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18 November 2015

The Director
Operations 1
Anti-Dumping Commission
By email: operations1@adcommission.gov.au

Dear Director

Application for Continuation of Anti-Dumping Measures in respect of Ammonium Nitrate Exported from the Russian Federation (either directly or via Estonia) ("Application")

Public Record

We are writing in respect of the Application and the Consideration Report number 312 issued by the Commission in respect of the Application. We are an interested party due to our consumption of ammonium nitrate in the form of explosives used in open cut mining. As you may be aware, the mining industry currently faces enormous cost pressures. Not only are we cutting costs throughout our business, our suppliers have also had to tighten their belts and face the prospect that past investments will not achieve the levels of return that was expected. We are sure that the Commission appreciates that the anti-dumping measures it may choose to impose will result in a direct transfer of value from our business to the businesses of the domestic producers that it is protecting, and that lower prices for inputs such as explosives will help the Australian mining industry be internationally competitive. Glencore would be grateful for an assessment that is based on generally accepted factual data and application of the relevant provisions that takes this into appropriate consideration.

We should therefore like to make some more detailed submissions on the basis for the calculation of any countervailing duty or other such measure, and in particular in relation to whether the ammonium nitrate pricing results in any material injury to the Australian industry and the assessment of the normal value of ammonium nitrate for this purpose.

Material injury to Australian industry

The allegation of dumping arises from the control that is exercised by the Russian government over natural gas prices in Russia. As is set out in the Application, natural gas is a major cost input into the overall cost of ammonium nitrate.

However, natural gas is also used to produce ammonia. Ammonium nitrate is produced using ammonia as a feedstock. Ammonia is produced in Russia and also uses natural gas as its feedstock. Ammonia can be transformed into ammonium nitrate without the requirement for further natural gas, the required input being the energy required to bring about the required chemical reactions. Russian ammonia can be imported into Australia and used as an input for ammonium nitrate production by the Australian producers instead of producing ammonia themselves in Australia using Australian natural gas. To the extent that the Russian domestic gas price is reflected in cheaper ammonium nitrate prices we would also expect that it is reflected in cheaper ammonia prices, and therefore Australian producers of ammonium nitrate could avoid any material harm as a result of any dumping of Russian ammonium nitrate by producing ammonium nitrate using Russian ammonia as a feedstock. Ammonia is traded globally in three main markets, of which one relates to Russian ammonia production. Australian ammonia

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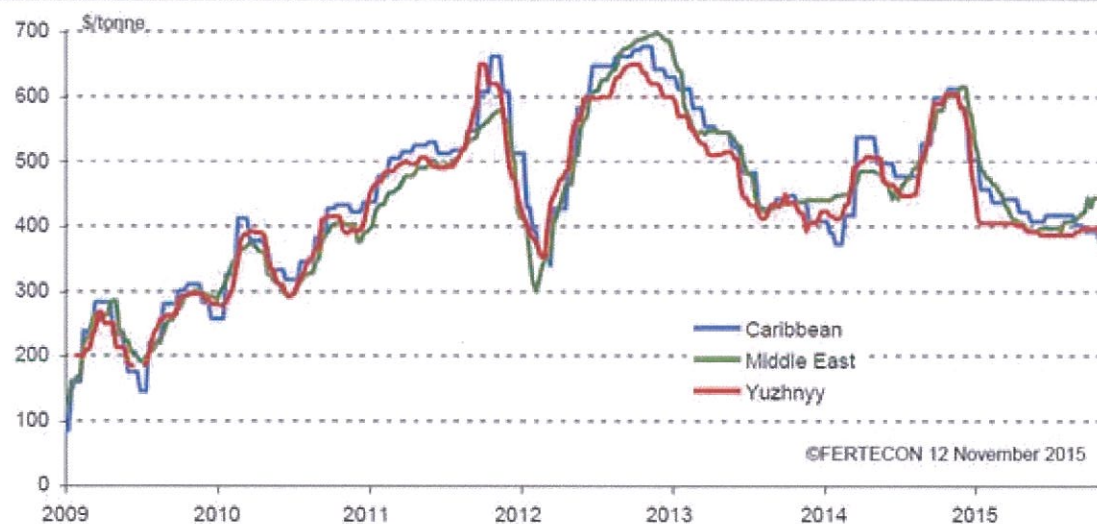
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production is not sufficiently significant to give rise to a market in its own right. Example prices for these three markets are set out below.

