



ANTI-DUMPING NOTICE NO 2023/038

Customs Act 1901 (Cth) – Part XVB

Ammonium Nitrate

Exported from the People’s Republic of China, Sweden and the Kingdom of Thailand

Initiation of a Continuation Inquiry No 629 into Anti-Dumping Measures

Notice under section 269ZHD(4) of the Customs Act 1901

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice, in respect of ammonium nitrate (the goods) exported to Australia from the People’s Republic of China (China), Sweden and the Kingdom of Thailand (Thailand) is justified.

The anti-dumping measures are due to expire on 3 June 2024 (specified expiry day).¹

1. The goods

The goods subject to the anti-dumping measures and this inquiry are:

Ammonium nitrate, prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10kg.

The goods are generally, but not exclusively, classified to the tariff classification 3102.30.00, statistical code 05, in Schedule 3 to the *Customs Tariff Act 1995*.²

2. Background to the anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 29 May 2019 by the then Minister for Industry, Science and Technology.³ This followed consideration of the

¹ On and from 4 June 2024, if not continued, the anti-dumping measures would no longer apply.

² These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

³ Anti-Dumping Notice (ADN) No. 2019/057.

Commissioner's recommendations in Anti-Dumping Commission Report No 473 (REP 473) following Investigation No 473 (original investigation).

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901* by CSBP Limited (CSBP)⁴, Orica Australia Pty Ltd (Orica) and Queensland Nitrates Pty Ltd (QNP) representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

Further details on the goods and existing measures are available on the Dumping Commodity Register on the Anti-Dumping Commission's (commission) website (www.adcommission.gov.au).

3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with section 269ZHB(1), I published a notice on the commission's website on 3 April 2023.⁵ The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

On 31 May 2023, an application for the continuation of the anti-dumping measures was received from CSBP, Orica, QNP and Dyno Nobel Asia Pacific Pty Ltd (DNAP) (collectively, the applicants). A non-confidential version of the application is available on the commission's public record.

Having regard to the application and the original investigation, I am satisfied that the applicants are the persons under section 269ZHB(1)(b)(i) because their application under section 269TB resulted in the existing anti-dumping measures.⁶

4. Consideration of application under section 269ZHD(1)

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These are:

- the application complies with section 269ZHC (section 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (section 269ZHD(2)(b)).

⁴ All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

⁵ ADN No. 2023/019 refers.

⁶ CSBP, Orica and QNP were the applicants for the original investigation. Based on the information available to the commission during the original investigation and in its current investigation 605, the commission is satisfied that DNAP represents a portion of the Australian industry producing like goods.

5. Assessment under section 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the commission's email address provided in the instrument under section 269SMS.⁷

6. Assessment under section 269ZHD(2)(b) – reasonable grounds

Applicants' claims

In their application, CSBP, Orica, QNP and DNAP raised several points. These are summarised below.

Exports to Australia

With regard to the continuation or recurrence of exports of the goods to Australia, the applicants claimed:

- Imports of ammonium nitrate into Australia from Sweden and Thailand ceased following the imposition of measures in 2018, though exports from Thailand have since resumed at higher volumes in 2022/2023. Imports from China continued until 2021 but have since ceased.
- Despite the cessation of imports, the applicants consider that Chinese, Swedish and Thai exporters have maintained distribution links to Australia.
- Chinese exporters have production capacity for technical grade ammonium nitrate that is significantly greater than domestic demand. Despite tighter restrictions on ammonium nitrate in China, they remain a major exporter of ammonium nitrate.
- Sweden is likewise a major exporter of ammonium nitrate, exporting around 50 per cent of its total production. Thailand also exports significant volumes in the South-East Asian region.
- The 2021 and 2022 years were impacted by the disruption of global supply chains associated with COVID-19. Absent these issues, exports from China, Sweden and Thailand (the subject countries) in 2022 would have been higher. As supply chains stabilise, Australian industry sales volumes will become vulnerable to exports as a result of an increase in volumes.

Continuation or recurrence of dumping

With regard to the continuation or recurrence of dumping of the goods into Australia, the applicants claimed:

- While the recent imports from Thailand have not been at dumped prices, the Australian market is an attractive export market, and they may need to lower their prices in the absence of measures.
- Chinese and Swedish produces have been exporting to third countries at dumped prices.

Material Injury

With regard to the continuation or recurrence of material injury, the applicants claimed:

- Should the measures expire, the Australian industry will experience material injury.

⁷ A copy of the instrument can be found on the commission's website at www.adcommission.gov.au.

