart
Title: AN Product Manager – Australia Asia
Telephone: (02) 9844 5536
E-mail: Malcolm.hart@orica.com

The contact person at CSBP Limited that can readily assist with inquiries regarding this application is:

Name: Dr Barney Jones
Title: Business Manager – Ammonium Nitrate
Telephone: (08) 9411 8518
E-mail: Barney.Jones@csbp.com.au

This application for the continuation of anti-dumping measures for ammonium nitrate exported from the Russian Federation has been prepared with the assistance of:

Name: Mr. John O'Connor
Company: John O'Connor & Associates Pty Ltd
Telephone: (07) 3342 1921
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Please refer to Confidential Attachment 1 for copies of Authority to Represent authorizations.

3. Provide the names, addresses telephone numbers, and facsimile numbers of other parties likely to have an interest in this matter

Other Australian industry members likely to have an interest in this matter include:

- (i) Queensland Nitrates Pty Ltd
Three Chain Road
P.O. Box 322
Moura Qld 4718
T/p: (07) 4997 5100
Fax: (07) 4997 1407
Email: DArmstrong@qnp.com.au

- (ii) Incitec Pivot Limited
Level 8, 28 Freshwater Place
Southbank Victoria 3006
T/p: (03) 8695 4400
Fax: (03) 8695 4419

4. Provide details of the current anti-dumping measure(s) the subject of this continuation application, including:

- **Tariff classification;**
- **The countries or companies specified;**
- **Date of publication of the measure.**

The goods covered by the anti-dumping measures includes ammonium nitrate exported to Australia from the Russian Federation (either directly or via Estonia).

Ammonium nitrate ("the goods") is classified to subheading 3102.30.00 statistical code 05 in Schedule 3 to the *Customs Tariff Act 1995*. The rate of duty on ammonium nitrate is 'free' from all sources.

A notice advising of the expiry of the measures was published on 13 July 2015 in *The Australian* newspaper (refer Non-Confidential Attachment 2). The Anti-Dumping Commission ("the Commission") published ADN No. 2015/88 notifying that the measures are due to expire on 24 May 2016. A copy of ADN No. 2015/88 is enclosed at Non-Confidential Attachment 3.

5. Provide a detailed statement setting out the reasons for seeking continuation of the anti-dumping measure. An application must establish reasonable grounds for asserting that expiration of the anti-dumping measures might lead, or be likely to lead, to recurrence of the material injury that the measures are intended to prevent.

(i) The Goods – Ammonium Nitrate

The goods the subject of anti-dumping measures that are due to expire on 24 May 2016 are as follows:

"ammonium nitrate, prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10kg, exported to Australia from the Russian Federation".

Ammonium nitrate is broadly classified into two grades – low density and high density. Low density ammonium nitrate is generally of solid prilled form and is typically used in the manufacture of explosives. It may be blended with fuel oil to make one of the most commonly used explosives in Australia.

High density solid ammonium nitrate is generally in granular form (can be in prill form) and is typically used as a fertilizer. High density ammonium nitrate can also be used in the manufacture of explosives (particularly emulsion based explosives).

In Trade Measures Report No. 168 the then Australian Customs and Border Protection Service (“ACBPS”) concluded that ammonium nitrate exported to Australia from the Russian Federation was almost exclusively of the high density grade and typically used in the manufacture of emulsion grade explosives. The two common means that high and low density ammonium nitrate is used in the manufacture of explosives are:

- (i) Ammonium nitrate fuel oil explosive (“ANFO”) = Low density ammonium nitrate + fuel oil (typically diesel fuel); and
- (ii) Emulsion explosive = Ammonium nitrate solution or high density ammonium nitrate prill + fuel oil + surfactants, which is used in emulsion based explosives

ANFO explosives are the most commonly used explosive in the mining industry. Emulsion explosives on the other hand are more expensive and are generally only used in wet conditions or for extremely hard ground.

In Report No. 168 the ACBPS re-affirmed its early findings (Reports No. 28, 104 and 105) that *“low density, high density and solution ammonium nitrate are sub-sets of the product group ammonium nitrate, and all of these goods are like goods.”*

The applicant companies consider the findings of Report No. 168 apply at the present time.

(ii) Application coverage

The anti-dumping measures applicable to exports of ammonium nitrate from the Russian Federation extend to all exporters and applies to both low density and high density ammonium nitrate.

