COCKBURN CEMENT

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Public File

Dear Mr Jeyarajah

Investigation No. 348 – Quicklime exported from Malaysia, Thailand and Vietnam – Cockburn Cement response to Statement of Essential Facts No. 348

I. Executive Summary

Statement of Essential Facts No. 348 ("SEF 348") recently published by the Anti-Dumping Commission ("the Commission") has preliminarily determined that exports of quicklime from Malaysia (except for exports by Unichamp Mineral Sdn Bhd), Thailand and Vietnam were at dumped prices above negligible levels and that the Australian industry has suffered injury, however, that the dumping has resulted in "negligible" injury to the Australian industry.

For the purposes of the investigation, Cockburn Cement Limited ("Cockburn Cement") is representative of the Australian industry manufacturing quicklime in Australia. Cockburn Cement accounts for in excess of xxx per cent of local production of quicklime, with manufacturing facilities located at Munster and Dongara in Western Australia (W.A.).

It is Cockburn Cement's view that SEF 348 does not reflect the impact that dumped exports of quicklime from Malaysia, Thailand and Vietnam have had on the Australian industry's economic performance across the injury period. As evidenced in its application, Cockburn Cement has lost sales volumes and market share to the dumped and injurious exports, reduced its selling price at certain customer accounts to maintain sales, and has experienced an erosion of margin resulting in a deterioration of profits and profitability. This injury is material (see below) in the investigation period and will continue without anti-dumping remedies.

Cockburn Cement requests that the Commission reassess the materiality of the injury sustained from the dumped exports and take full account of the quantification of the injury as outlined in this submission. Based upon Cockburn Cement's assessment, the dumped exports undercut the non-injurious selling price of the Australian industry. This price undercutting has necessitated Cockburn Cement to reduce its selling price leading to an erosion of contribution margin, and subsequent reduction in profit and profitability.

Following assessment of Cockburn Cement's representations, it is anticipated that the Commission will have an enhanced understanding of Cockburn Cement's vulnerability to the injury caused by the dumped exports.

Cockburn Cement reaffirms its position that anti-dumping measures are required to stem further material injury from the dumped exports. Having taken account of the matters raised in this submission, Cockburn Cement requests that the Commission rescind its proposed recommendation to terminate its investigation into exports of quicklime from Malaysia, Thailand and Vietnam, and takes steps to publish a preliminary affirmative determination ("PAD") at the earliest opportunity. Thereafter, it is requested that the Commission include a recommendation in its report to the Minister that anti-dumping measures be applied on dumped exports from Malaysia, Thailand and Vietnam to prevent further material injury to the Australian industry manufacturing quicklime.

II. Exports at dumped prices

SEF 348 confirms the following preliminary dumping margins for cooperative exporters of quicklime to Australia throughout the investigation period:

Exporter/manufacturer	Dumping margin
Chememan Company Limited (Chememan Thailand)	12.3 per cent
Binh Son Investment and Mineral Company Limited (BSIM) Vietnam	30.5 per cent
Unichamp Mineral Sdn Bhd (Unichamp Mineral) Malaysia	- 4.2 per cent
RCI Lime Sdn Bhd (RCI Lime) Malaysia	7.6 per cent

The above Table reflects the Commission's published preliminary dumping margins as referred to in Table 7 of SEF 348.

Cockburn Cement welcomes the Commission's findings that exporters (with the exception of Unichamp Mineral) have been exporting to Australia at dumped prices.

III. Material injury

Following verification of Cockburn Cement's economic performance over the injury period, the Commission concluded that Cockburn Cement had suffered injury in the investigation period in the following forms:

- Reduced market share;
- Price suppression;
- Reduced profits;
- Reduced profitability; and
- Reduced capacity utilisation.

It was further observed by the Commission that Cockburn Cement's domestic sales volumes had declined since 2012, with a "slight" improvement in 2015, with the sales volume in 2015 lower than in 2012 (refer Figure 5 at Section 7.4.1 of SEF 348). Cockburn Cement reiterates that it has continued to lose sales volume to the dumped exports, as the export volumes grow year-on-year between 2012 and 2015. The growth in export volumes are sales that Cockburn Cement believes that it would have supplied had it not been for the dumped exports.

The Commission concluded that Cockburn Cement had suffered injury and that this injury was specific to the W.A. market (including Cockburn Cement's Dongara plant).

IV. Causation

(a) Market share

The Commission's analysis of causal link between the injury sustained by Cockburn Cement in W.A. and the dumped exports is reflected in Section 8 of SEF 348.

