



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO.256

**REVOCATION REVIEW OF ANTI-DUMPING MEASURES
IN RELATION TO SODIUM HYDROGEN CARBONATE
(SODIUM BICARBONATE)**

**EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

9 November 2014

TABLE OF CONTENTS

1. SUMMARY AND RECOMMENDATIONS	4
1.1 Introduction	4
1.2 Findings	4
1.3 Proposed Recommendation	4
1.4 Application of law to facts	5
1.4.1 Authority to make decision	5
1.4.2 Application	5
1.4.3 Initiation of this revocation review	5
1.4.4 Statement of essential facts.....	5
1.4.5 Final report	5
2. Background.....	7
2.1 History of anti-dumping measures	7
2.2 Revocation review process	7
2.3 Responding to the statement of essential facts.....	8
3. GOODS SUBJECT TO THE REVOCATION REVIEW and THE Australian industry	10
3.1 Findings	10
3.2 The goods.....	10
3.3 Tariff classification of the goods	11
3.4 Like goods and the Australian industry	11
4. REVOCATION OF THE ANTI-DUMPING MEASURES.....	12
4.1 Findings	12
4.2 Applicant's submissions	12
4.3 Submissions by other parties.....	12
4.3.1 Cessation of production at Penrice	13
4.3.2 Producer of potential like goods	14
4.4 The Commission's assessment of the information and submissions	14
4.4.1 Cessation of production of sodium bicarbonate in Australia	14
4.4.2 Producer of potential like goods	15
4.4.3 The Commission's assessment	18
4.5 Date of revocation	18
4.5.1 Submission	18
4.5.2 The Commission's assessment.....	19
5. EFFECT OF THE REVOCATION REVIEW	20

PUBLIC RECORD

Abbreviation / short form	Full reference
Sodium Bicarbonate	Sodium hydrogen carbonate, which is also known as sodium bicarbonate, baking soda or bicarbonate of soda
Orica	Orica Australia Pty Ltd
Penrice	Penrice Soda Products Pty Ltd (Under External Administration)
VanderArk	VanderArk International Limited
The Act	Customs Act 1901
The Commission	Anti-Dumping Commission
The Commissioner	Commissioner of the Anti-Dumping Commission
The goods	the goods the subject of the review application (also referred to as the goods under consideration or GUC)
ADN	Anti-Dumping Notice
Oxford Dictionary	The Oxford Dictionary of Chemistry
Consolidated	Consolidated Chemical Co
FTA	FTA Food Solutions Pty Ltd
AusPac	AusPac Ingredients Pty Ltd
Causmag	Causmag International
Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry
SEF	Statement of Essential Facts
China	The People's Republic of China
2005 investigation	The anti-dumping investigation on sodium hydrogen carbonate exported from the People's Republic of China, initiated on 16 March 2005
2010 continuation inquiry	The continuation inquiry into whether anti-dumping measures should be continued with respect to sodium hydrogen carbonate, initiated on 30 April 2010

1. SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This revocation review is in response to an application by Orica Australia Pty Ltd (Orica) for the revocation of the anti-dumping measures that apply to sodium hydrogen carbonate (sodium bicarbonate) exported to Australia from the People's Republic of China (China).

Orica's application is based on circumstances that, in the applicant's view, indicates that the anti-dumping measures are no longer warranted pursuant to Section 269ZB(2)(d) of the *Customs Act 1901* (the Act)¹.

This Statement of Essential Facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (Commissioner) proposes to base his recommendation to the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) in relation to the revocation review.

1.2 Findings

Based on all available information, the Anti-Dumping Commission (Commission) finds that the anti-dumping measures relating to sodium bicarbonate exported to Australia from China should be revoked due to the fact that the sole Australian industry member, Penrice Soda Products Pty Ltd (Penrice), has ceased production of like goods. Therefore, the purpose of the anti-dumping measures, which is to remedy or prevent injury to the Australian producer of like goods to those subject to the measures, no longer exists.

