



Customs Act 1901 Part XVB

CONSIDERATION REPORT NO. 473

APPLICATION FOR A DUMPING DUTY NOTICE

**IN RELATION TO AMMONIUM NITRATE EXPORTED
TO AUSTRALIA FROM THE PEOPLE'S REPUBLIC OF
CHINA, SWEDEN AND THE KINGDOM OF THAILAND**

**SUBMITTED BY CSBP LIMITED,
ORICA AUSTRALIA PTY LTD AND
QUEENSLAND NITRATES PTY LTD**

12 June 2018

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ABBREVIATIONS

Abbreviation	Full reference
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
ANsol	Ammonium nitrate solution
the applicants	CSBP Limited, Orica Australia Pty Ltd and Queensland Nitrates Pty Ltd
ASX	Australian Securities Exchange
AUD	Australian dollars
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CSBP	CSBP Limited
CTMS	cost to make and sell
FOB	Free on Board
the goods	the goods the subject of the application (also referred to as the goods under consideration)
HDAN	High density ammonium nitrate
Incitec Pivot	Incitec Pivot Pty Ltd
LDAN	Low density ammonium nitrate
Orica	Orica Australia Pty Ltd
QNP	Queensland Nitrates Pty Ltd
ROI	return on investment
Russia	the Russian Federation
SG&A	selling, general and administration
Thailand	the Kingdom of Thailand
USD	United States dollars

1 FINDINGS AND RECOMMENDATIONS

This report outlines the consideration by the Anti-Dumping Commission (the Commission) of an application lodged under subsection 269TB(1) of the *Customs Act 1901* (the Act)¹ by CSBP Limited (CSBP), Orica Australia Pty Ltd (Orica) and Queensland Nitrates Pty Ltd (QNP) (collectively, the applicants) for the publication 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).

The applicants allege that the Australian industry producing ammonium nitrate has suffered material injury caused by ammonium nitrate exported to Australia from China, Sweden and Thailand at dumped prices.

1.1 Findings

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (as set out in section 2.2 of this report);
- there is an Australian industry producing like goods (as set out in section 2.4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in sections 3, 4 and 5 of this report).

1.2 Recommendations

Based on the above findings, the Commission recommends that the Commissioner of the Anti-Dumping Commission (Commissioner) decide not to reject the application and initiate an investigation to determine whether a dumping duty notice should be published.

The Commission further recommends that:

- exports to Australia during the period 1 April 2017 to 31 March 2018 (the investigation period)² be examined for dumping; and
- details of the Australian market from 1 April 2014 (the injury analysis period) be examined for injury analysis purposes.

If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision in accordance with the requirements set out in subsection 269TC(4).

¹ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

² While the applicants have provided sales and cost data up to 31 December 2017 in support of the application, the Commission has set the investigation period from 1 April 2017 to 31 March 2018 and will seek data from each applicant for the March 2018 quarter.

2 THE APPLICATION AND THE AUSTRALIAN INDUSTRY

2.1 Lodgement of the application

2.1.1 Legislative framework

The legislative framework that underpins the making of an application and the Commission's consideration of an application is contained in Divisions 1 and 2 of Part XVB of the Act.

The procedures for lodging an application are set out in section 269TB.

The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

2.1.2 Application assessment timeframe

Table 1 summarises the timeline in relation to the assessment of the application.

Event	Date	Details
Application lodged and receipted by the Commissioner under subsections 269TB(1) and (5)	29 March 2018	The Commission received an application from the applicants alleging that the Australian industry has suffered material injury caused by ammonium nitrate that has been imported into Australia from China, Sweden and Thailand at dumped prices.
	12 April 2018	The Commission notified the applicants that the application contained critical and important deficiencies, which, if left unaddressed, created doubt on the reasonableness of the grounds for the publication of a dumping duty notice.
Applicants provided further information in support of the application under subsection 269TC(2A)	20 April to 30 April 2018	The applicants provided further information and data in support of the application without having been requested to do so, as provided for in subsection 269TC(2A). The application was taken to have been lodged and receipted on 30 April 2018 when the final additional information was received. Accordingly, the 20 day period for consideration of the application was restarted.
	4 May 2018	The Commission notified the applicants that the application contained critical and important deficiencies, which, if left unaddressed, created doubt on the reasonableness of the grounds for the publication of a dumping duty notice.

Applicants provided further information in support of the application under subsection 269TC(2A)	7 May to 21 May 2018	The applicants provided further information and data in support of the application without having been requested to do so, as provided for in subsection 269TC(2A). The application is taken to include that further information and data, and the application is taken to have been lodged and received on 21 May 2018 when the final additional information was received. Accordingly, the 20 day period for consideration of the application was restarted.
Consideration decision due under section 269TC(1)	10 June 2018 ³	The Commissioner shall decide whether to reject or not reject the application within 20 days after the applicants last provided further information in support of their application.

Table 1: Timeline of application assessment

2.2 Compliance with subsection 269TB(4)

2.2.1 Finding

Based on the information submitted by the applicants, the Commission considers that the application complies with subsection 269TB(4).

2.2.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that the application complies with subsection 269TB(4).

2.2.3 The Commission's assessment

Table 2 summarises the Commission's assessment of compliance with subsection 269TB(4).

Requirement for the application	Details
Lodged in writing under subsection 269TB(4)(a)	The applicants lodged, in writing, confidential and non-confidential versions of the application. The non-confidential version of the application can be found on the electronic public record on the Commission's website at www.adcommission.gov.au .
Lodged in an approved form under subsection 269TB(4)(b)	The application is in the approved form (B108) for the purpose of making an application under subsection 269TB(1).

³ Given that 10 June 2018 falls on a Sunday, and that the following day (Monday 11 June 2018) is a public holiday, the Commissioner's decision whether to reject or not reject the application is due on the following business day, Tuesday 12 June 2018.

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<p>Contains such information as the form requires under subsection 269TB(4)(c)</p>	<p>The applicants provided:</p> <ul style="list-style-type: none"> • a completed declaration; • answers to all questions that were required to be answered by the applicant; • completed appendices; and • sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in the confidential version of the application.
<p>Signed in the manner indicated in the form under subsection 269TB(4)(d)</p>	<p>The application was signed in the manner indicated in Form B108 by a representative of the applicants.</p>
<p>Supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and determined in accordance with subsection 269TB(6)</p>	<p>As set out in section 2.4 of this report, the Commission is satisfied that there is an industry, consisting of CSBP, Orica and QNP, producing like goods in Australia.</p> <p>The applicants identified one other manufacturer⁴ of ammonium nitrate in Australia, Incitec Pivot Pty Ltd (Incitec Pivot). The applicants advised that Incitec Pivot is 'not commenting' on the application.</p> <p>To establish the level of support for the application, the applicants provided information relating to their own production volumes of like goods. The applicants also provided an estimate of Incitec Pivot's production volumes of like goods; however, the Commission obtained publicly available information relating to the actual production volumes of this particular manufacturer which the Commission considers to be more reliable and contemporary.</p> <p>In accordance with subsections 269TB(6)(a) and (b), the Commission is satisfied that the applicants, which produce like goods in Australia, account for:</p> <ul style="list-style-type: none"> • more than 50 per cent of the total production⁵ of like goods by that proportion of the Australian industry that has expressed either support for, or opposition to, the application; and • not less than 25 per cent of the total production⁶ of like goods in Australia. <p>Therefore, as required by subsection 269TB(4)(e), the Commission is satisfied that the application is supported by a sufficient part of the Australian industry.</p>

⁴ In the application, the applicants also stated that Yara Pilbara Nitrates Pty Ltd (a joint venture between Yara International ASA and Orica Limited) is in the process of commencing production of ammonium nitrate in the Pilbara region in Western Australia. However, at the time the application was lodged, production of ammonium nitrate had not commenced at this new plant.