Part A – Will the dumping continue or recur?

(iii) Anti-dumping actions by other countries

Anti-dumping measures apply to exports of ammonium nitrate from the Russian Federation in the following countries:

- the European Union (“EU”); and
- the United States of America (“USA”).

The EU has recently extended the anti-dumping measures applicable to exports of ammonium nitrate from the Russian Federation¹. The measures have been in force in the EU since 1995. Anti-dumping measures have applied on exports of ammonium nitrate from the Russian Federation to the USA since 1999.

(iv) Relevant evidence as to the current normal values for ammonium nitrate in the Russian Federation

Domestic natural gas prices in the Russian Federation

In Report No. 168 (and earlier reports for ammonium nitrate exported from the Russian Federation) normal values were determined on the basis that a ‘price control’ situation applied in relation to domestic sales of ammonium nitrate in the Russian Federation. This finding was based upon on available information that the price of natural gas used in the manufacture of ammonium nitrate can only be raised in

¹ Refer Commission Implementing Regulation (EU) No 999/2014 of 23 September 2014 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009.

accordance with the Russian Federal Tariff Department orders and that prices did not vary in response to market signals and without significant state interference.

The natural gas is the major raw material input used in the manufacture of ammonia and nitric acid for ammonium nitrate production. Natural gas is also used as a source of energy in the production process by Russian Federation manufacturers.

It was further found in Report No. 168 that the majority of gas produced in Russia is by the government controlled Gazprom. It was determined that *“the impact of the regulation of Russian domestic natural gas prices was found to be substantial with prices paid for natural gas supplied by natural gas producers other than Gazprom were significantly higher than prices for Gazprom natural gas”*². Additionally, it was found that *“Russian domestic selling prices for natural gas were much lower than Russian export prices for natural gas”*.

In 2014, Gazprom remained the dominant supplier of gas on the Russian domestic market, accounting for approximately 69 per cent of total gas production. Russian natural gas prices continue to be regulated by the Federal Tariff Service (“FTS”), with wholesale domestic prices officially published on the FTS website³. The number of regions where the FTS regulates gas prices in Russia is approximately 60. The natural gas tariffs are regulated/ fixed in local currency Rouble per thousand cubic metres and are VAT free. Gas tariffs are provided as minimum and maximum ranges for each region. The tariffs are published on the basis of the heat calorific value of gas of 7,900 Kcal/m³ (33,080 kJ/m³). The latest indexation of tariffs came into effect on 1 July 2015, with an overall increase of approximately 7 per cent compared to previous rates (for the 2014/15 investigation period).

The influence of the Russian Federation government on natural gas prices continues to prevail and impacts the selling prices of ammonium nitrate (whether sold domestically or for export). Russian Federation domestic gas prices continue to remain artificially low due to the intervention of the Russian government (via the FTS) to fix natural gas prices. It is the applicants’ understanding that domestic gas prices in the Russian Federation for domestic industrial customers continue to be significantly lower than export sales of natural gas. The available published information concerning export prices for Russian natural gas is confirmed via the Russian natural gas price border price in Germany, which averaged US\$9.3 per mmbTU during 2014/15⁴ (price also includes a transmission charge of US\$2-2.5 per mmbTU). When contrasted with the domestic gas price in Russia of US\$3.15 per mmbTU over the same period, it is evident that the Russian Federation government’s influence on domestic gas prices continued in 2014/15.

Russia was granted admission to the World Trade Organisation (“WTO”) in August 2012. For Australia’s Anti-Dumping and Countervailing System, the Russian Federation is no longer considered an “economy-in-transition” and is recognized as a market-economy country. However, as outlined above, the major raw material input used in the manufacture of ammonium nitrate – natural gas – is the subject of intervention by the government of the Russian Federation. Domestic selling prices for natural gas in the Russian federation are at prices lower than they otherwise would be except for the government’s intervening policies (i.e. regulation by the FTS).

It is further submitted by the Australian industry applicants that the energy prices of the ammonium nitrate producers in the Russian Federation are also the subject of government influence. In this regard, electricity prices to industrial customers in the Russian Federation are also artificially low.

² Trade Measures Report No. 168, P.21.

³ www.fstrf.ru/

⁴ Refer www.indexmundi.com/commodities/?commodity=russian-natural-gas&months=60 (See also Non-Confidential Attachment 4).