The Commission has stated at Section 8.2 that it has had regard to the *Ministerial Direction on Material Injury 2012*. For the purposes of this submission it is appropriate to highlight relevant sections of the Ministerial Direction, as reflected in the following extracts concerning discussion of materiality of injury as reflected in a loss of market share:

> *"....As in all cases, a loss of market share cannot alone be decisive. I direct that a loss of market share should be considered with a range of relevant injury indicators before material injury can be established.*
>
> *I note that in all cases where the dumped or subsidised imports hold a small share of the Australian market, it may be difficult to demonstrate material injury. I direct that **no minimum standard** should be used to determine whether dumped or subsidised imports have a sufficient share of the Australian market to cause material injury.*
>
> *In considering cases with regional implications I direct that you bear in mind that an industry's vulnerability to dumped or subsidised imports may be confined to a specific region of Australia. **Injury may be occurring in the part of the industry located in that region, without directly affecting the rest of the Australian industry.** In this circumstance **it is still possible to take account of regional injury of this kind** and, in appropriate circumstances, to judge such injury to be material to the industry as a whole*" (emphasis added).

The Commission has examined injury as experienced by Cockburn Cement. This injury reflects the impact of dumped exports on volumes sold in the Australian market, where approximately 75 per cent of total Australian quicklime sales are made. Cockburn Cement's sales of quicklime in this market were approximately xxx tonnes in 2015, with dumped exports accounting for "**less than five per cent** of the total Australian quicklime market in the investigation period" (emphasis added).

Cockburn Cement notes that the Commission has estimated the size of the Australian market during the investigation period at 2.1 million tonnes. Based upon the Commission's assessment that following the removal of the non-dumped exports from Malaysia, the total dumped exports account for less than 5 per cent of the total market in 2015. Five per cent of the Australian quicklime market represents approximately 105,000 tonnes. A volume representing less than 5 per cent of the market is therefore circa 90-100,000 tonnes[1].

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[1] Four per cent market share is approximately 84,000 tonnes. The Commission's stated percentage is therefore greater than 4 per cent, and lower than 5 per cent.

In Investigation No. 179 the volume of the dumped exports from Thailand in 2010/11 was less than 1 per cent of the Australian market[2]. Over the intervening period to 2015 – a little over 4 years – the dumped export volumes have increased from approximately 12,000 tonnes (less than one per cent of the Australian market) to be less than five per cent of the Australian market (between 90-100,000 tonnes per annum). On this basis, the dumped exports (from Malaysia, Thailand and Vietnam) are encroaching on the Australian market with an annual growth rate of 1 per cent market share per annum.

At this rate, by 2020, the dumped exports will have secured 10 per cent of the total Australian quicklime market – with the lost sales to exports in the non-alumina market segment in W.A. borne by Cockburn Cement!

Cockburn Cement reaffirms its claims that the growth in exports of dumped quicklime from Malaysia, Thailand and Vietnam is dramatic and substantial, and cannot be considered insignificant, insubstantial or immaterial. The lost sales volumes experienced by Cockburn Cement have materialised in increasing reductions in market share, which will continue in the absence of anti-dumping measures.

Cockburn Cement highlights with the Commission that the growth in dumped exports (at approximately 1 per cent in each year since 2011) represents a 2 per cent annual increase in dumped exports in the W.A. market! Hence the true loss of market share for Cockburn Cement in the W.A. market is approximately 10 per cent in 2015.

(b) Price-effect injury

The Commission's price undercutting analysis is based upon comparison's of Cockburn Cement's ex-works selling price into the non-alumina segment of the market, compared with the selling prices for importers, adjusted to reflect a "*100 per cent available lime content basis*[3]".

The Commission states that the adjustment to selling prices for lime content "is consistent with Investigation 179".

The Commission further states:

> "*The uplift is necessary because in making price undercutting analysis the prices being compared need to be actually comparable. For example, a comparison of prices at a different level of trade would not be meaningful. The Dumping and Subsidy Manual (the Manual) addresses this issue where it states: The Commission will undertake a price undercutting analysis that focuses on data that covers transactions made during the investigation period. This analysis compares the price of the imported goods with the sales price of the locally produced goods, ensuring that the transactions are made under the same conditions (e.g. timing, volume, discounts, delivery, credit, same customer, etc.)". In this case, the lime content differed between products being compared and this was considered to have an important effect on price. It was necessary therefore to account for this difference in the price undercutting analysis.*"

The Manual as referred to by the Commission allows for adjustments that affect price comparability. Cockburn Cement notes that the Manual refers to a level of trade adjustment where it can be demonstrated that a price differential exists between levels of trade. However, in the current circumstances involving the sale of quicklime into the non-alumina segment of the Australian market, Cockburn Cement and the importers **do not** sell quicklime on the basis of lime content. Cockburn Cement (nor the importers) have not been required to supply customers in the non-alumina segment of the market with a quicklime price adjusted to 100

[2] Section 6.1, Report No. 179, P.14.
[3] Refer Section 8.4.1 of SEF No. 348, P.45.

per cent lime equivalent. The competing selling prices of Cockburn Cement and the importers of the dumped quicklime are therefore comparable at their respective lime content – without adjustment to the 100 per cent level.