1.3 Proposed Recommendation

Based on this finding and subject to any submissions received in response to this SEF, the Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice (as amended on 21 November 2013)² be revoked in relation to all exporters generally. It is proposed that any decision by the Parliamentary Secretary in this matter take effect from 22 July 2014, the date of publication of the notice under section 269ZC indicating the Commission's proposal to undertake the revocation review.

The effect of the proposed recommendation would be that interim dumping duties would not apply to the goods entered for home consumption on and after 22 July 2014, and that importers who had paid such duties would be eligible for a refund.

¹ A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

² Pursuant to section 269ZG(3) of the Act, the Parliamentary Secretary declared that with effect from 21 November 2013, the Act and the *Customs Tariff (Anti-Dumping) Act 1975* the original dumping duty notice applied to VanderArk International Limited, an applicant for an accelerated review, as if different variable factors relevant to the payment of duty by VanderArk had been fixed. The findings of this accelerated review are in the Anti-dumping Commission Report No. 235 (REP 235). For further information, see also Anti-Dumping Notice No 2014/44.

1.4 Application of law to facts

1.4.1 Authority to make decision

Division 5 of Part XVB of the Act sets out, among other things, the procedures to be followed by the Commissioner in conducting a revocation review of measures.

1.4.2 Application

On 25 June 2014, Orica, an importer of sodium bicarbonate from China, lodged an application requesting a revocation review of the anti-dumping measures applying to sodium bicarbonate exported to Australia from China in relation to exporters generally.

1.4.3 Initiation of this revocation review

After examining the application and other relevant information the Commissioner was satisfied that:

- the application complied with the requirements of s.269ZB; and
- there appeared to be reasonable grounds for asserting that the anti-dumping measures are no longer warranted.

A revocation review was initiated on 22 July 2014 with public notification in *The Australian* newspaper and publication of Anti-Dumping Notice (ADN) 2014/58.

1.4.4 Statement of essential facts

The Commissioner must, within 110 days after the initiation of a review, or such longer period as the Parliamentary Secretary allows, place on the public record a statement of the facts on which the Commissioner proposes to base a recommendation in relation to the application.

The initiation notice advised that the SEF for the investigation would be placed on the public record by 9 November 2014.

In formulating the SEF, the Commissioner must have regard to the application and any submissions concerning publication of the notice that are received by the Commission within 40 days after the date of initiation of the review. The Commissioner is not obliged to have regard to any submissions received after this period if to do so would, in the opinion of the Commissioner, prevent the timely placement of the SEF on the public record. The Commissioner may also have regard to any other matters he considers relevant in developing the SEF.

1.4.5 Final report

The Act requires that interested parties be given 20 days to lodge submissions in response to the SEF³. Interested parties should ensure that submissions to this SEF are received by **4 December 2014**.

The Commission is not obliged to have regard to any submissions received after **4 December 2014** if to do so would prevent the timely preparation of the

³ S.269ZC(7)(f)

PUBLIC RECORD

report to the Parliamentary Secretary.

The final report and recommendation in relation to whether the anti-dumping measures applicable to sodium bicarbonate exported to Australia from China are no longer warranted must be provided to the Parliamentary Secretary by **24 December 2014**.

2. BACKGROUND

2.1 History of anti-dumping measures

Measures were initially imposed on imports of sodium bicarbonate from China on 3 November 2005 following an anti-dumping investigation (2005 investigation). These measures were imposed following an application from Penrice Soda Products Pty Ltd (Penrice), a producer of like goods in Australia.

In July 2006, a review of measures was initiated at the request of the Minister. As a result of this review the measures were varied, with effect from 14 May 2007.

In 2010 a continuation inquiry (2010 continuation inquiry) and another review were initiated following the consideration of applications by Penrice. As a result of this continuation inquiry and review, anti-dumping measures applying to sodium bicarbonate were extended for a further five years, and the level of measures varied.

In 2013, following an accelerated review, an exporter specific anti-dumping measure for sodium bicarbonate exported by VanderArk International Limited (VanderArk) from China was imposed effective from 21 November 2013.

The current measures relating to sodium bicarbonate are due to expire on 3 November 2015.

2.2 Revocation review process

Application

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to apply for a review of those measures as they affect a particular exporter or exporters generally.

