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12 August 2016

The Director
Operations 2
Anti-Dumping Commission
55 Collins Street
Melbourne
Victoria 3000

By email

Dear Director

Chememan Co., Ltd
Alleged dumping of quicklime from Malaysia, Thailand and Vietnam

As you know, we act on behalf of Chememan Co., Ltd and its related companies in relation to this investigation.

We refer to an article published in *The Australian* newspaper on 11 July 2016 headed *"Cement a nice little churner for Adbri"* (copy attached). There are certain aspects of that article and of the comments attributed to Adelaide Brighton's Chief Executive that we believe are significant in the context of this inquiry.

Adelaide Brighton produces both cement and quicklime. In relation to cement, it has adopted a commercial strategy of winding back its cement production and importing that part of its customers' cement requirements that exceed domestic production output. It has closed down its cement kilns at Munster in Western Australia and has instead optimised the utilisation of its major cement clinker unit at Port Adelaide in South Australia.

This is explained in the article as follows:

> *[Adelaide Brighton's previous Chief Executive] inherited a loss-making business when he took the reins at Adelaide Brighton in 2001 and his most important strategic decision was to make the company a cement importer rather than an exporter. Brydon says it is a key reason for the turnaround in the company's profitability and its ability in recent times to ride through the cycles. Adelaide Brighton now imports half of its supply.*
>
> *"The beauty of that is we have only one major clinker-producing unit now in Port Adelaide. They are very capital-intensive; it costs you $500m to build one and the last thing you want to do is not use it," he says. "That now runs 24 hours, 7 days a week. The beauty of that is your capital cost is covered; we just flex imports up or down to meet demand."*

Adelaide Brighton now uses only its Port Adelaide cement kiln to produce cement, at full capacity, and imports the rest of the cement that it requires in order to supply the Australian market (which, according to the article, amounts to *"half of its supply"*). The article implies that this was a contributor to *"a record full year profit and lifted [ ] dividend, underpinned by the housing construction boom. It also delivered shareholders a special dividend."*

ABN 56 231 964 609

Apart from allowing us to better appreciate Adelaide Brighton's business strategy and the outcomes of that strategy, the article also caused us to further consider the question of costs – in the instant case, in relation to quicklime production – and what the information reported in the application, the Consideration Report and elsewhere might be telling us about those costs. This is because the strategy the company has followed in relation to cement has involved closing down its poor-performing and poorly positioned kilns, and retaining its better performing and better positioned kilns. This, we suggest, is what any company would do in the normal ebb and flow of its business.

We have already explained our views about the limited market, limited plant and limited regional focus of the application, and the inadequacy of such a *limited* focus when attempting to demonstrate that *material injury* has been *caused* by dumped imports to an *Australian industry*. Simply put, that approach is not appropriate for the purposes of a dumping analysis. The limited market cited by the applicant is the non-alumina sector; the limited plant which the applicant claims to have been injured is its Dongara plant; and the limited market is "Western Australia" (or even less of an area than that, given that freight costs would cause any producer to service customers closer to any particular plant).

From Figure 6 in the Consideration Report, we see increased and increasing *"Western Australian (Cockburn)"* prices in the investigation period. This is backed up by the applicant's public statements. This trend appears to be matching the cost trend in the investigation period, although the Commission observes that *"the amount by which prices exceeded costs has been decreasing during the injury analysis period from calendar year 2013"*. We suggest that one would be hard pressed to discern relevant "injury" in Figure 6 alone. It is showing little change across Cockburn's price and cost trends in the investigation period and, as we have highlighted, the Annual Report and recent media extols the profitability, performance and prospects of the applicant's lime business in both that period and subsequently.

We recall that the applicant has three lime kilns, two at Munster and one at Dongara. Figure 6 apparently includes information covering all quicklime sales in Western Australia, both plants and all three kilns. However Figures 7 and 11 relate to Dongara only and, it appears, only to sales from Dongara to non-alumina customers and not to all customers. This breakdown not only exposes the unprincipled way in which the applicant has chosen to present its data, it also reveals a number of other facts, or possibilities, that the Commission should consider.

