

1 August 2018

The Director
Operations 2
Anti-Dumping Commission
Industry House
10 Binara Street
Canberra
Australian Capital Territory 2600

Sent by email – investigations2@adcommission.gov.au

Dear Director

EX0066 - ammonium nitrate exported from Russia

AECI Australia Pty Ltd, trading as AEL Mining Services (**AEL**), is an importer of high density ammonium nitrate (**HDAN**).

AEL agrees with the proposition that goods that are like or are directly competitive with HDAN are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

Accordingly, we support the granting of the exemption sought in the application that caused the initiation of this exemption inquiry, ie the application of Nitro Sibir Australia Pty Ltd (“Nitro Sibir”) dated 8 June 2018.

Thus, we add our voice to the request that the Minister exempt HDAN from interim dumping duty and dumping duty, under Section 8(7)(a) of the *Customs Tariff (Anti-Dumping) Act 1975 (CTAD Act)*.

We note that the application relates to HDAN that is currently subject to interim dumping duty and dumping duty from Russia. That country is the only source of HDAN that is presently subject to such duties. Nonetheless the principles by which HDAN should be exempted under that Section equally apply to HDAN from any source country.

What is HDAN and how it is used in the production of mining explosives

Ammonium Nitrate solution (**ANSol**) is a hot liquid formed by the reaction of ammonia and nitric acid. Both high density ammonium nitrate (**HDAN**) and low-density ammonium nitrate (**LDAN**) are produced from ANSol. This occurs by way of spraying the hot ANSol liquid through a “shower head” at the top of a high



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tower, known as a prilling tower. By the time the droplets of ANsol reach the bottom of the prilling tower, they have solidified.

The form of this solid AN is small spheres or prills, ranging in size, typically, from 1.5 – 2.5 mm in diameter.

Significantly different conditions in the prilling tower produce the two alternative forms of solid AN, namely HDAN or LDAN. These differences relate to the additives incorporated into the ANsol prior to the prilling process, the process conditions within the prilling tower and the subsequent drying and cooling downstream of the prilling tower.

In the case of HDAN the granules are smooth with very few fissures and voids, in the nature of, say, smooth beads and with a density typically 0.85 – 1.0 g / cc.

In the case of LDAN, the spheres are rougher, pock-marked and contain many pores and fissures (readily apparent under a microscope) and are of a much lower density, typically 0.7 – 0.8 gm /cc. This “porosity” gives LDAN the ability to absorb liquids such as fuel oil – a distinctive property that is utilised downstream in the manufacture of bulk explosives.

[REDACTED] {internal AEL industry knowledge} Typically HDAN plants are of a larger production scale than LDAN plants and are located manufacturing sites that are integrated with Ammonia manufacture and other manufacturing units that produce a range of Nitrogen fertilisers – globally the majority of HDAN is consumed in the agricultural market.

ANsol need not be turned into HDAN or LDAN. It can remain as ANsol, however if it is to remain in that state it must typically be stored in specific constructed tanks at concentrations of 85 – 90 % and at high temperature, ideally around 120 degrees Celsius, otherwise it will solidify. It is this tendency to solidify with only a few degrees lowering of temperature that makes ANsol extremely difficult to transport over long distances and potentially hazardous to store when heated and held at elevated temperature for extended periods of time.

In all of these respects ANsol is quite different to the stable, dry and solid HDAN and LDAN prills that are produced from it.

For that reason, where ANsol is not processed through a prill tower to form HDAN or LDAN it is typically transformed using emulsifiers, fuel and other additives into an ammonium nitrate emulsion a short time after it has been manufactured. This process is an emulsification of ANsol and fuel oil, achieved by adding water, specific emulsifiers, fuel oil (diesel) and other chemicals into the ANsol and processing it through special equipment under tightly controlled and monitored process parameters.

[REDACTED] {internal AEL industry knowledge}



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Ammonium nitrate emulsion can also be produced by melting HDAN back to ANsol by adding hot water and then incorporating emulsifier, fuel oil (diesel) and other chemicals into the ANsol and converting it to an emulsion utilising similar emulsification process equipment.

The companies that claim to be the Australian industry that produces “ammonium nitrate” produce LDAN and ammonium nitrate emulsion, and on the way to producing both of those also produce the intermediate material ANsol. Importantly, the Australian industry does not produce HDAN.

Nitro Sibir states in its application that it produces bulk ammonium nitrate emulsion. It does this using HDAN as the active ammonium nitrate ingredient. This HDAN is imported because, as stated, the Australian industry does not produce HDAN. AEL does the same thing.

On the basis that ammonium nitrate emulsion is within the scope of the dumping measures then Nitro Sibir and AEL are part of the Australian industry producing ammonium nitrate “products” too.

The above description brings my explanation to the point at which the products involved arrive at the mine site for their final mixing and deployment down blast holes. There are two ammonium nitrate products that are used at this final stage which, when combined with certain other ingredients, result in the final production of three different broad grades of mining explosives.

The two AN products are LDAN and ammonium nitrate emulsion.