⁵ Based on the aggregated production volumes for each applicant. The Commission is not aware of any Australian manufacturers of like goods opposing the application.

⁶ Based on the aggregated production volumes for each applicant including Incitec Pivot's production volumes.

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	This analysis is at Confidential Appendix 1 .
Lodged in the manner approved under section 269SMS for the purposes subsection 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to an address nominated in that instrument. The application was therefore lodged in a manner approved under subsection 269SMS(2).

Table 2: Compliance with subsection 269TB(4)

2.3 The goods the subject of the application

Table 3 outlines the goods as described in the application and their corresponding tariff classification.

Full description of the goods, as subject of the application				
Ammonium nitrate, prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10kg.				
Tariff classification (Schedule 3 of the <i>Customs Tariff Act 1995</i>)				
<i>Tariff code</i>	<i>Statistical code</i>	<i>Unit</i>	<i>Description</i>	<i>Duty rate</i>
3102.30.00	05	kg	MINERAL OR CHEMICAL FERTILISERS, NITROGENOUS: -ammonium nitrate, whether or not in aqueous solution.	All countries - zero
Previous investigations				
<p>On 24 May 2001, the then Minister for Justice and Customs accepted the recommendations of the Australian Customs Service (<i>Trade Measures Report No. 28</i> refers) and published a dumping duty notice in relation to ammonium nitrate exported to Australia from the Russian Federation (Russia). Notification of the then Minister's decision was given in Australian Customs Dumping Notice (ACDN) No. 2001/29.</p> <p>On 11 May 2006, the then Minister for Justice and Customs accepted the findings and recommendations in <i>Trade Measures Report No. 104</i> (relating to an inquiry into the continuation of anti-dumping measures) and secured the continuation of the anti-dumping measures applying to ammonium nitrate exported to Australia from Russia for another five years (from 24 May 2006). The then Minister also accepted the findings and recommendations in <i>Trade Measures Report No. 105</i> (relating to a review of measures) and varied the dumping duty notice by fixing different variable factors applying to ammonium nitrate exported to Australia from Russia. Notification of the then Minister's decisions was given in ACDN No. 2006/19 on 17 May 2006.</p> <p>On 12 April 2011, the then Minister for Home Affairs accepted the findings and recommendations in <i>Trade Measures Report No. 168</i>⁷ (relating to an inquiry into the continuation of anti-dumping measures) and secured the continuation of measures applying to ammonium nitrate exported to Australia from Russia for another five years (from 24 May 2011). The then Minister also accepted the findings and recommendations in <i>Trade Measures Report No. 169</i>⁸ (relating to a review of measures) and varied the dumping duty notice by fixing different variable factors applying to ammonium nitrate exported to Australia from Russia. Notification of the</p>				

⁷ Refer *Trade Measures Report No. 168*, available on the Commission's website.

⁸ Refer *Trade Measures Report No. 169*, available on the Commission's website.

then Minister's decisions was given in ACDN Nos. 2011/16 and 2011/17 on 18 April 2011.

On 4 May 2016, the then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the findings and recommendations in *Anti-Dumping Commission Report No. 312*⁹ and secured the continuation of the anti-dumping measures applying to ammonium nitrate exported to Australia from Russia (either directly or via Estonia) for another five years (from 24 May 2016). Notification of the then Minister's decision was given in Anti-Dumping Notice No. 2016/34.

Table 3: The goods the subject of the application

2.4 Like goods and the Australian industry

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- CSBP, Orica and QNP produce goods that have characteristics that closely resemble the goods the subject of the application; and
- at least one substantial process in the manufacture of those goods is carried out in Australia.

2.4.1 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

2.4.2 Locally produced like goods

Table 4 summarises the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

⁹ Refer *Anti-Dumping Commission Report No. 312*, available on the Commission's website.

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Factor	The applicants' claims	The Commission's assessment
Physical likeness	<p>The applicants claim that the goods produced by the Chinese, Swedish and Thai exporters are similar in physical appearance and specification to the ammonium nitrate produced by the Australian industry.</p> <p>The applicants provided copies of product brochures which listed product specifications for certain ammonium nitrate exported to Australia from China, Sweden and Thailand. The applicants also provided product brochures relating to ammonium nitrate produced by the Australian industry.</p> <p>The brochures are provided in a confidential attachment to the application.</p>	<p>Based on the information provided by the applicants, the Commission considers that while there are slight differences in the technical specifications (such as purity, density and form) between the goods exported from China, Sweden and Thailand and the goods produced by the Australian industry, the goods produced by the Australian industry have physical characteristics that closely resemble the imported goods.</p>
Commercial likeness	<p>The applicants claim that the imported goods compete directly with the locally produced goods and are interchangeable in end-use applications.</p> <p>The applicants further claim that the selling prices for the imported ammonium nitrate and the locally produced ammonium nitrate are similar, albeit that the former is priced at levels below the selling prices for locally produced ammonium nitrate.</p>	<p>Based on the applicants' own sales data and data obtained from the Australian Border Force (ABF) import database, the Commission is satisfied that the Australian industry produces like goods that are sold to the same or similar customers and therefore compete directly with the imported goods.</p>

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Factor	The applicants' claims	The Commission's assessment
Functional likeness	<p>The applicants claim that the imported goods and the locally produced goods perform the same function and are used in the same end-use applications.</p> <p>The applicants claim that there are two types of ammonium nitrate which are imported into Australia - low density ammonium nitrate (LDAN) and high density ammonium nitrate (HDAN). The applicants claim that LDAN is used in the manufacture of bulk explosives which is predominantly used by the mining, quarrying and construction industries. HDAN can be used in the manufacture of bulk explosives (used by the above mentioned industries) and fertilisers used by the agriculture industry, although the applicants note that the market in relation to the latter application is relatively small.</p> <p>The applicants referred to the Commission's previous findings¹⁰ in relation to functional likeness, and allege the following:</p> <ul style="list-style-type: none"> • locally produced LDAN is substitutable with imported LDAN; • locally produced HDAN and ammonium nitrate solution (ANSol) could be substituted with imported HDAN; • in certain circumstances, HDAN and LDAN could be substituted for each other; and • emulsion explosives made from both ANsol and HDAN compete with each other. <p>The applicants provided further information in support of their claims in a confidential attachment to the application.</p>	<p>Based on the information provided by the applicants and the Commission's previous findings in relation to functional likeness of the goods produced by the Australian industry, the Commission considers that the Australian industry produces goods that are functionally alike, in terms of having the same end-use applications (i.e. as a raw material in the manufacture of various types of explosives and fertilisers), to the imported goods.</p>

¹⁰ Trade Measures Report Nos. 28, 104, 105, 168 and 169, and Anti-Dumping Commission Report No. 312, refer.

Factor	The applicants' claims	The Commission's assessment
Production likeness	<p>The applicants claim that the imported and locally produced goods are manufactured using similar production processes.</p> <p>The applicants provided a description of the production process in the application.</p>	<p>Based on the information provided by the applicants and publicly available information in relation to the exporters identified in the application, the Commission is satisfied that the Australian industry produces like goods using a substantially similar production process (i.e. a similar chemical reaction process) and using similar raw material inputs, albeit noting that some integrated Chinese exporters use coal, as opposed to natural gas, in producing ammonia.</p>
Commission's assessment		
<p>The Commission considers that, while the locally produced goods are not identical in all respects to the goods the subject of the application, the locally produced goods closely resemble the goods the subject of the application and are like goods given that:</p> <ul style="list-style-type: none"> • the primary physical characteristics of imported and locally produced goods are similar; • the imported and locally produced goods are commercially alike as they are sold to common customers; • the imported and locally produced goods are functionally alike as they have the same end-use applications; and • the imported and locally produced goods are produced using a similar, if not identical, chemical reaction process. 		