An affected party may apply for revocation of the measures if there are reasonable grounds to assert that the anti-dumping measures are no longer warranted.

If an application for a review of anti-dumping measures is received, and not rejected, the Commissioner has up to 155 days, or such longer time as the Parliamentary Secretary may allow, to inquire and report to the Parliamentary Secretary on the review of the measures.

SEF

Within 110 days of the initiation, or such longer time as the Parliamentary Secretary may allow, the Commissioner must place on the public record a SEF on which he proposes to base his recommendation to the Minister concerning the review of the measures.

Final Report

In making recommendations in the final report to the Parliamentary Secretary, the Commissioner must have regard to:

- the application for a review of the anti-dumping measures;

PUBLIC RECORD

- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the SEF;
- this SEF; and
- any submission made in response to this SEF that is received by the Commission within 20 days of being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.

The Commissioner:

- must not make a revocation recommendation in relation to the measures unless a revocation review notice has been published in relation to the review; and
- otherwise must make a revocation recommendation in relation to the measures, unless the Commissioner is satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent⁴.

Following the Parliamentary Secretary's decision, a notice will be published advising interested parties of the decision.

2.3 Responding to the statement of essential facts

Interested parties may wish to make submissions in response to this SEF. However, the Commission is not obliged to have regard to any submissions received after **4 December 2014** if to do so would prevent the timely preparation of the report to the Parliamentary Secretary.

Submissions should be sent to:

The Director
Operations 3
Anti-Dumping Commission
1010 La Trobe Street
DOCKLANDS VIC 3008

Or by email operations3@adcommission.gov.au or by fax to +61 3 9244 8902.

Submissions provided in confidence must be clearly marked **“FOR OFFICIAL USE ONLY”**. Interested parties intending to respond to the SEF must include a non-confidential version of their submission for placement on the public record.⁵

The public record contains non-confidential submissions already received from interested parties and other publicly available documents such as the Commission's consideration report and notices. This SEF should be read in conjunction with those documents.

⁴ S.269ZDA(1A)

⁵ In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

PUBLIC RECORD

All documents on the public record are available on the Commission's electronic public record for the review, which may be accessed online at <http://www.adcommission.gov.au/cases/EPR256.asp>.

Documents included in the public record may be examined at the Commission's office by contacting the Case Manager on (03) 9244 8268.

3. GOODS SUBJECT TO THE REVOCATION REVIEW AND THE AUSTRALIAN INDUSTRY

3.1 Findings

There is no longer an Australian industry producing like goods⁶ subsequent to Penrice ceasing the production of like goods on or about 24 June 2014.

3.2 The goods

The goods subject to the measures (the goods) are:

*sodium hydrogen carbonate, which is also known as sodium bicarbonate, or baking soda*⁷.

Method of production

As identified in the 2005 investigation and 2010 continuation enquiry, sodium bicarbonate is a downstream product of the soda ash manufacturing process. It is manufactured using two different production methods. The first is the natural alkali method in which alkali is mined, purified, filtered, carbonised and dried before packing. The second method is the Solvay method, which is a synthetic process that includes crude bicarbonate formation, filtration, light ash finishing and refining.

The sodium bicarbonate exported to Australia from China is manufactured by both the natural alkali and Solvay methods.

Categories of goods – specialty packs or regular packs

Both the 2005 investigation and 2010 continuation inquiry established that the goods, as described above, include both 'specialty packs' and 'regular packs'. Specialty packs refer to sodium bicarbonate that is in packages of less than 25kgs. Regular packs refer to sodium bicarbonate that is unpackaged or is in packages of 25kgs or more.

In the original investigation it was found that the majority of sodium bicarbonate exported to Australia from China was packaged in 25 kg bags or bags containing one tonne or more of the goods, referred to as 'regular packs'. These goods can be used in a range of applications including agriculture, food and general purpose.

A small quantity of sodium bicarbonate was exported with features including high quality packaging materials, end users' brand graphics, tamper evident caps and zip locks. These packs were general purpose/industrial grade sodium bicarbonate destined for use in swimming pools and are referred to as 'specialty packs'.