KEY PRICES

	12 November	5 November	29 October
Yuzhnyy fob \$/t	370-380*	370-380*	390-405
Middle East fob \$/t	420-450*	420-450*	420-470
Tampa/US Gulf cfr \$/t	420-425	420-425	420-425

AMMONIA PRICES



Applicant's normal value methodology

The Application constructs a normal value for ammonium nitrate imports based on a production cost methodology constructed by the applicants. While the details of the methodology have not been made public, it appears that calculation proceeds by taking information provided by the applications in relation to Russian production methodology and substituting an export net back price for the Russian domestic gas price which has been assumed by the applicants in their calculations. The Commission accepted this methodology for the purpose of initiating its enquiry. For reasons set out below, the production cost methodology used by the applicants is not in our view an appropriate one to adopt in the circumstances of this case. In any event, even if it were an appropriate methodology, the Application does not put forward any convincing case as to why the export net back price calculated on the basis of the price that gas is supplied by Russia to Germany is an appropriate measure of a "natural" value for Russian domestic gas prices which would exist in the absence of intervention by the Russian government in that market. We find the applicants primary claims (as set out on page 9 of the Consideration Report) to be unsubstantiated based on our understanding and experience of the relevant European gas market

The European gas market is characterised by a large demand for gas with limited current alternative sources of supply other than Russian imports, and by high barriers to entry due to the cost of constructing either new gas pipelines or LNG terminals to allow imports from other sources. Over the short to medium term it should be expected that European demand might be relatively inflexible to price changes because gas consumers would face a significant cost of switching to alternate energy sources and are able to absorb increases in the cost of gas as it makes up a generally low proportion of their total costs.

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It should be expected that Russian exporters would take the opportunity to maximise their profit position by charging the highest cost possible before other suppliers could enter the market. The Russian domestic market is in a different situation even in the absence of government intervention in the market. Given that GDP per person in Russia is significantly lower than in Western Europe, one would expect that in the Russian market demand might be considerably more sensitive to cost and therefore that lower prices than export would be anticipated. Notwithstanding that this is the case, it could not be assumed that all gas would simply be exported to Europe to obtain a higher price due to upper limits on both demand and export capability. For example, in the United States, where the gas market is not government controlled, the excess of supply over export capacity has led to lower prices than are even seen in the Russian domestic market - for example as at the date of this submission the Henry Hub Natural Gas Futures End of Day Settlement Price is at US\$2.36 per mmBtu¹ as compared to the US\$3.15 per mmBtu price which is quoted as the Russian domestic price in the Application.

Appropriate approach to normal value methodology

In the Report to the Minister number 169 the Commission found that the control of domestic gas prices in Russia amounted to an indirect form of control over the domestic price of ammonium nitrate in Russia and hence justified the determination of normal value in accordance with section 269TAC(4) rather than in accordance with section 269TAC(1) as would normally be the case. In our submission, the Commission was not correct to accept that any control of domestic gas prices in Russia was sufficient to justify a finding that the Russian government therefore determines or substantially influences the domestic price of ammonium nitrate in Russia. On that basis, we believe that the methodology set out in section 269TAC(1) should be used.