The impact of government influence on natural gas and electricity prices in the total production cost of ammonium nitrate in the Russian Federation is such that the domestic selling prices of the ammonium nitrate sold in the Russian Federation are unsuitable for determining normal values under s.269TAC(1) of *the Customs Act*. The Applicants contend that market selling prices for ammonium nitrate in the Russian Federation are artificially low and that a 'market situation' for ammonium nitrate sold in the Russian Federation prevails.

It is further submitted that as electricity prices are also the subject of government influence, the impact of both artificially low gas and electricity prices on the total domestic selling prices for ammonium nitrate in the Russian Federation, renders these selling prices unsuitable. However, for the purposes of a prima facie normal value for ammonium nitrate in the Russian Federation, the applicants have constructed a Russian Federation ammonium nitrate selling price (using a production cost methodology).

Russian Federation normal value – ammonium nitrate

The applicants have obtained representative production cost data for ammonium nitrate from a reputable industry source, adjusted for a market price for natural gas (i.e. natural gas price net of transmission charge) at the German border.

The estimated normal value for ammonium nitrate sold in the Russian Federation in 2014/15 is detailed in Table 1 below.

Russian Cost Summary	Normal Value At actual prices US\$	Normal Value with surrogate gas price US\$
Gas cost at Plant US\$/mmBTU	\$3.15	US\$7.03
Gas conversion		
Gas cost US\$/tonne		
Other Cash costs		
Total Cash costs ex-works		
Depreciation		
Production Cost (Incl Dep ⁿ)		
ROE 0.80 US\$:A\$		
S,G&A		
Profit @ 15 per cent		
Total CTM&S + Profit	A\$345/ tonne	A\$444/tonne

Notes:

1. Refer to independent cost data ex [entity] at Confidential Attachment 5.
2. Depreciation based upon US\$300M capex over 30 years for 200kt p.a.
3. Profit is based upon estimated industry return;
4. S,G&A based upon Australian industry estimates (from Confidential Appendix A6.1).

The constructed selling price for ammonium nitrate in the Russian Federation at the ex-works level with a surrogate gas price (based upon gas at German border) is estimated at A\$444 per metric tonne. It is highlighted that this selling price is ex-works and requires adjustment to include domestic freight costs from the Russian plant to the port of export, and additional loading and handling charges.

(v) Have exports continued following the imposition of measures and estimates of export prices

Exports of ammonium nitrate from the Russian Federation have continued following the continuation of the measures from 24 May 2011. The following Table 2 details import volumes from the Russian Federation since 2011.

Table 2 – Import volumes of ammonium nitrate from the Russian Federation (Metric tonnes)

Source	2011/12	2012/13	2013/14	2014/15
Russian Federation	20,345,500	2,549,212	15,749,365	3,664,800
China	65,920,181	90,851,591	38,092,238	23,638,068
Ukraine	29,511,910	44,127,698	95,022,239	30,143,171
Others	180,758,842	87,026,934	152,081,511	84,876,138
Total	296,536,433	224,555,435	300,945,353	142,322,177

Source: Australian Bureau of Statistics monthly import data⁵.

Russian Federation exporters of ammonium nitrate have continued to supply the Australian market following the imposition of measures. It is also understood by the applicants that some Russian Federation exports to Australia are included within the export volumes disclosed as having originated from the Ukraine.

(vi) Have Russian Federation exporters maintained distribution links in Australia?

Russian Federation exporters of ammonium nitrate have maintained distribution links into the Australian market. It can be seen from the rapid increase in Russian Federation exports from 2012/13 to 2013/14 that Russian Federation producer/exporters can swiftly increase export volumes to Australia via already developed distribution links into the Australian market. It is also understood that NitroSibir, a new Russian-backed explosives company has recently established a presence in Australia. This company would likely seek to source Russian AN from its known sources in the Russian Federation.

(vii) Do Russian Federation producers/exporters retain excess capacity that may be directed to Australia?

The Australian market for ammonium nitrate is estimated at approximately in excess of 2 million tonnes per annum. Russian Federation producers account for the largest source of ammonium nitrate globally, with access to artificially low, abundant gas supplies.

According to [company], Russian ammonium nitrate manufacturers have installed capacity for 750,000 tonnes of explosive (i.e. low density) grade ammonium nitrate, plus a further 9 million tonnes of capacity of fertilizer grade ammonium nitrate⁶. Whilst these volumes are reported numbers, it is understood that certain Russian AN producers do have the capability to shift to explosive grade ammonium nitrate if required.