⁶ For the purposes of s.269T.(1)

⁷ Trade Measures Branch Report No 98 on Sodium Hydrogen Carbonate (Sodium Bicarbonate) from the People's Republic of China - 2 October 2005

3.3 Tariff classification of the goods

The goods are classified to tariff subheading 2836.30.00, statistical code 27 in Schedule 3 of the *Customs Tariff Act 1995*. The rate of duty is 'free' from all sources.

3.4 Like goods and the Australian industry

In the 2005 investigation and the 2010 continuation inquiry, it was found that Penrice was the sole manufacturer of sodium bicarbonate in Australia and that the goods were manufactured at its Osborne chemical plant in South Australia.

The applicant in this revocation review, Orica, submitted that Penrice had ceased producing sodium bicarbonate and that they were the only Australian producer producing sodium bicarbonate.

No other information has come to the Commission's attention suggesting that there is any other Australian industry member currently producing sodium bicarbonate. Further discussion in relation to issue of like goods is contained in section 4.3.2 of this SEF.

4. REVOCATION OF THE ANTI-DUMPING MEASURES

4.1 Findings

The Commission has made the findings that:

- the anti-dumping measures applying to sodium bicarbonate are no longer warranted;
- as a result of the review, revoking the measures would not lead or be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent; and
- the dumping duty notice be revoked with effect from 22 July 2014, the date of publication of the notice under section 269ZC indicating the Commissioner's intention to undertake the revocation review.

4.2 Applicant's submissions

Orica claimed in its application for this revocation review that the measures were no longer warranted for sodium bicarbonate exported to Australia from China. The application requested the Parliamentary Secretary revoke the current measures on the basis that Penrice had ceased manufacturing sodium bicarbonate in Australia and, therefore, there was no longer an Australian industry producing like goods.

Orica provided a copy of a letter, dated 24 June 2014, from the external administrators of Penrice to the Australian Stock Exchange (ASX) notifying, in part, that Penrice's Osborne chemical plant had ceased operations.

Subsequent to initiation of this review, Orica made a further submission. Orica submitted that the effective date for the revocation of the measures should be the initiation date of the review.

4.3 Submissions by other parties

The Commission received four submissions:

- Consolidated Chemical Co (importer);
- FTA Food Solutions Pty Ltd (importer);
- AusPac Ingredients Pty Ltd (importer); and
- Causmag International (manufacturer of magnesium oxide).

Copies of the non-confidential versions of the submissions were placed on the public record.

The submissions primarily addressed whether the anti-dumping measures are no longer warranted and whether the revocation of the measures would likely lead to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent. While the majority of the submissions discussed the cessation of production at Penrice, a producer of magnesium oxide submitted that its industry could be affected by the proposed revocation of measures relating to sodium bicarbonate.

4.3.1 Cessation of production at Penrice

Consolidated Chemical Co (Consolidated)

Consolidated advised that it was concerned with the importation of sodium bicarbonate.

Consolidated stated in its submission that:

"We contend that Anti-Dumping measures are no longer warranted because the measures are having no effect and there is no current injury.

This is due to the fact that the local manufacturer Penrice is no longer operating, with production ceasing at their Osborne, South Australia operations on 24 June 2014. The entity known as Penrice Group has administrators appointed, who have found no buyer. Furthermore it is understood from media reports that creditors are owed in the vicinity of \$200 million. In summary, there is no longer an Australian industry and there is little prospect of a reopening.

In support of our assertions regarding the closure of Penrice's operations, we have attached a message from the administrators that were appointed to wind up the Penrice Group.

Hence, since June 2014 there no longer exists the case where there is a causal link between any dumping and the material injury".

FTA Food Solutions Pty Ltd (FTA)

FTA advised that it was an importer of sodium bicarbonate. FTA's submission stated, in part, that:

"There is no longer a manufacturer of like goods in Australia. The only manufacturer- Penrice Soda Products- went into receivership and is no longer in existence as a buyer could not be found for the business. There is no alternative source or manufacturer within Australia and thus the concept of "injurious export pricing" from Chinese suppliers no longer applies. There is no longer an Australian industry to "injure" and therefore dumping measures can & should be revoked forthwith."