Table 4: Assessment of like goods

2.4.3 Manufacture in Australia

Table 5 summarises the Commission's assessment of whether at least one substantial process of manufacture is carried out in Australia and whether the like goods are therefore considered to have been manufactured in Australia.

The applicants' claims
<p>Ammonium nitrate is produced by reacting ammonia with nitric acid. This chemical reaction produces ammonium nitrate solution, which can be solidifying by prilling or granulation.</p> <p>The applicants claim that ammonium nitrate is predominantly manufactured using locally-sourced raw materials, most notably natural gas which is used to produce ammonia and accounts for approximately 50 per cent of the total production cost of ammonium nitrate.</p> <p>The applicants claim that the production of chemicals (such as ammonia and nitric acid) at each stage of the production process is a substantial process of manufacture involving substantial value-adding processes that are undertaken in capital-intensive production facilities.</p> <p>The applicants provided a detailed description of the production process in the application. A production process flow chart is provided in a confidential attachment to the application.</p>
The Commission's assessment
<p>Based on the information provided by the applicants, the Commission is satisfied that at least one substantial process in the manufacture of like goods is carried out in Australia.</p>

Table 5: Manufacture of like goods in Australia

2.5 Australian industry information

Table 6 summarises the Commission's assessment of whether the applicants have provided sufficient information in the application to analyse the performance of the Australian industry.

Have the relevant appendices to the application been completed?		
A1	Australian production	Yes
A2	Australian market	Yes
A3	Sales turnover	Yes
A4	Domestic sales	Yes
A5	Sales of other production	Yes
A6.1	Cost to make and sell (& profit) – Domestic sales	Yes
A6.2	Cost to make and sell (& profit) – Export sales	Yes
A7	Other injury factors	Yes
General administration and accounting information - CSBP		
History	CSBP was established in 1929.	
Ownership	CSBP is an Australian public company, limited by shares, and is a wholly-owned subsidiary of Wesfarmers Limited, a publicly listed company on the Australian Securities Exchange (ASX).	
Operations	<p>CSBP is an integrated manufacturer and supplier of chemicals (including ammonium nitrate), fertilisers and related services to the mining, minerals processing, industrial and agricultural sectors.</p> <p>CSBP's head office, including its chemical and fertiliser production plants, are located in Kwinana in Western Australia.</p>	

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Financial year	CSBP's accounting period is 1 July to 30 June.	
Audited accounts	CSBP provided Wesfarmers Limited's 2016 and 2017 annual reports. CSBP also provided a half-year report for the period 1 July to 31 December 2017 for Wesfarmers Limited.	
General administration and accounting information - Orica		
History	Orica Australia Pty Ltd was established in 1925.	
Ownership	Orica Australia Pty Ltd is an Australian proprietary company, limited by shares, and is a wholly-owned subsidiary of Orica Limited, a publicly listed company on the ASX.	
Operations	<p>Orica is an integrated manufacturer and supplier of chemicals (including ammonia and ammonium nitrate), commercial explosives and blasting systems to the mining, quarrying, oil and gas and construction industries.</p> <p>Orica operates two ammonium nitrate production plants (Yarwun in Queensland and Kooragang Island in New South Wales).</p>	
Financial year	Orica's accounting period is 1 October to 30 September.	
Audited accounts	Orica provided Orica Limited's 2016 and 2017 annual reports.	
General administration and accounting information - QNP		
History	QNP was established in 1999 as a joint venture business.	
Ownership	QNP is an Australian proprietary company, limited by shares, and is a joint venture business between CSBP and Dyno Nobel Asia Pacific Pty Ltd (a wholly-owned subsidiary of Incitec Pivot Limited).	
Operations	<p>QNP is an integrated ammonia and ammonium nitrate manufacturer.</p> <p>QNP's ammonium nitrate production plant is located near Moura in central Queensland.</p>	
Financial year	QNP's accounting period is 1 July to 30 June.	
Audited accounts	QNP provided its audited financial reports for FY 2015-16 and FY 2016-17.	
Production and sales information	Cost to make and sell information	Other injury factors
<p>The Commission has no significant concerns regarding the production and sales information provided by each applicant.</p> <p>The Commission will require that the applicants provide data for the most recently completed quarter, 1 January 2018 to 31 March 2018.</p>	<p>The Commission has no significant concerns regarding the cost data provided by each applicant.</p> <p>The Commission will require that the applicants provide data for the most recently completed quarter, 1 January 2018 to 31 March 2018.</p>	<p>The Commission has no significant concerns regarding the data provided in Appendix A7 by each applicant.</p> <p>The Commission will require that the applicants provide data for the most recently completed quarter, 1 January 2018 to 31 March 2018.</p>

The Commission's assessment
<p>The Commission notes that the applicants provided information and data up to 31 December 2017 in support of their application, and based on this information and data, the Commission is satisfied that there is sufficient information and data to analyse the performance of the Australian industry between 1 January 2014 and 31 December 2017.</p>
<p>As noted in section 1.2 of this report, however, the injury analysis period for the investigation will be from 1 April 2014, and the investigation period will be from 1 April 2017 to 31 March 2018. Therefore, the Commission will request that each applicant provide data for the most recently completed quarter, being 1 January 2018 to 31 March 2018.</p>
<p>The Commission will also invite Incitec Pivot to participate in this investigation and will request its production, sales and cost data for the period 1 April 2014 to 31 March 2018.</p>

Table 6: Australian industry information

2.5.1 Market size

In the application, the applicants had regard to their own sales volumes¹¹ (Confidential Appendix A2 to the application refers) and to Australian Bureau of Statistics (ABS) import data relating to the goods¹² imported from 1 January 2014 to 31 December 2017 in estimating the size of the Australia market for ammonium nitrate.

The applicants claim that the Australian market for ammonium nitrate has contracted in 2017 and that the import volumes of the goods from China, Sweden and Thailand have increased since 2015, displacing imports from other countries. This latter claim by the applicants is further assessed in section 5.4 of this report.

The Commission has compared the import volumes (from the countries the subject of this application, and all other countries) provided by the applicants to import volumes in the ABF import database¹³ in order to assess whether the applicants' estimate of the size of the Australian market for ammonium nitrate is reliable.

The Commission found discrepancies (for some countries and for some years) between the import volumes as reported by the applicants and the import volumes obtained from the ABF import database. Given these discrepancies, and noting that the ABF import database provides more detailed information in relation to import consignments, the Commission has relied on data from the ABF import database to estimate the size of the Australian market for ammonium nitrate.

¹¹ The applicants also had regard to Incitec Pivot's production volumes, which the applicants had estimated based on Incitec Pivot's production capacity.

¹² Classified to tariff subheading 3102.30.00.

¹³ The Commission filtered the ABF import data by the relevant tariff classification and statistical code identified in section 2.3 of this report.

Figure 1 depicts the Commission’s estimate of the size of the Australian market for ammonium nitrate from 2014 to 2017¹⁴ using data from the ABF import database and the applicants’ sales data including Incitec Pivot’s estimated sales volumes (based on its production volumes).