The first of these is that there is every likelihood that the applicant has not reported all of its costs and all of its sales of quicklime to non-alumina customers in the data reproduced in Figures 7 and 11. If it is being suggested that it has done so, then that does not appear to be correct.

We are instructed that the likely capacity of the Dongara plant is around 100,000 MT per annum. From the application and the Consideration Report it is evident that the Western Australian market is roughly 1 million MT per annum. The majority of the Western Australian market is supplied by the applicant and, again as instructed, that market size is from 930,000 MT to 950,000 MT. We also know, from the same documents, that around 30% of the applicant's sales are to non-alumina customers. This would amount to 280,000 MT.

If the Dongara plant only produces 100,000 MT of product, and even assuming that all of it is sold to non-alumina customers, the other 180,000 MT supplied to the applicant's non-alumina customers must be produced at its Munster plant. If this analysis is correct (and we invite the applicant to clarify the situation) then the applicant's cost/price analysis in respect of its sales to non-alumina customers is incomplete and misleading, because:

- it does not reflect the cost of sales made to the applicant's non-alumina customers; and
- it does not reflect the prices of sales made to the applicant's non-alumina customers.

Accordingly, the analysis provided to you by the applicant and relied on in the Consideration Report cannot be accepted as a proper demonstration of injury in relation to sales to the applicant's non-alumina customers, even if that kind of an "isolated" inquiry was satisfactory for a determination of *material injury to an Australian industry*.

On the assumptions we have posited the Dongara information does not even represent half of the production of the goods sold in the market segment in the region that Cockburn claims it is being injured.

The second point that is relevant about the "costs" of Dongara – being the costs that are purportedly the costs of the applicant's sales to non-alumina customers - is that they were, presumably, higher than the costs at Munster in the investigation period, and more badly impacted by one-off events in the investigation period than were the costs at Munster.

In relation to the first presumption, we again highlight this statement from Adelaide Brighton's 2015 Annual Report:

> *The two lime kilns at our Munster plant are among the largest globally and are currently operating at 80% capacity. Operating margins are expected to improve in 2016 due to the Munster plant's low cost operation and the lower cost of gas in Western Australia.*

Dongara is not included in this statement, and no similarly complimentary statement is made about Dongara anywhere in the Annual Report. The conclusion would seem to be that Dongara is not operating at a capacity that is comparative to Munster, does not have as good operating margins as Munster, and does not operate at the lower costs that are experienced at Munster. The applicant, overall, is profitable, is expanding its sales, and is increasing its prices in its "lime division". The fact that one part of the overall operation is operating at different cost and efficiency and cost levels does not contradict the overall situation that the applicant enjoyed during the investigation period and that it still enjoys.

Apart from the lower efficiency of the Dongara plant, the Annual Report also discloses that the applicant's lime business was affected by two other factors in the period to which that Report applies (calendar 2015), each of which is unrelated to imports.

The first of these effects was something related to *"a customer impacted by a site disruption in the first half of 2014"*, an incident which appears to have carried on into the 2015 calendar year. We ask the Commission to specifically investigate what this relates to and how the applicant has chosen to attribute any continuing impacts of that event in its financial presentations to the Commission.

The second of these effects was the fact that the applicant's energy costs *"increased by $3.5 million due to a short term (now resolved) interruption to coal supply"*. The Commission is also requested to investigate the impacts of this, and how those impacts have been presented to the Commission. **[CONFIDENTIAL TEXT DELETED – opinion about production arrangements]** Moreover, if our client is correct in its estimation that around 90% of the applicant's lime is supplied from Munster, then a coal supply disruption impacting on Munster would have even more significant implications for the applicant.

If either or both of these two factors had a greater effect on Dongara than the effect that they had on Munster, then Dongara-only costs and performance would naturally present a worse picture to that of Munster, and would do so in circumstances where neither of those factors can be attributed to imports.

In summary, then, we note that the applicant's case revolves around the financial performance of one of its plants, in terms of that plant's sales to a market (the non-alumina market), where:

- the applicant's sales to customers in the non-alumina market far exceed the total production of the plant concerned;
- the plant is admitted by the applicant to underperform in comparison to its other, larger, plant; and
- the plant may have been uniquely affected by lower sales and higher costs in the investigation period through events which are unrelated to imports.