In support of its submission, FTA provided a copy of an article published on the Australian Broadcasting Commission's website, www.abc.net.au, titled "Penrice closure leaves Osborne site clean-up concerns"⁸. This article reported on the closure of the Penrice plant at Osborne and the issues surrounding the potential need for remediation work at this plant site.

PK Chemicals Pty Ltd trading as World Search (World Search)

World Search stated that it was an importer of sodium bicarbonate from China.

World Search stated in its submission that:

"The simple reason for revocation of anti-dumping measures in this case is that the domestic (Australian) manufacturer – Penrice Soda Holdings Ltd has ceased

⁸<http://www.abc.net.au/news/2014-06-26/penrice-closure-leaves-site-clean-up-concerns/5551330>

PUBLIC RECORD

chemical plant as of 24 June 2014 at the instructions of the company's Administrators – McGrath Nicol".

In support of its submission, World Search provided a copy of a media release from McGrathNicol announcing the cessation of operations at Penrice's Osborne chemical plant.

AusPac Ingredients Pty Ltd (AusPac)

AusPac advised that it had been involved in the sourcing and supply of sodium bicarbonate for use as an ingredient in the stockfeed industry for 9 years.

In its submission AusPac stated that:

"Our primary source of sodium bi-carbonate was from Penrice Soda Holdings in Osborne South Australia, which was to our knowledge the only manufacturer of this product in the country. We received notice from McGrath Nichol that the company had been placed in administration in April and continued trading with them through until advised they were ceasing all operations in early July of this year.

We support the revocation of the dumping duty imposed on imported replacement stocks of this product".

4.3.2 Producer of potential like goods

In its submission, Causmag International (Causmag) informed the Commission that it was an Australian manufacturer of magnesium oxide and that the stockfeed industry is one of its customers.

Causmag submitted that revocation of the measures could affect the Australian industry producing magnesium oxide as sodium bicarbonate competes with magnesium oxide in a particular market segment (ie animal stockfeed additive).

4.4 The Commission's assessment of the information and submissions

4.4.1 Cessation of production of sodium bicarbonate in Australia

The evidence before the Commission is that the sole manufacturer of sodium bicarbonate has ceased production of sodium bicarbonate. Both the applicant and all the submissions received from importers specified that Penrice had ceased manufacturing sodium bicarbonate at its Osborne plant. The administrators of Penrice have also confirmed with the Commission that production had ceased on 24 June 2014.

The 2005 investigation and the 2010 continuation inquiry identified that Penrice's Osborne plant was the only production facility in Australia manufacturing sodium bicarbonate. Submissions received by the Commission and enquiries conducted by the Commission during this revocation review have not identified any other members of Australian industry manufacturing sodium bicarbonate.

4.4.2 Producer of potential like goods

Causmag's submission raises the issue whether magnesium oxide is a like good for the purposes of establishing whether revoking the measures would result in the continuation of the injury the measures were intended to prevent.

The Commission notes that the 2005 investigation and 2010 continuation inquiry did not consider whether magnesium oxide was a like good.

Section 269T(1) of the Act defines like goods as being:

"..in relation to goods under consideration, means 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."

Where goods are found not to be identical, the Commission's policy is to consider whether the goods have characteristics closely resembling each other in relation to their physical likeness, commercial likeness, functional likeness and production likeness. These characteristics are discussed below.

1) Physical likeness

Sodium bicarbonate and magnesium oxide have differing physical and chemical characteristics.

The Oxford Dictionary of Chemistry (Oxford Dictionary)⁹ defines sodium bicarbonate as being " a white crystalline solid, NaHCO_3 , soluble in water and slightly soluble in ethanol; monoclinic; r.d. 2.159; loses carbon dioxide above 270 °C...."

The Oxford Dictionary describes magnesium oxide as being a "...white compound, MgO ; cubic; r.d. 3.58; m.p. 2800 °C...."

In the context of the above information, the Commission considers that sodium bicarbonate and magnesium oxide have different physical likenesses.

2) Production likeness

Information available to the Commission indicates that sodium bicarbonate and magnesium oxide are produced through different processes.

