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31 March 2023

Dr Bradley Armstrong PSM
Commissioner
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Cc: Ms Isolde Lueckenhausen
Deputy Commissioner, Investigations

Email: investigations@adcommission.gov.au

Public File

Dear Commissioner

Investigation No. 605 – Further extension to Statement of Essential Facts

I refer to ADN No. 2023/12 of 7 March 2023 notifying of a further extension to the publication of a Statement of Essential Facts ("SEF") in Investigation No. 605 – Ammonium nitrate exported from Chile, Lithuania and Vietnam ("Invest 605").

The advice in ADN No. 2023/12 notifies of the third delay to the publication of SEF No. 605.

Invest 605 commenced on 8 June 2022 (ADN 2012/050 refers). The SEF was originally scheduled to be published on 26 September 2022. ADN No. 2022/097 published on 26 September 2022 notified the first extension to the publication of the SEF which with a re-scheduled date of 13 December 2022 – an extension of 78 days.

ADN No. 2022/123 published on 13 December 2022 notified the second extension to the publication of the SEF which was revised to 7 March 2023 – a further extension, of 84 days.

On 7 March 2023, the Anti-Dumping Commission ("the Commission") published ADN 2023/012 advising of the third extension to the SEF which would be by or on 30 May 2023 - a further extension of an additional 84 days.

The SEF in Invest 605 has now been delayed by a total 246 days.

The final report and recommendation to the Minister is due on or before 8 August 2023.

The applicant companies (CSBP Limited, Orica Australia Pty Ltd and Queensland Nitrates Pty Ltd) seek to express their respective concerns about the lengthy delays with the anti-dumping investigation. Based upon current timeframes, the investigation will have taken 14 months

(significantly exceeding the legislated 155-day (or approximately 6 months) timeframe. Prior to the most recent extension (of 7 March 2023) the cooperative exporters in Lithuania and Vietnam were determined to have been exporting at dumping margins in excess of negligible levels.

The 246-day timeframe extension to publication of the SEF is significant and creates further uncertainty associated with outcomes for all interested parties, including exporters, importers and the Australian industry.

ADN 2023/012 highlighted “operational needs and case complexities” as to reasons for the further extension of investigation timeframe. The applicant companies (two of which participated in verification) have not received any queries from the Commission concerning injury claims (post verification), or impact of imports post the identified investigation period (1 April 2021 to 31 March 2022). It would seem reasonable that in circumstances where “case complexities” is cited as a reason for timeframe extension there would likely be regular interaction with the applicant companies to resolve any key issues. This has not been the situation post the verification process. It is possible that the Commission’s investigations are continuing with importers concerning the dumped imports. There is an absence of correspondence on the EPR to suggest this may be the case for the extended delays.

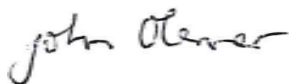
It is the applicant companies’ understanding that one industry member has not been contacted concerning its injury claims.

It is of ongoing concern to Australian industry that the lengthy delays by regular, timeframe extensions in anti-dumping investigations is impacting the integrity of the Anti-Dumping System.

The applicant companies will continue to work with the Commission in the current Invest 605 to ensure that the scheduled 30 May 2023 timeline for the SEF is achieved. The applicant companies seek assurances from the Commission that this will be the final time extension prior to publication of the SEF. The applicant companies are available to assist the Commission with its investigation to resolve any complexities concerning injury to the Australian industry.

If you have any questions concerning this letter, please do not hesitate to contact me on (07) 3342 1921.

Yours sincerely



John O'Connor
On behalf of the Applicant Industry

Cc: CSBP Limited
Orica Australia Pty Ltd
Queensland Nitrates Pty Ltd