⁵ Refer Confidential Attachment 6 for ABS import data for ammonium nitrate from 2011.

⁶ Refer Confidential Attachment 7 for [company] plant capacity tables for explosive grade and fertilizer grade ammonium nitrate in Russia.

Australia is a large market for explosive grade ammonium nitrate and hence is attractive for large capacity producers. As the Russian Federation is the largest source of ammonium nitrate, access to large ammonium nitrate customers in Australia is very attractive for producers in the Russian Federation.

(viii) Will future exports from the Russian Federation be at dumped prices

The applicants consider that the anti-dumping measures against exports of ammonium nitrate from the Russian Federation – both low density and high density – have been effective in minimizing dumped and injurious exports to Australia from the Russian Federation.

Table 3 – Estimated Dumping Margins for Russian Federation ammonium nitrate exports 2014/15

Period	Normal Value A\$/MT	Weighted-average Export Price A\$/MT	Dumping Margins A\$/MT
Jul-Sep 2014	\$532	\$479	\$53
Oct-Dec 2014	\$532	\$502	\$30
Jan-Mar 2015	\$532	\$557	-\$25
Apr-Jun 2015	\$532	\$445	\$87
Total	\$532	\$486	\$46

Notes:

1. Normal value is based upon surrogate gas from Table 1, adjusted for inland freight (increase of US\$50/MT plus storage, handling & port charges in export port of US\$20/MT, rate of exchange 0.80, for fair comparison with export prices that include overseas inland freight and port & handling charges);
2. Weighted average export prices sourced from ABS data;
3. Dumping margins based upon weighted average numbers.

The applicants contend that exports of ammonium nitrate from the Russian Federation have been at dumped prices in 2014/15. It is therefore likely that, in the absence of anti-dumping measures, future exports of ammonium nitrate from the Russian Federation will be at dumped prices.

Part B - Will Material injury recur?

(ix) In the absence of measures, will future imports of ammonium nitrate from the Russian Federation cause injury, or threaten to cause injury, to the Australian industry?

Orica and CSBP submit that in the event the measures on ammonium nitrate exported from the Russian Federation are allowed to expire, there exists a very real likelihood that exporters in the Russian Federation will seek to increase export volumes to Australia. The basis for these concerns include:

- the size of the Australian market;
- the relative stability of prices in the market;
- the ongoing networks maintained by Russian exporters in the Australian market
- the attractiveness of returns based upon low input costs for Russian Federation producers; and
- the potential for further expansion of the Australian mining sector over the longer term.

At the time anti-dumping measures were first imposed in 2001, the Australian market for ammonium nitrate was approximately 750,000 tonnes per annum. The Australian industry – including the applicant companies – have continued to invest in ammonium

nitrate capacity since that time to achieve local installed capacity that now exceeds 2.2 million tonnes.

CSBP's Kwinana, W.A. facility has undergone two major expansions and has an annual capacity of approximately 780-800,000 tonnes. Orica's Kooragang Island, NSW and Yarwun, Queensland facilities have each increased production capacity to approximately respectively 450,000 and 550,000 tonnes each. CSBP also has a 50 per cent share in the 216,000 tonne QNP facility at Moura, Queensland. Incitec Pivot has recently completed its 330,000 tonne facility at Moranbah, Queensland. A further ammonium nitrate facility (JV between Orica and Yara) is currently under construction in the Burrup, Pilbara region of W.A.

The expansions and new investments in Australia's ammonium nitrate industry that supplies explosive grade ammonium nitrate to the mining industry has achieved the investments in the full understanding that the anti-dumping measures applicable to low-priced dumped imports from the world's largest ammonium nitrate source (i.e. Russian Federation) have been effective.

Had the measures not been in place it is considered likely that the investment programs of the last decade would not have been delivered with the budgeted returns anticipated.

The recent continuation of measures on ammonium nitrate in the EU and the ongoing measures in the USA highlight the respective administration's concerns that should measures be allowed to expire in both the EU and USA respectively, there is high likelihood that Russian Federation exporters would swiftly displace local production in both markets. The measures in the EU and USA also heighten the likelihood that should the measures be allowed to expire in Australia, exports from the Russian Federation would increase dramatically to secure large volume customers.