The Australian non-alumina market segment does not require suppliers to price on a lime-content basis (and has not done so historically). The adjustments by the Commission to reflect quicklime on the basis of CaO content therefore is not an industry requirement and is inconsistent with the pricing behaviours of industry participants. The Commission has therefore introduced a variable that it contends is a requirement for price comparability purposes when such an adjustment is not used by industry participants in pricing offers to the non-alumina segment of the Australian quicklime market.

Cockburn Cement submits that the Commission's adjustment for CaO content is not a valid adjustment and must be reversed for the purposes of a true price undercutting analysis in the non-alumina segment of the market.

Without detracting from Cockburn Cement's stated position, Cockburn Cement would like to highlight with the Commission – by way of example – how it has experienced price undercutting from the dumped exports of quicklime. It can be recalled that Cockburn Cement included an example of injury from the dumped exports in its application that related to sales to its customer (customer name)[4]. Assuming that it is necessary to adjust selling prices for CaO content, the following Table highlights the extent of price undercutting experienced by Cockburn Cement.

Supply Offer:	
Chememan delivered price to (customer site) WA	
Freight cost Henderson to (customer site) WA	
Ex Works Henderson Selling Price	
Chememan available CaO in Quicklime	90%
Theoretical Chememan 100% ex works selling price	
2015 USP proposed by Cockburn Cement	
Available CaO in Dongara Quicklime	
Theoretical Cockburn Cement 100% Selling price	
Chememan 100% price compared to Cockburn Cement 100% price	
Per cent price undercutting	
Cockburn Cement Price contract offer from 1 April 2015	
(customer) revised contract price after competitive review (in response to dumped export offer)	
Price reduction	

The analysis of price undercutting at the independently audited (customer) tender highlights price undercutting on a business as usual basis (i.e. no adjustment for CaO content), as well as following an adjustment for CaO content. It should also be noted that Cockburn Cement's revised offer for (customer) matched Chememan's delivered price (i.e. $xxx per tonne).

[4] (Customer) negotiation used as independently verified by (Auditor)

Cockburn Cement has demonstrated in the above example that it has experienced price undercutting from the dumped exports from Malaysia, Thailand and Vietnam, and this has led to Cockburn Cement having to reduce prices to hold sales volumes.

Cockburn Cement therefore strongly refutes the Commission's statement that the "applicant was not undercut by the dumped imports".

(c) Non-injurious price

The Commission has indicated that it does not agree with Cockburn Cement's recommended unsuppressed selling price because "it does not consider that that 2012 is a period unaffected by dumping" and that Cockburn Cement's selling prices are also unaffected.

Cockburn Cement does not agree that 2012 selling prices can be disregarded as the starting point for determining a USP. As is referenced by the Commission, it is the Commission's stated policy in the Manual to not accept selling prices that are older than five years. The 2012 selling prices therefore cannot be ruled out. Further, Cockburn Cement has demonstrated that selling prices to alumina industry customers have increased year-on-year since 2012 and this has been in an environment of long-term sustainable contracts. Cockburn Cement strongly refutes the Commission's *preliminary* view that a USP cannot be derived from the 2012 selling prices when:

- It is the Commission's first preference to derive a USP from market selling prices;
- It is acceptable for the Commission to take account of inflationary factors in calculating a USP;
- Cockburn Cement can demonstrate pricing trends in a segment of the quicklime market where pricing increased in successive years (in stark contrast to the segment impacted by the dumped exports);
- The proposed USP for non-alumina sales calculated by the Commission is below the industry's selling prices actually achieved in 2015 – a year where margins (percentage margin movement) from 2014 levels.

Cockburn Cement requests that the Commission revert to its preferred methodology for the calculation of a USP and base a USP for the investigation on 2012 market selling prices adjusted for CPI.

V. Materiality of injury sustained by Cockburn Cement

In order to quantify the impact of the injury sustained by Cockburn Cement that is evident from loss of sales volumes and declines in selling prices over costs since 2012, Cockburn Cement provides the following analysis across the injury period 2012 to 2015. Additionally, Cockburn Cement provides the Commission with a clear outline of additional material injury that will flow from the increasing volumes of dumped exports from Malaysia, Thailand and Vietnam in the absence of provisional and interim anti-dumping duties.