- Shipping supply constraints impeded international trade in ammonium nitrate in 2021/2022 causing increases in the trade price of ammonium nitrate. Ammonium nitrate prices were also supported in 2022 by prohibitions on the export of Russian ammonia and ammonium nitrate. However, shipping availability has since improved, and the effects of the disruptions have waned; traded ammonium nitrate prices have fallen back to below pre-pandemic levels.
- Findings from Investigation 473 remain relevant:
 - volumes imported from China, Sweden and Thailand increased substantially between 2014/2015 and 2017/2018, prior to the imposition of measures
 - that there was significant price depression to the Australian industry and
 - that the injury to the Australian industry attributable to dumping from the subject countries was significant.
- Ammonium nitrate is a price sensitive commodity, with import parity pricing commonly used by the Australian industry.
- Recently Swedish and Chinese exporters have been selling to countries at prices below the current FOB prices for imports into Australia, indicating a willingness to sell in Australia below the current market price.

The commission's consideration

The commission's assessment of the applicant's application, and other information the commission considered, is at **Confidential Attachment 1**.

This assessment is outlined below.

Exports to Australia

The commission has examined data from the Australian Border Force (ABF) import database and found that exports of the goods from Thailand have continued although at reduced volumes. The commission considers that there appear to be reasonable grounds for asserting that exporters from Thailand will continue to export the goods to Australia, due to maintained distributions links into the Australian market.

With regards to China and Sweden, the ABF import database confirmed that there have been no imports of the goods from these countries since 2022. Both Sweden and China have continued to be major exporters of the goods since the imposition of measures. The commission considers there appears to be reasonable grounds for asserting that exports from these countries will recur if the measures expired.

Continuation or recurrence of dumping

The commission has examined the applicant's approach to estimating that dumping is likely to continue or recur if the measures expire. The commission considers the applicant's method to inform its claims of recurrence or continuation of dumping is reasonable given the limited information that is publicly available.

Material injury

The commission has previously found that the applicants utilise a pricing strategy with reference to the prices of imports. In the application, the applicants claim that the Australian market remains highly price sensitive. It seems reasonable that, as the Australian industry sets its prices with reference to the price of imported goods, it remain susceptible to price injury from lower priced imports.

Should the measures expire it appears reasonable to conclude that exporters from the subject countries would obtain a price advantage over the Australian industry. This provides an incentive for these exporters to increase export volumes and market share in

the Australian market. This may result in reduced sales volumes and market share for the Australian industry, as well as price injury as it seeks to compete with lower priced imports. This would likely be detrimental to other economic factors such as profit and profitability.

7. Conclusion

Having regard to the application and other relevant information set out in this notice, I am satisfied that, in accordance with section 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Based on the above findings, I have therefore decided to not reject the application.

8. This continuation inquiry

For the purpose of this inquiry, I will examine the period from 1 April 2022 to 31 March 2023 (the inquiry period) to determine whether dumping has occurred.

Following my inquiry, I will recommend to the Minister for Industry and Science (the Minister) whether the notice should:

- (i) remain unaltered; or
- (ii) cease to apply to a particular exporter or to a particular kind of goods; or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (iv) expire on the specified expiry day.⁸

9. Proposed model control code structure

The commission undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.⁹

The table below outlines the commission's proposed MCC structure for this inquiry.

Category	Sub-category		Sales data	Cost data
Density	H	High	Mandatory	Mandatory
	L	Low		
Form	P	Prilled	Mandatory	Optional

For example, low density ammonium nitrate in prilled form would be MCC 'L-P'.

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than **4 August 2023**.

Interested parties are encouraged to make a submission on whether any proposed modifications to the MCC structure should be accepted by the commission. Any changes to the MCC structure will be considered by the commission and reported in verification reports or in the statement of essential facts (SEF).

⁸ Section 269ZHF(1)(a).

⁹ Further information regarding the application of MCC structures is provided at Chapter 14 in the Anti-Dumping Commission *Dumping and Subsidy Manual*, available at www.adcommission.gov.au

10. Public record

I must maintain a public record for this inquiry. The Electronic Public Record (EPR) hosted on the commission's website (www.adcommission.gov.au) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents hosted on the EPR can be provided upon request to interested parties.

11. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than **4 August 2023**, being 37 days after publication of this notice. The commission's preference is to receive submissions for this inquiry by email to investigations4@adcommission.gov.au.

Submissions may also be addressed to:

The Director, Investigations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that the Commissioner is not obliged to have regard to a submission received after the date indicated above if to do so would, in their opinion, prevent the timely placement of the SEF on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests or
- (ii) satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked 'OFFICIAL: Sensitive'. Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked 'PUBLIC RECORD').

12. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. I will place the SEF on the public record on or before **16 October 2023**, that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with section 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

13. Report to the Minister

I will make a recommendation to the Minister in a report on or before **30 November 2023**, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

14. The commission contact

Enquiries about this notice may be directed to the Case Manager on investigations4@adcommision.gov.au.

Dr Bradley Armstrong PSM
Commissioner
Anti-Dumping Commission
22 June 2023