The economic performance of the Australian industry has been strong during the recent prolonged period of investment in the Australian mining industry. The Australian ammonium nitrate producers have assisted new mines and mine expansions with the surety of local supply. The current outlook suggests that the sector will experience a contraction and the installed capacity of Australia's ammonium nitrate producers will be squeezed. On 8 July 2015 Orica announced that it would reduce production at its Yarwun, Queensland facility⁷ in response to a "near term" oversupply in the Australian ammonium nitrate market. Should measures be allowed to expire it is likely that the oversupply position on the Australian market could deteriorate, with dumped exports from the Russian Federation displacing locally produced sales and imports from other sources of supply (at disruptive prices).

The applicants recognize that the relative volumes of ammonium nitrate exported to Australia from the Russian Federation are small. However, in 2000, the Russian Federation export volumes were also small as well as damaging from a pricing perspective. Russian Federation ammonium nitrate prices undercut the Australian industry's selling prices, resulting in material injury to the Australian industry. The measures have remained in force since May 2001 and have had the desired effect of limiting Russian Federation export prices at artificially low levels due to the benefit received by the Russian government to fix gas prices on an ongoing basis.

There does not appear to be any prospect that the Russian government will alter its current pricing arrangements for natural gas and permit prices to be determined by the market. There have been a number of initiatives to reform the Gas market in the Russian Federation over recent years, however these reforms have failed to materialize due to the continued strong central government control on gas pricing. As such, the Australian industry requires effective anti-dumping measures on exports of Russian Federation ammonium nitrate to correct the anomaly created by the Russian

⁷ Refer Non-Confidential Attachment 8.

government's decision to maintain below market prices for natural gas on the Russian domestic market.

CSBP and Orica have completed Confidential Appendices A6.1 for ammonium nitrate produced and sold in Australia. Please refer to the Confidential Appendix A6.1 data for each applicant company attached with this application.

Conclusions on dumping and material injury in the absence of measures on ammonium nitrate exported from the Russian Federation

The applicant companies CSBP and Orica account for approximately 75 per cent of total ammonium nitrate production in Australia and hereby formally request the Anti-Dumping Commission ("the Commission") to conduct an investigation into the continuation of anti-dumping measures on ammonium nitrate exported from the Russian Federation for a further five year period beyond 24 May 2016.

It is also understood that QNP (accounting for a further 10 per cent of total domestic production) is supportive of this application for the continuation of the measures.

CSBP and Orica are firmly of the view that should the measures be allowed to expire it is likely that the Australian industry would again be subjected to the dumping and material injury that the measures were intended to prevent. It is evident from this application that:

- exports of ammonium nitrate from the Russian Federation have continued whilst the measures have remained in force;
- the measures have been effective in ensuring that the exports were not at dumped and injurious prices, as evidenced by the economic performance of both applicant companies since the last continuation investigation;
- anti-dumping measures continue to apply on ammonium nitrate exported from the Russian Federation in both the EU and the USA;
- Russian Federation producers of ammonium nitrate continue to benefit from raw material natural gas and energy prices that are artificially low and are determined by the Russian government (i.e. the FTS);
- it is the applicants' position that ammonium nitrate prices in the Russian Federation are artificially low and that a market situation prevails in the Russian Federation in respect of ammonium nitrate prices;
- it appears that exports of Russian Federation ammonium nitrate exported to Australia in 2014/15 have been at dumped prices;
- The Australian industry has recently announced that it has "mothballed" some local production capacity for ammonium nitrate due to near-term oversupply concerns;
- the expiry of the measures will likely result in an increase in export volumes from the Russian Federation into a market that is by global standards relatively large and stable; and
- in the absence of measures, the export prices of ammonium nitrate from the Russian Federation will be injurious to the Australian industry manufacturing like goods and will likely undermine the projected returns on recently completed expansions of local production facilities (i.e. CSBP at Kwinana and Incitec Pivot at Moranbah).

It is submitted that the applicant companies have demonstrated "reasonable grounds" exist that should the measures on ammonium nitrate exported from the Russian Federation be allowed to expire, there is strong likelihood that the Australian industry

will experience a recurrence of material injury that the measures were intended to prevent.

It is therefore recommended that the Commissioner commence a formal investigation into the continuation of anti-dumping measures on ammonium nitrate exported from the Russian Federation under the Division 6A – Continuation of anti-dumping measures provisions of the Customs Act.