



NON - CONFIDENTIAL

13 February 2012

Mr John Bracic  
Director  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
Customs House  
5 Constitution Avenue  
Canberra ACT 2600

Dear Mr Bracic,

**QUICKLIME FROM THAILAND - INJURY/CAUSATION**

There can be no doubt that dumped exports of quicklime from Thailand have caused material injury and threaten to cause future material injury to the Australian industry producing quicklime, represented by Cockburn Cement Ltd ("Cockburn").

It is obvious that in the absence of dumped exports from Thailand, Cockburn would not have-

- (a) substantially reduced selling prices to its non-alumina customers during 2010/2011, resulting in a material loss of revenue and profit; and
- (b) changed its contractual supply arrangements [REDACTED] resulting in foreseeable and imminent loss of either sales volume or price and consequent material loss of revenue and profit.

The following facts are paramount to the above:

- In early 2010 Chememan Australia commissioned a storage and distribution facility at Henderson, WA and flagged its intention to establish additional such facilities in Western and Northern Australia, thus demonstrating its intention to be a serious, long-term supplier of quicklime to the Australian market;
- Chememan Australia then sold or offered for sale quicklime supplied by its associate Chememan Thailand to all, or almost all, of Cockburn's customers at prices which were subsequently found by Customs to be dumped at substantial margins;
- In response to Chememan's sale or offer for sale of the dumped exports from Thailand to them, [REDACTED] of Cockburn's customers in the non-alumina sector required Cockburn to reduce its prices if they were to continue to source from them rather than switch to Chememan's dumped exports;

- At the same time, Chememan Australia sold dumped exports from Thailand to Cockburn's major alumina sector customer, [REDACTED], for trialling, obviously with a view to becoming a long-term, large volume supplier to [REDACTED];
- [REDACTED] trials of Chememan's quicklime were successful, meaning that [REDACTED] had established an alternative supply source, viz dumped exports from Thailand; and
- Having established this alternative source of dumped exports from Thailand enabled [REDACTED]

[Confidential – contractual arrangements]

Consequent upon the foregoing, Cockburn has experienced material injury in the non-alumina sector and is threatened future material injury in the alumina sector as follows:

#### Non-alumina sector

Lost annual revenue and profit of \$ [REDACTED], which represents [REDACTED] % of Cockburn's net profit during the IP.

#### Alumina sector

Foreseeable and imminent ([REDACTED]) loss of –

- (a) [REDACTED] tonnes of annual sales volume, representing [REDACTED] % of Cockburn's annual sales volume, and about \$ [REDACTED] revenue and profit, [REDACTED]; or

[REDACTED] of annual revenue and profit [REDACTED]

Cockburn's actual annual profit loss of \$ [REDACTED] in the non-alumina sector is certainly material, as is the foreseeable and imminent loss of either [REDACTED] tonnes and \$ [REDACTED] of revenue/profit, or \$ [REDACTED] of revenue/profit.

It is of note that the above injury in the non-alumina sector will continue in future because Cockburn's reduced prices are in respect of [REDACTED]

[REDACTED] because of the presence and availability of dumped exports from Thailand. And the above threat of injury in the alumina sector is compounded by the fact that the current supply contract with [REDACTED], restructured because of the presence and availability of exports from Thailand, is valid for [REDACTED], meaning that the annual volume/price loss referred to above can recur [REDACTED].

It is paramount that the abovementioned material injury and threat of material injury are wholly attributable to the dumped exports from Thailand. There are no other factors which could have caused or contributed to that material injury and threat of material injury. But for the dumped exports from Thailand, there would have been no reason for Cockburn to reduce its prices in the non-alumina sector or to change its contractual supply arrangements with [REDACTED]

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It is also paramount that the substantial dumping margin determined by Customs in relation to Chememan's exports from Thailand means that Chememan was only able to enter the Australian quicklime market with those exports because they were substantially dumped. Had its price been undumped, Chememan's quicklime would not have provided a workable alternative to Cockburn's, and there would have been no reason for Cockburn to reduce its prices and restructure its supply arrangements [REDACTED]. That is, but for the dumping, Chememan's quicklime would not have entered the Australian market and no injury would have been experienced by Cockburn or threatened to it.

Customs' finding that prices of Chememan's product sold or offered to those non-alumina customers whose prices were reduced by Cockburn did not undercut Cockburn's prices to those customers before they were reduced, does not mean that the presence or availability of Chememan's dumped exports was not the cause of material injury to Cockburn. But for the presence and availability of Chememan's exports at substantially dumped prices, Cockburn would not have reduced its prices to those customers and experienced consequent material injury. We reiterate that had the Chememan exports been at undumped prices there would have been no reduction of Cockburn's prices. In this context we remind you of the consumer pineapple case in which price undercutting was not an injury factor in the final finding that but for the dumped exports from Thailand, Golden Circle would have achieved a higher price for its pineapple.

It is similarly meaningless that the price of Chememan's dumped exports may have been higher than that of Cockburn's price to [REDACTED] during the investigation period. It was the presence and availability of substitutable exports from Thailand at substantially dumped prices which caused the change of circumstance, viz contractual supply arrangements, which has caused the foreseeable and imminent threat of material injury to Cockburn.

Notwithstanding the non-necessity for prices of the dumped exports from Thailand to undercut Cockburn's prices for injury to be caused by them, it is important that it be recognised that if Chememan were [REDACTED] it is likely to be at a price which is significantly lower than that at which it supplied the much smaller quantities for trialling.

It has been argued by opposed parties that Chememan's quicklime is of a higher quality (higher achievable CaO; less impurities) than Cockburn's quicklime, and this is a key reason for Cockburn's customers' interest in it. While we accept that the Chememan product does have a higher achievable CaO content and less impurities, we point out that –

- (a) Customs has been provided with evidence to the effect that these characteristic differences have no impact on quicklime's performance in the non-alumina sector; and
- (b) in the alumina sector, because of the higher yield from quicklime with a higher achievable CaO, prices are fixed [REDACTED]. And Cockburn continues to be [REDACTED] major supplier.

There can be no doubt that price is the key factor in alumina and non-alumina customers' consideration of whether to source from Cockburn or Chememan. And we reiterate that were it not for it being substantially dumped, Cockburn's customers in both alumina and non-alumina sectors would have had no interest in sourcing Chememan's quicklime and no material injury to Cockburn would have been caused or threatened.

It is demonstrated by the above that dumped exports of quicklime from Thailand –

- (a) have caused material injury to the Australian industry producing quicklime; and
- (b) threaten material injury to the Australian injury producing quicklime because of a change in circumstance as would make that material injury foreseeable and imminent.

Yours sincerely,

Roger Simpson