Cockburn Cement has maintained in its representations that it has suffered material injury in 2015. The extent of the injury sustained by Cockburn Cement is quantified as follows:

- Lost sales volume/market share loss - $xxx Million;
- Price suppression injury on remaining non-alumina sales - $xxx M
- Total injury in 2015 attributable to increasing dumped import volumes - **$xxx M**

The injury sustained by Cockburn Cement in 2015 (i.e. $xxx M) represents xxx per cent of the profit achieved by Cockburn Cement in its total quicklime sales in 2015 ($xxxM), and accounts for xxx per cent of Cockburn

Cement's total sales revenue ($xxxM). By any benchmark, the lost sales and price suppression impacts of injury experienced by Cockburn Cement in 2015 is "material".

The cumulative injury sustained by Cockburn Cement that can be attributed to the dumped exports since 2012 is estimated at approximately $xxx Million (including sales volume and profit impact).

(a) Injury attributable to dumping from Malaysia, Thailand and Vietnam

The Commission's investigations have confirmed that exports of quicklime to Australia have been at dumped prices. The margins determined for the exporters are as follows:

- RCI Lime SDN BHD – 7.6 per cent;
- Chememan Thailand – 12.3 per cent; and
- Chememan Vietnam – 30.5 per cent.

The investigation period in Report No. 179 was 1 July 2010 to 1 June 2011. During this period approximately 12,000 tonnes of quicklime was exported to Australia from Thailand[5] with a weighted-average dumping margin of 48 per cent. The dumped import volumes in 2010/11 were less than 1 per cent of the total Australian market. In 2015, the quicklime import volumes from Malaysia, Thailand and Vietnam had rapidly grown to 67,000 tonnes or approximately 4.2 per cent of the total Australian quicklime market (as detailed in Cockburn Cement's application).

In terms of the Western Australian market, the dumped imports account for xxx per cent of the market.

The growth in the dumped volumes from Malaysia, Thailand and Vietnam has only been achieved via the price undercutting of Cockburn Cement's selling prices. The sales volumes that have been identified by Cockburn Cement as lost to the dumped goods are reflected in the following Table 1.

Table 1 – Cockburn Cement Lost sales volumes to imports from Malaysia, Thailand and Vietnam

Customer	Operation	Annual Demand	Cockburn Cement Prod^n facility	Lost to
Confidential customer information				Chememan
				Chememan
				Chememan
				Chememan
				Chememan
				Chememan
				Chememan
				Merchant
				Chememan
				Merchant
				Merchant
				Merchant
				Merchant
Total				

[5] Report No. 179, P. 20.

Table 1 summarizes the lost sales to the dumped exports, including the most recent sales (customer name) that account for a further xxx tonnes to the identified volumes included in Cockburn Cement's application for measures. Cockburn Cement has quantified the financial impact of the lost sales volumes experienced by deducting from the average selling price the cost-to-make-and-sell ("CTM&S") the lost volumes (i.e. 67,094 tonnes). The lost contribution on the total import volume is $xxx Million in 2015.

The lost contribution on the dumped import sales volumes from 2012 to 2015 is a cumulative $xxx Million.

(b) Price suppression

The impact of the price undercutting has also had a broader, pervasive impact on Cockburn Cement's selling prices into the market. In particular, Cockburn Cement's selling prices into the non-alumina market where the importers Chememan Australia and Merchant Lime and Cement have been active with offers that undercut Cockburn Cement's selling prices have contributed to reduced selling prices.

In quantifying the price impact of the dumped imports, Cockburn Cement has adjusted selling prices from 2010 by CPI (i.e. reflecting a market unaffected by dumping) and calculated the price suppression effect of the imports that have undercut Cockburn Cement's selling prices. Using 2009 as the base year (when the imports from Thailand commenced) the non-alumina selling price has been adjusted for CPI to arrive at unsuppressed level in 2015[6].

The lost contribution from the price depression caused by the dumped imports as reflected in suppressed non-alumina selling prices was $xxx Million in 2015. The cumulative impact from 2012 to 2015 was $ xxx Million.

The ability of importers to sell dumped quicklime at prices that undercut Cockburn Cement in the large volume, non-alumina market is only achievable due to the exports at dumped prices. Cockburn Cement has been an incumbent supplier (in all but one) to customers in the Western Australian market and there have been no issues raised concerning product quality or performance. In a price transparent market, selling price has been the determining factor in contract outcomes.