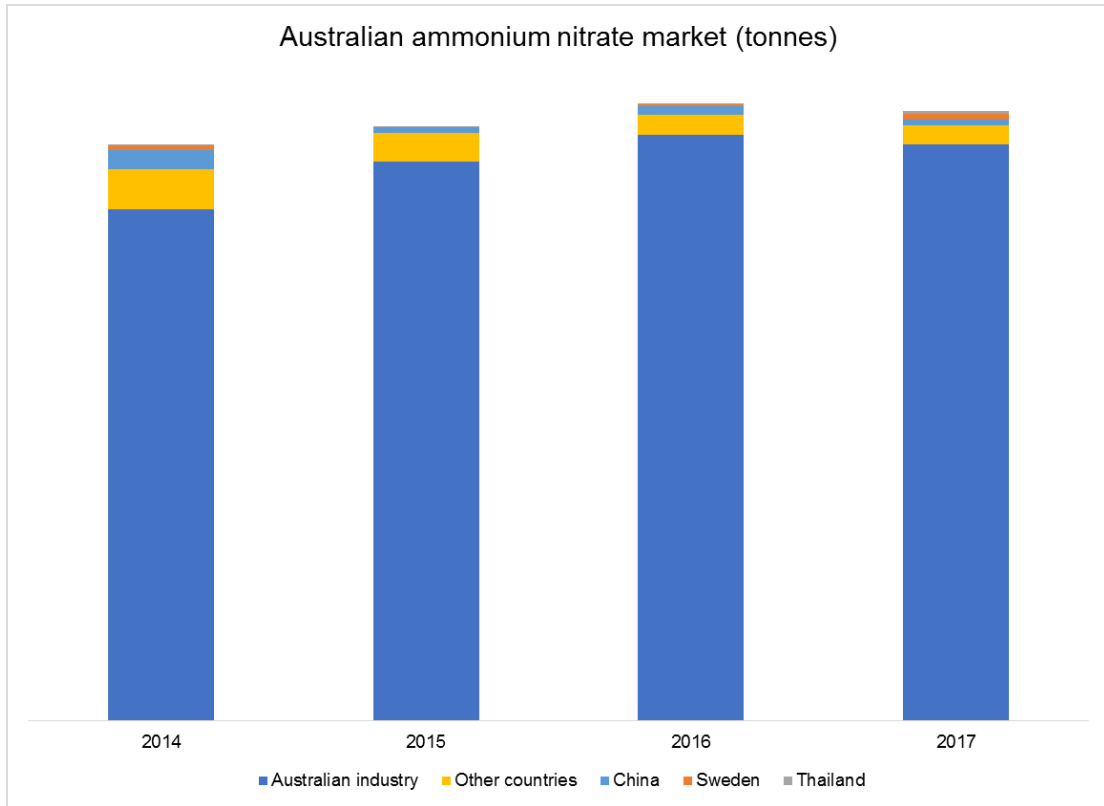


Figure 1: Size of the Australian market for ammonium nitrate (tonnes sold)

The Commission observes that the Australian market for ammonium nitrate has grown steadily since 2014; however, consistent with the applicants’ observation, the market has contracted slightly in 2017.

The Commission estimates that the size of the Australian market for ammonium nitrate in 2017 was approximately 1.97 million tonnes.

During the course of the investigation, the Commission will seek detailed information and data from importers and exporters to more accurately estimate the size and composition of the Australian market for ammonium nitrate.

The Commission’s assessment of the Australian ammonium nitrate market is at **Confidential Appendix 2**.

¹⁴ Reported by calendar year.

3 REASONABLE GROUNDS - DUMPING

3.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the applicants' claims that:

- the goods have been exported to Australia from China, Sweden and Thailand at dumped prices;
- the estimated dumping margins for exports from China, Sweden and Thailand are greater than 2 per cent and therefore are not negligible; and
- the estimated volume of goods from China, Sweden and Thailand that appear to have been dumped is greater than 3 per cent of the total Australian import volume of goods from each country and therefore is not negligible.

3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods, i.e. that dumping has taken place (to an extent that is not negligible). This issue is considered in the following sections.

3.3 Export price

3.3.1 Legislative framework

Export price is determined by applying the requirements in section 269TAB, taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

3.3.2 The applicants' estimate

Table 7 summarises the approach taken by the applicants to estimate export prices and the evidence relied upon.

Country	Basis of estimate	Details
China, Sweden and Thailand	The price paid or payable for the goods purchased by the importer from the exporter in arms length transactions in accordance with subsection 269TAB(1)(a).	The applicants have used monthly import data in relation to the goods (filtered for the relevant tariff classification) obtained from the ABS to estimate a weighted average Free on Board (FOB) export price for each country. The export prices estimated by the applicants for each country are reported in Table B-2.1 in the application.

Table 7: Applicants' estimate of export price

3.3.3 The Commission's assessment of export price

To assess the reliability of the applicants' estimate of the export price for each country (summarised in Table 7), the Commission compared the applicants' estimate of the export prices (at FOB) with the export price the Commission determined for each country using data from the ABF import database.

The Commission found that the applicants' estimate of the export prices of the goods exported from China and Thailand is similar (i.e. the variance is less than 1 per cent) to the Commission's estimate of the export prices. However, the Commission found that the applicants' estimate of the export price of the goods exported from Sweden is not comparable to the Commission's estimate. The Commission considers that the variance between the estimated export prices for Sweden is material (i.e. the variance is greater than 1 per cent).

Given the material difference in the applicants' estimate of the export price for Sweden to the Commission's estimate, and to ensure consistency in the determination of the export price of the goods exported from each country, the Commission has relied on data obtained from the ABF import database to determine an export price for each country for the purpose of this report.

The applicants' estimate of the export price, including the Commission's estimate, is at **Confidential Appendix 3**.

3.4 Normal value

3.4.1 Legislative framework

Normal value is determined by applying the requirements in section 269TAC taking into account whether:

- the purchase or sale of the goods was an arms length transaction under section 269TAA;
- the goods were sold in the ordinary course of trade under section 269TAAD;
- there has been an absence or low volume of sales of like goods in the country of export; and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under subsection 269TAC(1).

3.4.2 The applicants' estimate

Table 8 summarises the approach taken by the applicants to estimate normal values in relation to the goods exported from each country and the evidence relied upon.

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Country	Basis of estimate	Details
China	<p>The applicants were unable to determine the normal value in relation to the goods exported to Australia from China by using the price paid or payable for like goods sold in China in accordance with subsection 269TAC(1).</p> <p>The applicants have therefore constructed the normal value of the goods exported to Australia from China in accordance with subsection 269TAC(2)(c).</p>	<p>The applicants claim that they do not have information relating to Chinese domestic selling prices for ammonium nitrate. The applicants have therefore constructed the normal value for the goods exported from China using production cost information relating to ammonia and ammonium nitrate, and selling, general and administration (SG&A) costs. The applicants have not included an amount for profit in the constructed normal value.</p> <p>In Confidential Attachment B-4.1 to the application, the applicants provided detailed cost information ('cost models'), including consumption ratios and variable and fixed costs, relating to five integrated manufacturers of ammonium nitrate in China. The applicants also provided information relating to SG&A costs and costs relating to packaging, export inland freight and storage.</p> <p>The applicants claim that the 'cost models' for these five manufacturers have been derived from direct employee knowledge of the operations of the five manufacturers and other various contemporary (i.e. 2017) and non-contemporary information sources.</p> <p>The applicants claim that the estimated normal value is based on the average of the Chinese manufacturers' normal values; however, in a separate confidential attachment to the application, the applicants have calculated the dumping margin using the normal value derived for the lowest cost producer.</p> <p>To ensure a fair comparison to the FOB export price, the applicants adjusted the normal value for the non-refundable value-added tax amount (17 per cent for exports of ammonium nitrate), export inland freight and storage costs.</p> <p>The normal values (in USD) estimated by the applicants in relation to four of the five Chinese manufacturers are reported in Table B-4.1 in the application.</p>
Sweden	<p>The applicants determined the normal value in relation to the goods exported to Australia from Sweden by using the price paid or payable for like goods sold in Sweden in accordance with subsection 269TAC(1).</p>	<p>The applicants had regard to quarterly domestic price lists for ammonium nitrate sold in Sweden in 2017 to estimate a normal value in relation to the goods exported from Sweden. The source of the price lists has been identified in a confidential attachment to the application.</p> <p>The Swedish domestic prices relate to sales of porous prilled ammonium nitrate at ex-works terms. Prices were reported in Swedish Kronor on a per tonne basis, and the applicants converted the domestic quarterly prices to USD.</p> <p>The applicants claim that they do not have information relating to export inland freight costs in Sweden and therefore have not made any adjustments to the normal value to ensure a fair comparison to the export price at FOB.</p> <p>The quarterly normal values (in AUD) determined by the applicants in relation to the goods exported to Australia from</p>