Both the 2005 investigation and the 2010 continuation inquiry stated that sodium bicarbonate could be manufactured either via the natural alkali method or the Solvay method. The 2005 Investigation report¹⁰ further described the production process for sodium bicarbonate as being:

"Sodium bicarbonate is a downstream product of the soda ash manufacturing process. It is manufactured using two different production methods. The first is the Natural Alkali method in which alkali is mined, purified, filtered, carbonised and

⁹<http://www.oxfordreference.com/view/10.1093/acref/9780199204632.001.0001/acref-9780199204632>

¹⁰ Trade Measures Branch Report No. 98 - Sodium Hydrogen Carbonate (Sodium Bicarbonate) from the People's Republic Of China - 2 October 2005

PUBLIC RECORD

dried before packing. The second method is the Solvay method, which is a synthetic process that includes crude bicarbonate formation, filtration, light ash finishing and refining. “

The Oxford Dictionary specifies that magnesium oxide either occurs naturally as the mineral periclase or is prepared commercially by thermally decomposing the mineral magnesite.

The Commission considers that that sodium bicarbonate and magnesium oxide do not have a common production likeness.

3) Functional Likeness

Both goods, whilst having similar end uses in cattle stockfeed, also have multiple alternative end uses.

The 2005 investigation and the 2010 continuation inquiry final reports identified that the Australian producer of sodium bicarbonate produced three grades of sodium bicarbonate – pharmaceutical grade, food grade and general purpose/industrial grade. The 2005 application¹¹ lodged by Penrice stated:

“Sodium bicarbonate is used in a variety of applications such as food additives, water treatment, stock-feed, chemical processing raw material, as a pharmaceutical raw material, aqua-culture and in rubber production and is either sourced from PSP or is imported.

Other end-uses include as a bath salt ingredient, fire extinguishers, cleaning preparations, as a laboratory agent and stockfeed buffer.”

In contrast, Causmag’s website specified that its main activity was the sale of magnesium oxide “...to the animal health industry for the prevention of grass tetany in dairy cattle”.

Causmag’s website¹² also identified other potential uses of magnesium oxide. These are listed in the table below. Causmag has advised the Commission that the table below lists all the potential uses of magnesium oxide. Casmag advised that the table is not representative of how magnesium oxide is used in the Australian market, where the uses are substantially less than those specified in the table. Causmag indicated that the main use of magnesium oxide in the Australian market was in the agriculture sector.

Abrasives	As a binder in grinding wheels
Animal feed supplement	Source of magnesium ions for chickens, cattle and other animals
Boiler (oil-fired) additives	Raises melting point of ash generated to produce a friable material that is easily removed; reduced corrosion of steel pipes holding steam as well as sulphur emissions

¹¹ Application For Anti-Dumping Duties - Penrice Soda Products Pty Ltd - February 2005

¹² <http://www.causmag.com.au/>

PUBLIC RECORD

	into the environment
Boiler feedwater treatment	Reduces iron, silica and solids
Chemicals	Starting point for the production of other magnesium salts such as sulphate and nitrate
Coatings	Pigment extender in paint and varnish
Construction	Basic ingredient of oxychloride cements used for flooring, wallboard, fibre board, and tile
Electrical	Semi-conductors; heating elements insulating filler between wire and outer sheath
Fertilizers	Source of essential magnesium for plant nutrition
Foundries	Catalyst and water acceptor in shell moulding
Glass manufacture	Ingredient for specialty, scientific and decorative glassware and fibreglass
Insulation	Light, flexible mats for insulating pipes
Lubricating oils	Additive to neutralise acids
Pharmaceuticals	Special grades of magnesium hydroxide, oxide and carbonate are used (sic) in antacids, cosmetics, toothpaste and ointments
Plastics manufacture	Filler, acid acceptor, thickener catalyst and pigment extender
Refractory and ceramics	Basic ingredient in product formulations for the steel industry
Rubber compounding	Filler, acid acceptor, anti-scorch ingredient, curing aid, pigment
Steel industry	Annealing process; coating for grain-oriented silicon steel used in electrical transformers
Sugar refining	Reduces scale build-up when used in juice clarification and precipitation
Sulphite wood pulping	Source of base of cooking liquors
Uranium, gallium and boron processing	Precipitation initiator by acid neutralisation
Wastewater treatment	Acid stream neutraliser; precipitates heavy metals