The price of any commodity in a competitive market is set on the basis of available supply and demand. Producers of a commodity which are motivated to maximise their profits will set prices at the level which will maximise their profit. The price at which a producer is able to obtain the inputs for its business does not have any direct effect on the price which the producer is able to achieve for the end product that it produces. The pricing for its end product is determined by the achievement of equilibrium between supply and demand in the market for the end product. In the present case, no evidence has been provided that the market in Russia for ammonium nitrate products functions on anything other than a competitive basis or that Russian producers of ammonium nitrate are interested in anything other than maximising their own profit position.

Therefore, the immediate result of lower input prices for Russian producers of ammonium nitrate is to increase the profit position of ammonium nitrate producers. Over the longer term the impact may be to increase the volume of ammonium nitrate production as new producers enter the market to compete away excess profits, but only to the extent that those excess profits are sufficient in order to enable new producers to overcome the barriers to entry to the market. To the extent that an increase in supply of ammonium nitrate lowers the profits which are able to be achieved, this would result in a new equilibrium price which would be lower than the equilibrium price which would prevail in the absence of the government restrictions on the domestic gas price. There has been no evidence produced to the Commission that any such increase in ammonium nitrate production has occurred. Furthermore, there has been no evidence produced that any resulting change in the equilibrium price of ammonium nitrate in Russia has been so significant that the impact of lower domestic gas prices can be characterised as substantially influencing the Russian domestic price of ammonium nitrate.

European Commission approach is more relevant if anti-dumping measures were considered appropriate

¹ <http://www.indexmundi.com/commodities/?commodity=natural-gas>

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As is mentioned in the Application, the European Union has recently extended its anti-dumping measures. The EU is the world's largest market for ammonium nitrate, accounting for 18% of total worldwide demand. In its assessment of the tariffs to be applied to Russian imports, the European Commission examined the difference between Russian domestic and export prices. That is, the Commission followed an approach along the lines of the section 269TAC(1) procedure for determining the "normal value" of ammonium nitrate. It appears that the normal value ascertained by this method would be substantially lower than the normal value calculated on the basis of the production cost methodology which has been used by the Applicant.

Given the lack of evidence to justify the Commission departing from the section 269TAC(1) methodology for determining the normal value of the goods, we submit that the Commission should adopt this methodology. The fact that the European Commission has adopted a similar methodology in a very recent submission should in our view be highly persuasive in respect of the approach that the Commission should take.

Commission's previous approach to normal value methodology

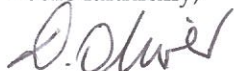
We note that in its previous Report, the Commission applied a normal value methodology in accordance with section 269TAC(4) and used the United Kingdom market for ammonium nitrate as the basis for determining the normal value of ammonium nitrate in the Russian market. Glencore questions the basis on which the United Kingdom market was used as the basis for this calculation. Whilst the process for the production of ammonium nitrate may be similar the world over, the costs of production are likely to vary considerably between different countries. We cannot see any basis for concluding that the United Kingdom is appropriately comparable to Russia for this purpose, given that the United Kingdom is a small country with an advanced, highly regulated, services-based economy whereas Russia is a large country with a primarily commodities and energy based economy. Glencore believes that bulk ammonium nitrate exported from China is available at an FOB cost which is only around US\$30 / tonne greater than the Russian prices. We would consider it much more likely that China would be an appropriate comparator to determine the normal price of ammonium nitrate in Russia if the Commission determines that it is not appropriate to use the actual domestic price of ammonium nitrate in Russia for this purpose.

Conclusion

Thank you for considering our submission. We appreciate that the domestic producers are in a better position to provide you with more detailed information on the industry than is contained in this submission. As an end user, we face a degree of information asymmetry which means that it is difficult for us to counter the assertions made in the Application, particularly where the information which supports these assertions is kept confidential. However, we hope that the Commission will require an appropriate burden of proof to be satisfied before imposing duties to dampen competition in this sector, and will recommend the imposition of any tariff greater than is required in order to address any legitimate anti-dumping concerns.

We would be pleased to discuss this with you if you require further information.

Yours faithfully,



Darren Oliver

Group Manager – Procurement

Coal Assets Australia

Glencore