PUBLIC RECORD

Country	Basis of estimate	Details
		<p>Sweden are reported in Table B-3.1 in the application. The quarterly prices lists are at Confidential Attachment B-3.1.1 to the application.</p>
Thailand	<p>The applicants determined the normal value in relation to the goods exported to Australia from Thailand by using the price paid or payable for like goods sold in Thailand in accordance with subsection 269TAC(1).</p>	<p>The applicants used actual domestic sales values and volumes of ammonium nitrate sold in Thailand to derive monthly prices (at delivered-into-store terms) for the period August 2015 to February 2016 (except for September 2015).</p> <p>The applicants have obtained this sales information from a distributor in Thailand, and the actual source of this sales information has been identified in a confidential attachment to the application.</p> <p>To derive monthly prices for 2017, the applicants used three different methods. The three methods employed by the applicants are as follows.</p> <ol style="list-style-type: none"> 1. The applicants calculated the average difference between the available monthly Thai domestic prices for the period August 2015 to February 2016 (described above) and the comparable monthly prices for ammonium nitrate (filtered by the relevant tariff subheading) imported into Thailand from China during the same period. The applicants obtained this import data from a paid subscription. The applicants applied this average difference to the monthly Thai import prices for ammonium nitrate from March 2016 onwards to derive contemporary Thai domestic prices for ammonium nitrate. 2. The applicants used monthly South East Asia FOB ammonia prices (the main raw material used in the manufacture of ammonium nitrate) and applied an ammonia consumption ratio (i.e. the quantity of ammonia consumed in producing one tonne of ammonium nitrate) to determine monthly ammonia costs for the period August 2015 to December 2017. The applicants obtained this ammonia price data from a paid subscription. 3. The applicants averaged the prices derived in accordance with method one and method two (outlined above) to determine monthly Thai domestic prices for ammonium nitrate for the period August 2015 to December 2017. <p>To determine normal values for the purpose of calculating a dumping margin for the goods exported to Australia from Thailand, however, the applicants used the contemporary prices derived in accordance with the first method outlined above.</p> <p>The applicants claim that the estimated normal value for Thailand is based on a delivered into store basis and consider that export inland freight and domestic inland freight (to the customer) are comparable. Therefore, the applicants have not made any adjustments to the normal value.</p>

Country	Basis of estimate	Details
		The monthly Thai domestic prices for 2017 are reported in Table B-3.1.2 in the application. The sales information and the applicants' calculations of these prices are provided in Confidential Attachment B-3.1.2 to the application.

Table 8: Applicants' estimate of normal value

3.4.3 The Commission's assessment of normal value

The Commission reviewed the applicants' calculations of the normal values and the information provided to support such calculations. The Commission's assessment of the reasonableness of the applicants' estimate of the normal value in relation to the goods exported to Australia is separately outlined below for each country.

3.4.3.1 China

The Commission notes that for the purpose of calculating a dumping margin, and contrary to the applicants' claim in the application, the applicants have not used the average costs of the Chinese manufacturers and have instead used the costs relating to the most efficient Chinese ammonium nitrate manufacturer to determine a normal value for the goods exported from China. Given that this results in a conservative estimate of the normal value,¹⁵ the Commission has reviewed the costs of production and the costing assumptions relating to this particular manufacturer.

The Commission considers that the applicants have provided relevant and reliable information to support the coal input costs used in estimating ammonia¹⁶ production costs. The Commission also assessed the applicants' coal consumption assumptions and considers the assumptions to be reasonable based on independent third-party information provided by the applicants.

Further, the Commission considers that the applicants have applied a reasonable assumption, based on average production capacity utilisation rates in China, in relation to the capacity utilisation of the relevant ammonium nitrate manufacturer referred to in constructing the normal value.

The Commission notes that the applicants have estimated depreciation costs based on the applicants' own depreciation costs given that the applicants were unable to obtain relevant information relating to depreciation expenses in China. The Commission considers that the applicants can only provide such information as is reasonably available to them to support their claims. In view of this, the Commission considers that the evidence the applicants have provided is reasonably available to them and therefore is sufficient for the purpose of constructing the normal value.

¹⁵ Conservative in that the estimated normal value, and therefore the dumping margin (for any given export price), is relatively lower.

¹⁶ Ammonia is a significant input into the production of ammonium nitrate. Coal is a major raw material used in the production of ammonia in China.

The Commission considers that the applicants have not provided contemporary information relating to electricity and water costs used in constructing the normal value. The Commission, however, was able to obtain contemporary information relating to these utility costs and tariffs, which are relevant to the region in which the relevant manufacturer operates. Based on this information, the Commission notes that the applicants have understated the costs relating to electricity and water; however, the costs used by the applicants in constructing the normal value are conservative and therefore the Commission has not amended these costs.

The Commission considers that for certain fixed and variable costs (including labour, maintenance, material costs and packaging and bagging costs) used in constructing the normal value, the applicants did not provide any reliable information to support these costs. Further, the applicants did not provide any information to support the export inland freight and storage costs used in adjusting the normal value to ensure a fair comparison to the FOB export price.

For the purpose of this report, in estimating the normal value of the goods exported from China, the Commission excluded these unsubstantiated fixed and variable costs. Further, in the absence of any other reliable information relating to export inland freight and storage costs, the Commission did not adjust the normal value for these costs.

In relation to the SG&A costs used by the applicants in constructing the normal value, the Commission considers that the supporting information provided by the applicants is relevant and reliable.

The Commission notes that the applicants have not applied an amount for profit in constructing the normal value. In the absence of any reliable information in relation to the profit achieved on Chinese domestic sales of ammonium nitrate, the Commission has not applied an amount for profit and considers that this results in a conservative estimate of the normal value.

The Commission's assessment and calculation of the normal value of the goods exported to Australia from China is at **Confidential Appendix 4**.

3.4.3.2 Sweden

The Commission considers that the applicants' estimate of the normal value of the goods exported to Australia from Sweden is reasonable given that it is based on relevant and contemporaneous pricing information relating to domestic sales of ammonium nitrate in Sweden.

The Commission considers that the quarterly price lists provided by the applicants are reliable and were supported by copies of relevant correspondence relating to the price lists.

The Commission notes that the applicants have not adjusted the normal value (calculated at ex-works) for export inland freight and associated handling costs to ensure a fair comparison to the FOB export price. The Commission considers that this is a conservative estimate of the normal value.