It is at this point that we return to where we started – namely, comments attributed to Adelaide Brighton's Chief Executive about "flexing" imports up or down to augment local production. We query whether this provides "context" for this application, in that Adelaide Brighton may also be considering a similar approach towards lime production as the one that it has applied to cement. Whether or not there is a dumping duty on imports would be a factor for Adelaide Brighton to take into account in that consideration.

We note the letter from the applicant dated 28 July 2016 that has been placed on the public record of this investigation.[1] That letter repeats the things that our client has put in its previous submissions and then simply denies them, without adding any additional information or justification. We invite the applicant to respond to the points we have made on behalf of our client in those letters and in this one by way of facts and argument instead of by rote denial.

Our client maintains its view that the injury argument advanced by the applicant defies the applicant's own reporting of its business results. Further, the presentation of its data in a way which emphasises the experience of one of its plants as opposed to another is inconsistent with law. And lastly, if our client's understanding of the production and sales of the applicant's two plants is correct, the applicant's data does not reflect the entirety of its financial performance in relation to the non-alumina market, which is the market segment upon which its claim that it has been materially injured by imports of quicklime is based.

Yours sincerely

Daniel Moulis
Principal Partner

Encl

[1] EPR016, at http://www.adcommission.gov.au/cases/EPR%20301%20%20350/EPR%20348/016%20-%20Submission%20-%20Australian%20Industry%20-%20Cockburn%20Cement%20Ltd.pdf

Attachment

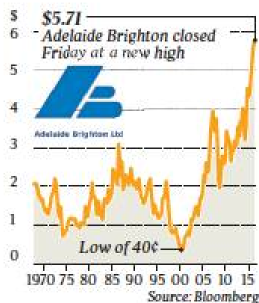
Cement a nice little churner for Adbri

EXCLUSIVE

DAMON KITNEY
BUILDING MATERIALS

HEIDI LINEHAN

Martin Brydon says switching to cement imports helped Adelaide Brighton stabilise its earnings



Martin Brydon is the first to admit he works in the most unglamorous of industries. But the 61-yearold Briton-turned-West Australian wouldn't have it any other way.

"I quite often talk about it not being the sexiest industry in the world. And it is also not the most complex. If you understand the core drivers of the business, it is not,'' says the chief executive of Adelaide Brighton, the largest producer of lime in Australia, the No 2 supplier of cement and clinker and the largest producer of concrete products.

"We are very much a no-fuss company — we don't get involved in other stuff. This is all we do, this is all we focus on. It might not be sexy but this is what we do.''

And in a world governed by complex algorithms, dreams of blockchain, and wholesale technological disruption, Brydon's old fashioned construction materials company has been quietly delivering the goods.

"I have done most roles in the business. So it probably is in the blood now,'' he says.

"I think what has kept me interested is Adelaide Brighton is growing so well. I think it has been a stellar performance which I don't think has been particularly well recognised. I think the share price is reflecting it now.''

Indeed, over the past six years, the shares have risen steadily from the $2.50 mark to over $5 in March and have continued on their upward trajectory since, closing on Friday at $5.71.

The building blocks were put in place in 1999 when the Perthbased Cockburn Cement, then a subsidiary of Britain's The Rugby Group, was acquired by Adelaide Brighton for $230 million.

Brydon was working for Cockburn at the time and had spent 18 years with the company, having started his working career in Australia with an electrical engineering traineeship at BHP Billiton in the group's Australian iron and steel

division at Kwinana.

He had moved to Perth from Britain with his family when he was 12 years old.

Joining Adelaide Brighton put Brydon into the orbit of the man who is now a company legend, long-serving chief executive Mark Chellew, who retired two and a half years ago. The two still stay in touch.

What Brydon says he learnt most from Chellew, who is now chairman of waste group Cleanaway and Manufacturing Australia, was the power of delegation.

“What stands out with Mark is that he let people get on and do the job. Mark was also a very good networker — that’s what he did. He spent a lot of his time doing that and I think he did that well,’’ he says.