The three common kinds of explosives used at the point of blasting, and which are typically mixed in mobile manufacturing / process units at the mine site, are the following:

- AN Fuel Oil (**ANFO**) - this is a mixture of 94% LDAN and 6% fuel oil (diesel). It is the cheapest form of blasting explosive. However, it works to best effect in dry conditions. It is not suited to drill holes where water is likely to have ponded or where seeping water is otherwise present.
- Heavy ANFO – this is typically a mixture of ~70% LDAN, ~30% ammonium nitrate emulsion and <5% fuel oil (diesel). The ammonium nitrate emulsion gives this product a higher density and therefore greater explosive power, meaning fewer holes need to be drilled. The emulsion also gives the heavy ANFO somewhat better performance in wet conditions than normal ANFO.
- Water resistant bulk explosive – this is made up of ~ 70% ammonium nitrate emulsion and ~30% LDAN, and because of the high emulsion content is both powerful and highly water resistant.

No like or directly competitive goods to HDAN are offered for sale in Australia

The exemption that has been asked-for by Nitro Sibir, for HDAN, requires the Minister to decide whether or not “like or directly competitive goods” to HDAN “are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade”. If not, the imports of HDAN should be permitted without the payment of dumping duties.



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In policy terms, what is being said by Section 8(7)(a) of the CTAD Act is that an Australian industry or consumer should not have to pay more for an imported product if nothing like or directly competitive to that product is available to the industry or consumer locally.

The further words of the exemption emphasise the liberal application that is intended for it. Even if like or directly competitive goods are offered for sale, they must also be offered “to all purchasers on equal terms under like conditions having regard to the custom and usage of trade”.

The applicant for the exemption, and AEL, import HDAN. We cannot get it from here in Australia. This is because it is not produced in Australia. [REDACTED]
[REDACTED] {internal AEL industry knowledge}

What AEL does with the HDAN is to add water and with heating melt it back into its ANsol state, then add emulsifier and fuel oil (diesel) and other process chemicals, thereby producing ammonium nitrate emulsion. AEL is aware that ammonium nitrate emulsion has been and can be offered for sale by the other Australian industry members. [REDACTED]
[REDACTED] {internal AEL industry knowledge}

More to the point, however, is the fact that neither ANsol nor ammonium nitrate emulsion are “like or directly competitive” to HDAN.

ANsol is used to make HDAN, and is therefore not like or directly competitive with it. HDAN can be melted to make ANsol, but again that does not make HDAN like or directly competitive with ANsol. [REDACTED]
[REDACTED] {internal AEL industry knowledge}.

The two products simply cannot be considered to be like or directly competitive with each other because:

- they exist in very different forms – a hot liquid as compared to dry prilled spheres, with the former requiring to be maintained at a high temperature with a limited storage life and the latter being stable product with a long shelf life;
- they are made by different processes involving different capital investment – HDAN is typically processed on a large scale in a dedicated prill tower, being a process, which creates the physical product differences we have already referred to, but ANsol is not;
- they must be transported and stored differently – because of their different physical characteristics, they are subject to quite different logistical requirements;
- they can be treated differently by regulatory authorities – HDAN is a stable and easily transportable, whereas ANsol has specific transport and storage constraints with respect to its movement.

“Likeness” for this purpose cannot be the “broad brush” principle of likeness that is typically the position adopted when application is made to the Commission to impose protective “dumping measures” in the first place. The exemption power starts from the proposition that measures are in place with respect to a group of goods, but that some of them may not be like imported ones that fall into that group or are not directly



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competitive with other goods in that group. To read the Section differently would be to make a nonsense of the provision concerned.

We believe that “likeness” in the context of an exemption request under the Section concerned should be given an ordinary meaning suited to the context. Are the goods like each other? We submit that no person putting ANsol and HDAN side by side could come to the conclusion that they were like each other, their physical state alone is so different as to preclude any “likeness”. Those differences are made even starker by considering whether they are “directly competitive” with each other.

Are they directly competitive with each other? It might be said that the products that are ultimately made from HDAN and ANsol – ANFO, heavy ANFO and water-resistant bulk explosives – are competitive with each other in a general sense. Even then we would not think that they are directly competitive with each other, because they are not products that are sold head-to-head in any market

{internal AEL industry and product usage knowledge}.

Again, however, the question of whether those explosives, or any upstream product is competitive with another product at the same production stage or in the same market is not the question that must be asked. The question is whether HDAN is directly competitive with ANsol. It is not.

{internal AEL production practice and industry knowledge}

Put simply, there is no relevant market competition between the two products. They are not like each other, they are used differently, and they are not directly competitive with each other.

The upshot of all of the above is that the Minister is entitled to grant the exemption requested. It is in the interests of that part of the Australian explosives industry constituted by those companies that use HDAN to make ammonium nitrate emulsion, and we therefore submit that he should grant the exemption.

The position appears to us to be quite clear. Nonetheless AEL does intend to expand upon these submissions as this exemption inquiry proceeds.

We also seek a meeting with the Commission in order to elaborate and explain our position with respect to this matter at the soonest possible opportunity.

Yours sincerely

Alan Rawiller
Strategic Sourcing Manager - Nitrates