The Commission's assessment of the normal value of the goods exported to Australia from Sweden is at **Confidential Appendix 5**.

3.4.3.3 Thailand

The Commission notes that the three methods (described in Table 8 above) applied by the applicants to estimate Thai domestic prices for 2017 result in materially different normal values for the goods exported from Thailand.

The Commission observes that method two results in the lowest average normal value of the three methods. However, the Commission considers that method two is inappropriate given that it is based only on South East Asia ammonia prices (adjusted using a consumption ratio relevant to the production of ammonium nitrate) and does not take into consideration any other conversion costs incurred in producing ammonium nitrate. Therefore, the normal value estimated using these ammonia costs is likely to be understated; nevertheless, given that this would result in the most conservative estimate of the normal value, the Commission has used this estimate of the normal value for the purpose of conducting a sensitivity analysis (discussed further below).

The Commission further compared the trend in the South East Asia ammonia prices and the actual Thai domestic ammonium nitrate prices for the period August 2015 and February 2016 (the only information available to the applicants in relation to actual domestic sales of ammonium nitrate) and found that the prices did not follow a similar trend during this period.

The Commission undertook a similar comparison between the ammonium nitrate import prices into Thailand (used for the purpose of method 1) and the actual Thai domestic ammonium nitrate prices for the period August 2015 and February 2016 and found that the prices followed a similar trend.

Therefore, the Commission considers that the applicants' estimate of the normal value, in accordance with method one outlined and described in Table 8 above, is reasonable. Given that there were minor errors in the applicants' calculations of the normal value, the Commission has recalculated the normal value of the goods exported to Australia from Thailand in accordance with method one described in Table 8 above.

The applicants' calculation of the normal value of the goods, and the Commission's analysis and calculation of the normal value, is at **Confidential Appendix 6**.

Sensitivity analysis

Given that the applicants estimated contemporary normal values for the goods exported to Australia from Thailand using three different methods (described in Table 8), the Commission has conducted a 'sensitivity' analysis by calculating three separate dumping margins in relation to the goods exported from Thailand using the normal values estimated by the applicants in accordance with each of the three methods.

The Commission found that, regardless of which method is used to estimate the normal value, the dumping margin determined using each estimated normal value (and using the Commission's estimate of the export price) is significant.

3.5 Dumping margins

3.5.1 Legislative framework

Dumping margins are determined in accordance with the requirements of section 269TACB.

Dumping margins and dumping volumes cannot be negligible, otherwise the investigation is terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

3.5.2 The Commission's assessment

Table 9 summarises the dumping margins¹⁷ estimated by the applicants and the dumping margins calculated by the Commission based on revised estimates of export prices and normal values.

Country	The applicants' estimate	The Commission's estimate ¹⁸
China	23.8%	11.5%
Sweden	56.3%	40.5%
Thailand	41.3%	39.2%

Table 9: Estimate of dumping margins

Assessed at the levels shown in Table 9, the dumping margins are not negligible. Therefore, there appear to be reasonable grounds to support the applicants' claims that dumping has occurred and that, in accordance with subsection 269TDA(1)(b)(ii), the dumping margins are not negligible.

The Commission's assessment of dumping is at **Confidential Appendix 7**.

3.5.3 Volume of dumped goods

Based on the information obtained from the ABF import database, imports of ammonium nitrate from each of the three countries nominated in the application individually represent more than 3 per cent of the total volume of ammonium nitrate imported during the period 1 January 2017 to 31 December 2017. Therefore, in accordance with subsection 269TDA(4), the volume of the dumped goods is not negligible.

The Commission's analysis of the import volumes of ammonium nitrate is at **Confidential Appendix 2**.

¹⁷ Dumping margins are expressed as a percentage of the export price.

¹⁸ The Commission compared the weighted average of export prices with the weighted average of corresponding normal values in accordance with subsection 269TACB(2)(c).

4 REASONABLE GROUNDS - INJURY TO THE AUSTRALIAN INDUSTRY

4.1 Findings

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury in the form of:

- a decline in production;
- reduced sales volumes;
- reduced revenues;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced return on investment;
- lower capacity utilisation; and
- reduction in employment.

4.2 Legislative framework

Under section 269TG, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice is that the Australian industry has experienced material injury.

The matters that may be considered in determining whether the Australian industry has suffered material injury are set out in section 269TAE.

In assessing the materiality of the claimed injury, the Commission also has regard to the Ministerial Direction on Material Injury 2012 (Material Injury Direction).¹⁹

4.3 The applicants' claims

The applicants claim that the Australian industry has been injured through:

- a decline in production;
- reduced sales volumes;
- reduced revenues;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced return on investment;
- lower capacity utilisation; and
- reduction in employment.

The applicants allege that injury from the dumped goods exported from China, Sweden and Thailand commenced in 2016; however, it is claimed that in 2017 the 'injury increased' and is considered by the applicants to be material.

¹⁹ Ministerial Direction on Material Injury 2012, 27 April 2012, available at www.adcomission.gov.au.

4.4 Approach to injury analysis

The analysis detailed in this section of the report is based on information provided by each applicant in support of the application, including quarterly production, costs, sales and other financial data. Where relevant, the Commission also had regard to ABF data and information relating to the other Australian manufacturer of ammonium nitrate, Incitec Pivot.

4.4.1 Aggregation of Australian industry data

The Commission has aggregated the data for each applicant to assess the condition of the Australian industry and to determine whether injury to the industry as a whole has occurred.

Further, in assessing the injury to the Australian industry in this report, the Commission had regard to Orica's captive production and derived 'notional' sales volumes of ammonium nitrate given that a significant proportion of Orica's ammonium nitrate production volume is used as raw material in the production of various types of explosives. However, during the course of the investigation, the Commission will assess injury to the Australian industry by having separate regard to Orica's 'notional' sales (derived from its bulk explosives sales) of ammonium nitrate.

4.4.2 Injury analysis period

For the purposes of conducting the injury analysis in this report, the Commission has analysed the applicants' data and injury claims from 1 January 2014 to 31 December 2017. The figures presented in this section show the data for years ending 31 December.

However, as noted in section 1.2 of this report, the investigation will examine exports to Australia during the period 1 April 2017 to 31 March 2018 (the investigation period) for dumping, and details of the Australian market from 1 April 2014 will be examined for injury analysis purposes. Therefore, the following analysis will change.

4.5 Volume effects

The applicants claim that the Australian industry has experienced injury in the form of reduced production and sales volumes.

The following sections of the report summarise the claimed injury indicators (in terms of volume effects) and include the Commission's assessment.

4.5.1 Production volumes

Figure 2 shows the trend in the Australian industry's total ammonium nitrate production volumes²⁰ (including captive production) from 2014 to 2017.

²⁰ This includes Incitec Pivot's production volumes which the Commission had estimated using publicly available information.