(c) Impact on profit and profitability and total quicklime revenues

Cockburn Cement's submission of 19 September 2016 confirmed the reduction in profit and profitability indices for quicklime (alumina, non-alumina and total) across the injury period. Cockburn Cement's profit in 2015 was approximately xxx per cent lower than in 2012 (and more than xxx per cent below 2013).

Similar reductions in Cockburn Cement's profitability could also be observed.

In quantifying the impact of the lost sales volumes and price suppression, the aggregate dollar impact in sales tonnes lost and reduced pricing in 2015 was $xxx Million. As a percentage of total profit (i.e. alumina and non-alumina sales) of $xxx Million this is approximately xxx per cent in profit lost to dumped imports.

As a percentage of total sales revenue (alumina and non-alumina) of $xxx Million, the lost profit to dumped imports is **material** at xxx per cent of 2015 total revenue.

The impact of the dumped quicklime imports from Malaysia, Thailand and Vietnam can only be described as substantial and significant. Based upon the evidence provided to the Commission by Cockburn Cement that details the lost material volume of sales and value, and market share, in the absence of dumped imports, Cockburn Cement would have achieved higher prices, profit and profitability.

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[6] Refer 'Cockburn Cement Injury Analysis Sept 2016' worksheet at Confidential Attachment 1.

Cockburn Cement would also like to highlight with the Commission the increasing share of the Australian market that will be supplied by the dumped imports. Cockburn Cement has drawn to the attention of the Commission the lost sales volumes (xxx tonnes per annum) at xxx that will see the annual import volume for dumped imports increase beyond xxx tonnes per annum. By the end of 2015, on the loss of the xxx account alone, dumped imports will account for 5.25 per cent of the Australian market – a dramatic rise from the less 1 per cent in 2010/11. The volume of dumped imports will continue to increase beyond 2016 in the absence of measures to arrest the dumping and price undercutting.

(d) Other injurious factors

(confidential company information).

VI. Conclusions

Cockburn Cement welcomes the Commission's confirmation that exports of quicklime from Malaysia (except those by Unichamp Mineral), Thailand and Vietnam have been at dumped prices in 2015. Cockburn Cement does not consider that Unichamp Mineral is an active industry participant in the W.A market and has not been a cause of injury through price undercutting of Cockburn Cement's prices.

In its assessment of price undercutting, the Commission has mistakenly adjusted market selling prices of the Australian industry and importers for CaO content when there is an absence of this practice in all pricing bids in the quicklime non-alumina segment of the market. As such, there is a misrepresentation of the price undercutting analysis undertaken by the Commission.

The correct price undercutting analysis involves comparison of import price offers (irrespective of CaO content) with Cockburn Cement selling prices.

Cockburn Cement has demonstrated that the dumping of quicklime from Malaysia, Thailand and Vietnam in 2015 has caused material injury to the Australian industry manufacturing like goods. Lost sales volumes/market share and price suppression caused by the dumping has cost Cockburn Cement $xxx Million in 2015, which represents approximately xx per cent of the actual profit for the total quicklime business (alumina and non-alumina). The cumulative injury to Cockburn Cement from dumping since 2012 is $xxx Million.

The lost profit and profitability is also material in terms of the total sales revenue for all quicklime sales by Cockburn Cement in 2015, accounting for xxx per cent of the total sales revenue.

In the absence of anti-dumping measures on the dumped imports from Malaysia, Thailand and Vietnam, the injurious imports will continue to grow beyond 2015 (at a rate of approximately 1 per cent of the Australian market per annum). As substantiated by Cockburn Cement, a further xxx tonnes of quicklime annual sales has been lost at (customer), resulting in an incremental increase in total dumped imports in 2016 (to approximately xxx tonnes). At current rates, it is projected that dumped imports will surpass the 10 per cent share of total quicklime sales in Australia by 2020 (based upon a 25 per cent increase in imports as evidenced between 2015 and 2016).

As directed by the Ministerial Direction 2012, the material injury experienced by Cockburn Cement in the W.A. market can be considered to be "material" to the total Australian quicklime market.

Cockburn Cement requests the Commission to immediately publish a Preliminary Affirmative Determination ("PAD") and impose provisional measures on future dumped exports of quicklime from Malaysia, Thailand and

Vietnam to prevent further material injury to the Australian industry manufacturing quicklime. Cockburn Cement further requests the Commission to recommend that the Minister impose anti-dumping duties on dumped exports of quicklime from Malaysia, Thailand and Vietnam to prevent further material injury to the Australian industry.

If you have any questions concerning this submission, please do not hesitate to contact either Mr Drew Elsbury on (08) 9411 1116 or Cockburn Cement's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

Vince Valastro
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