Table 1: Alternative uses for magnesium oxide

No submissions were provided to the Commission providing a detailed comparative analysis of the common and differing uses between sodium bicarbonate and magnesium oxide. However, based on the information available to the Commission which is specified above, the Commission considers that both sodium bicarbonate and magnesium oxide have similar applications (i.e. cattle stockfeed), however, each product also has other uses that do not overlap with each other.

4) Commercial likeness

From the information made available to the Commission, the Commission considers that magnesium oxide and sodium bicarbonate compete in the market place as alternative additives to cattle stockfeed. However, the Commission has insufficient information to establish the extent to which these products compete and the commercial inter-changeability of these products in the market.

4.4.3 The Commission's assessment

The Commission has formed the view that magnesium oxide and sodium bicarbonate are not like goods. Both products have different chemical compositions, use different raw ingredients and are manufactured through different processes. Even though both products may compete as alternative additives in cattle stockfeed, both products also have multiple differing applications.

Whilst the identified functional and commercial likeness are persuasive considerations when considering whether the goods are like goods, they are not determinative factors. When considering all the characteristics as a whole, it is the Commission's view that the characteristics of magnesium oxide are sufficiently different for it not to be considered to be like goods to sodium bicarbonate, which are the goods the subject of the measures.

As magnesium oxide is not a like good, it would appear that there is no longer an Australian industry producing like goods to the sodium bicarbonate which is the subject of the measures. Accordingly, the Commission's view is that pursuant to section 269ZDA(1A)(b) of the Act, there are no grounds to be satisfied that revoking the measures would lead, or is likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commission is of the view that without an Australian industry producing like goods, there will be no continuation of the injury the measures were intended to prevent. The Commission's finding is that the anti-dumping measures applying to sodium bicarbonate exported from China should be revoked.

4.5 Date of revocation

The Act provides for the Parliamentary Secretary to specify a date in his declaration that the dumping duty notice is effectively revoked from¹³. The date specified cannot be earlier than the date of initiation of the review¹⁴ of a dumping duty notice.

4.5.1 Submission

Orica submitted that the revocation of the measures should be from the date the review commenced (i.e. the date of initiation).

¹³S.269ZDB(1)

¹⁴ S.269ZDB(6)

4.5.2 The Commission's assessment

The Commission wrote to the external administrators of Penrice seeking further information in relation to Penrice and the company's cessation of sodium bicarbonate production. The purpose of this request was to establish when the potential for further injury to the Australian industry had ceased. The Commission sought information on whether the administrators were aware of any other sodium bicarbonate manufacturers in Australia, clarification on whether they were still seeking to sell Penrice's sodium bicarbonate plant as a going concern and information on whether they were still seeking orders for the purchase of any sodium bicarbonate that may be held in stock. The Commission was advised by the administrators that they were declining to respond to the Commission's enquiries.

The Commission has not received any other information or submission to indicate that injury is likely to be caused or continue if the measures were discontinued on any date after production ceased on 24 June 2014.

The Commission's view is that the initiation date of this review (22 July 2014), is an appropriate date for the revocation of the measures. This is the earliest effective date available to the Parliamentary Secretary to declare the measures as having been revoked. This date is also after the plant closure date.

The Commission's finding is that the anti-dumping measures applying to sodium bicarbonate exported from China comprising a dumping duty notice be revoked from 22 July 2014.

5. EFFECT OF THE REVOCATION REVIEW

The Commission has made the finding that with effect from 22 July 2014, the dumping duty notice (as amended on 21 November 2013) relating to anti-dumping measures applying to sodium bicarbonate exported from China should be revoked in relation to all exporters generally.

The effect of the findings would be that the anti-dumping measures on sodium bicarbonate would not apply from 22 July 2014. Interim dumping duties do not apply to the goods entered for home consumption on and after this date.