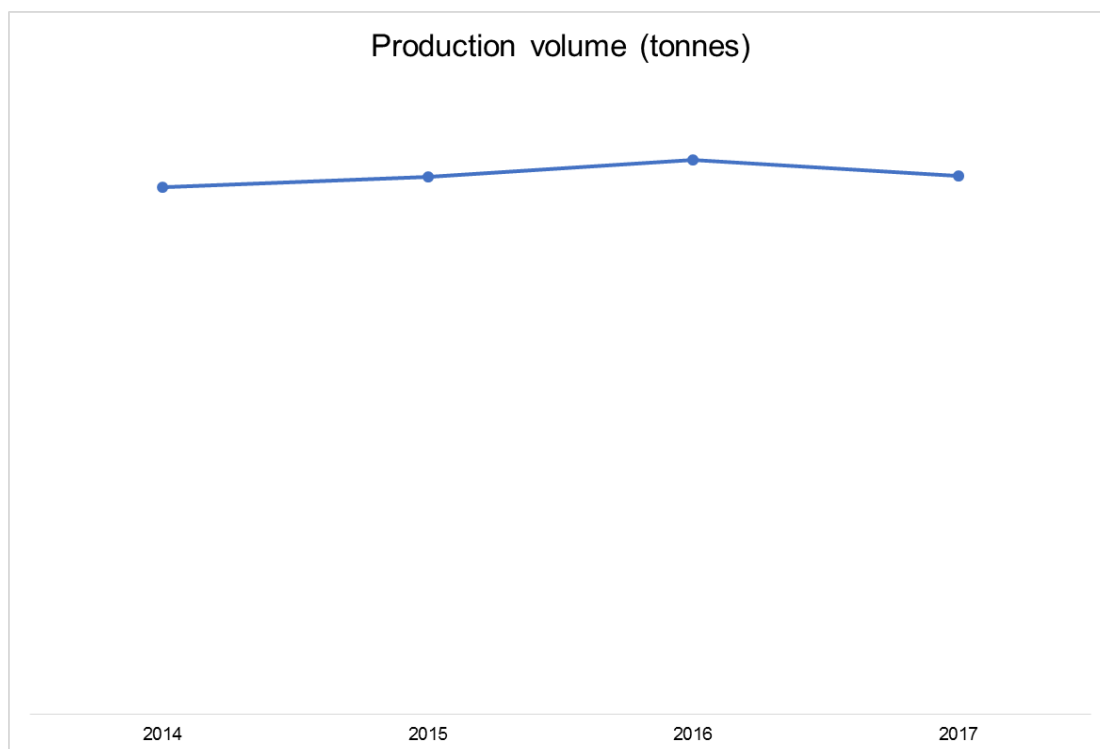


Figure 2: Australian industry’s ammonium nitrate production volumes (tonnes)

The Commission observes that the production volumes increased between 2014 and 2016, and decreased in 2017, which the applicants note reflects a ‘contraction in the market’.

4.5.2 Sales volumes

In the application, indices relating to sales volumes and sales values were presented separately for each applicant.

CSBP and QNP claim that they have experienced a decline in their sales volumes in 2017, while Orica claims that its sales volumes ‘have remained flat in 2016 and 2017’.

The applicants further claim that:

With reduced export prices in 2017, imports from China, Sweden and Thailand have undercut the Australian industry’s selling prices to secure increased sales volumes across the Australian market. The impact of the dumping has caused the Applicants to lose sales volumes (down by 2.6 per cent)...²¹

For the purpose of assessing the claimed injury in the form of reduced sales volumes, the Commission has aggregated the sales volumes for each applicant to derive total domestic sales volumes for the Australian industry as whole.

Figure 3 shows the trend in the applicants’ domestic sales volumes of ammonium nitrate²² during the period 2014 to 2017.

²¹ Page 22 of the application refers.

²² Equivalent to 100 per cent ammonium nitrate (%wt/wt).

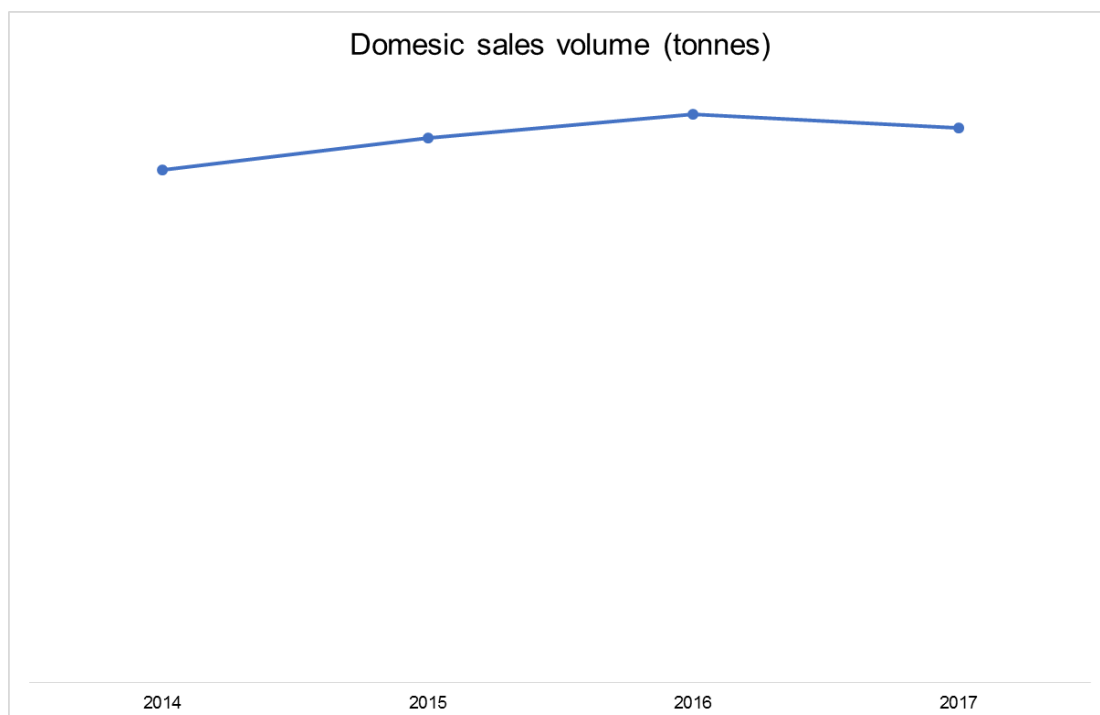


Figure 3: Applicants’ domestic sales volumes of ammonium nitrate (tonnes)

The Commission observes that the applicants’ sales volumes of ammonium nitrate in the domestic market has increased between 2014 and 2016; however, sales volumes have decreased in 2017 (relative to 2016 volumes).

4.5.3 Market share

The applicants have not claimed injury in the form of loss of market share; however, the Commission has assessed the composition of the ammonium nitrate market and has included the following analysis for context.

Figure 4 shows the total Australian market for ammonium nitrate during the period 2014 to 2017, comprising the Australian industry’s sales, imports from the subject countries and imports from other countries.