Chellew said last year that Bydon was integral to the strong performance during his time as CEO, was a good strategic thinker and very focused on what he wants to achieve.

Chellew inherited a loss-making business when he took the reins at Adelaide Brighton in 2001 and his most important strategic decision was to make the company a cement importer rather than an exporter. Brydon says it is a key reason for the turnaround in the company’s profitability and its ability in recent times to ride through the cycles. Adelaide Brighton now imports half of its supply.

“The beauty of that is we have only one major clinker-producing unit now in Port Adelaide. They are very capital-intensive; it costs you $500m to build one and the last thing you want to do is not use it,’’ he says. “That now runs 24 hours, 7 days a week. The beauty of that is your capital cost is covered; we just flex imports up or down to meet demand. That goes a long way to explain the lack of volatility in our earnings. That has been done by design, it has taken 20 years to do, and we have had to build portside facilities across the country.’’ In February, Adelaide Brighton reported a record fullyear profit and lifted its dividend, underpinned by the housing construction boom. It also delivered shareholders a special dividend.

Brydon says the building boom has at least another year to run, joking that “I said the same a year ago’’.

Sydney and Melbourne are the main drivers, including infrastructure projects in both capitals.

It’s a comment backed by this week by Deutsche Bank, which said it expected Australian housing demand to remain at strong levels on the basis of continued low interest rates.

The bank’s strategist Tim Baker argues that while housing construction has risen solidly for three years now, it remains 20 per cent below the long-run trend. He says it will take a while longer to work off a decade of under-building. This has given Adelaide Brighton and its competitors scope for much-needed price increases of at least 3 per cent. Adelaide Brighton pushed through its first in six years in the Melbourne market last year.

“I think in the past two years post the mining boom, the Australian economy has proven how resilient it is. It has almost caught everyone off guard,’’ Brydon says.

The stock’s performance has been music to the ears of Adelaide Brighton’s biggest shareholders, most notably the deeply private Barro family, which has been creeping up the register and currently holds a stake of more than 30 per cent in the business.

“The share price reflects the good job that the management led by Martin is doing. We are very happy with the performance of the company,’’ says Raymond Barro, the group CEO who is the youngest of the four Barro children. “They have got the depots around the country now, which is really helping with the earnings.’’

Another shareholder, Argo Investments managing director Jason Beddow, says Adelaide Brighton is “at the stable end of building materials sector”.

“We have confidence in the strategy, it is a core holding for us. At the moment, there are a lot of industrial companies like this trading at higher multiples than average because of their stable earnings and good dividends,’’ he says.

The bigger questions posed by Martin Brydon relate to policy issues, including the consequences of Australia becoming simply an importer of cement in the future. “I think it is happening. Boral has closed plants. Boral is moving to emulate the Adelaide Brighton import model,’’ he says.

“There is no reason to think the market would not be supplied. But does that introduce issues such as supply risk or even sovereign risk.’’

He says the competition regulator needs to give the sector more flexibility in a world of greater imports. “There are 160 Australias in cement consumption terms in China. People don’t get this, they really don’t get this. Our 12 million tonnes

per year, which is tiny in global terms, is spread around the country. And the demand is centred around the capitals. To be viable and competitive and provide low-cost products to consumers, you do need scale because it is a capital-intensive business. On economic grounds alone, yes the industry needs to be looked at (by the regulator) but there is a strong case for consolidation,'' he says.

Adelaide Brighton says it has done detailed work on a potential $2 billion acquisition of the Australia and New Zealand operations of global group LafargeHolcim, including a plan to address competition issues raised by buying its local cement business.

Switzerland-based Lafarge-Holcim has been contemplating a potential spin-off of its Australasian arm after it said it had plans to divest $6bn worth of assets globally this year. But the assets still aren't on the market.

So Brydon is remaining disciplined and is content with bolt-on acquisitions, greenfields quarry developments and returning cash to its patient investors.

'There are 160 Australias in cement consumption terms in China'

MARTIN BRYDON

ADELAIDE BRIGHTON CEO