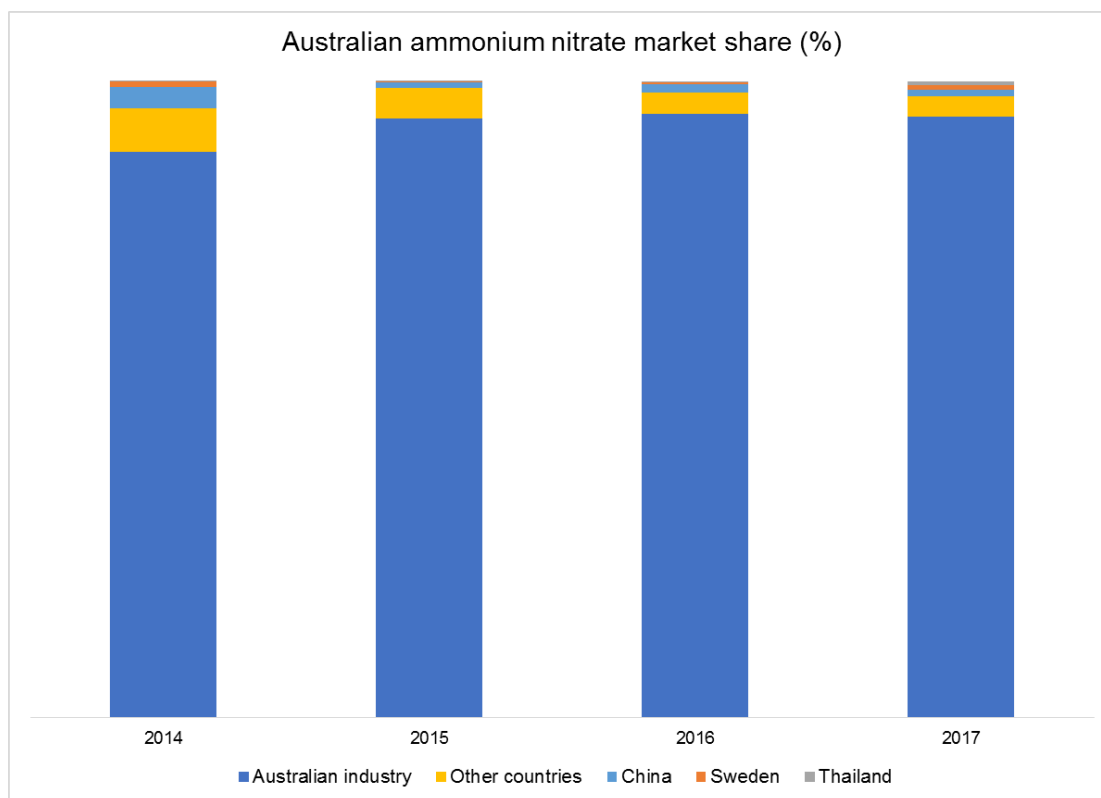


Figure 4: Australian ammonium nitrate market share (percentage of tonnes sold)²³

The Commission observes the following:

- the Australian industry’s market share has increased in 2015, and remained relatively stable in the ensuing years before declining slightly in 2017;
- the market share of ammonium nitrate imported from China decreased in 2015, and then increased slightly in 2016 before decreasing again in 2017;
- the market share of ammonium nitrate imported from Sweden and Thailand increased in 2016 and 2017; and
- the market share of ammonium nitrate imported from other countries decreased in 2016 and 2017.

Imports from China, Sweden and Thailand accounted for approximately 2.4 per cent of the total ammonium nitrate market in 2017.

4.5.4 Conclusion - volume effects

Based on the analysis in the preceding sections, the Commission considers that there appear to be reasonable grounds to support the applicants’ claim that the Australian industry has experienced injury in the forms of a decline in production and reduced sales volumes in 2017.

²³ Based on the applicants’ data and import data obtained from the ABF import database. The estimate of the Australian industry’s market share includes estimates of Incitec Pivot’s sales volumes based on publicly available information.

The Commission further notes that imports from China, Sweden and Thailand have increased since 2015 and so did the market share held by these countries, while the market share held by imports from other countries has decreased over the same period.

4.6 Price effects

The applicants claim that the Australian industry has experienced injury in the form of price depression and suppression.

Price depression occurs when a company, for some reason, lowers its prices.

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

The following sections of the report summarise the claimed injury indicators (in terms of price effects) and include the Commission's assessment.

4.6.1 Price depression and price suppression

The applicants claim that the Australian industry has experienced a reduction in selling prices in 2016 and 2017, which were allegedly undercut by increasing import volumes from China, Sweden and Thailand.

The applicants further claim that:

The impact of the dumped export prices at levels that have undercut the Applicants' selling prices during 2017 has resulted in injury in the form of price suppression. The Applicants' CTM&S has increased in 2017, whereas selling prices have remained flat. The local industry has been unable to raise its selling prices to recover cost increases that have occurred as a consequence of reduced production volumes and increasing raw material costs.²⁴

Figure 5 shows the trends in the applicants' weighted average cost to make and sell (CTMS) and weighted average domestic prices during the period 2014 to 2017.

²⁴ Page 26 of the application refers.

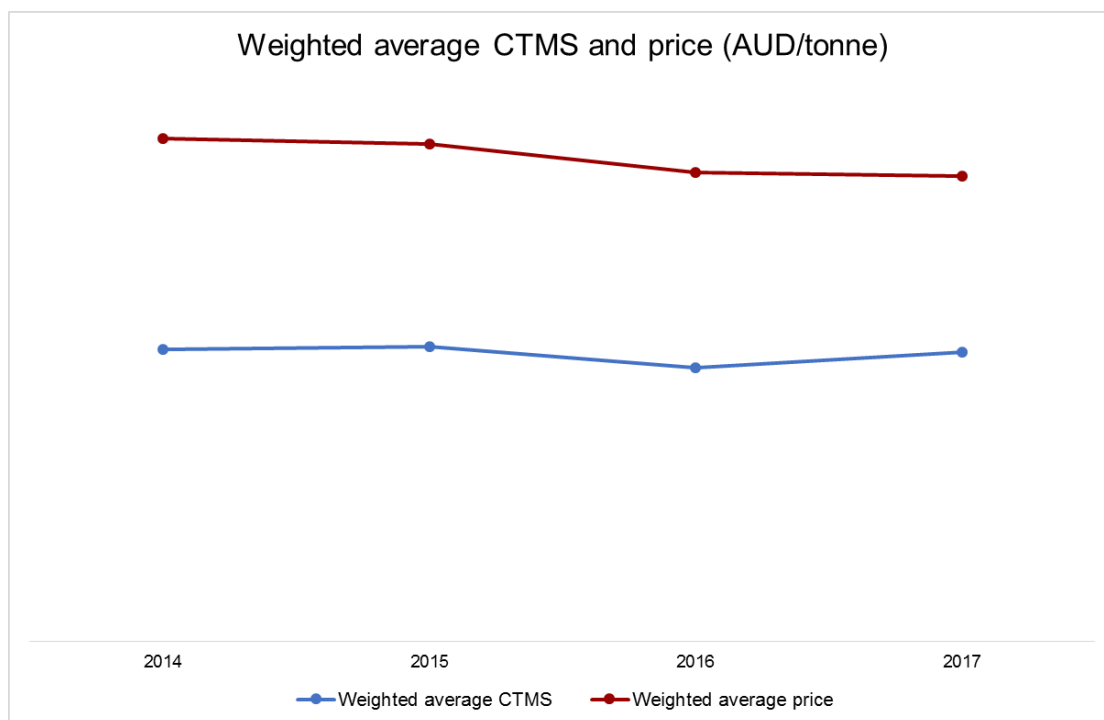


Figure 5: Applicants’ weighted average CTMS and price (AUD/tonne)

The Commission observes that the applicants’ prices have decreased since 2015, which appears to confirm the applicants’ claim that the Australian industry has experienced price depression.

The Commission further observes that the applicants’ costs have increased in 2017 while prices have decreased in the same period, indicating slight price suppression.

4.6.2 Sales revenue

The applicants claim that the Australian industry has experienced injury in the form of reduced revenues in 2017.

Specifically, CSBP and QNP claim that they have experienced a decline in their sales revenues in 2017, while Orica claims that its sales revenues ‘have remained flat in 2016 and 2017’.

The Commission considers that, given revenue is a function of price and sales volume, and given that it appears that the Australian industry’s prices (assessed at section 4.6.1 of this report) and sales volumes (assessed at section 4.5.2 of this report) have decreased in 2017, it therefore follows that the Australian industry’s sales revenue should also have decreased in line with the decreases observed in prices and sales volumes.

Figure 6 shows the trend in total domestic sales revenues during the period 2014 to 2017.

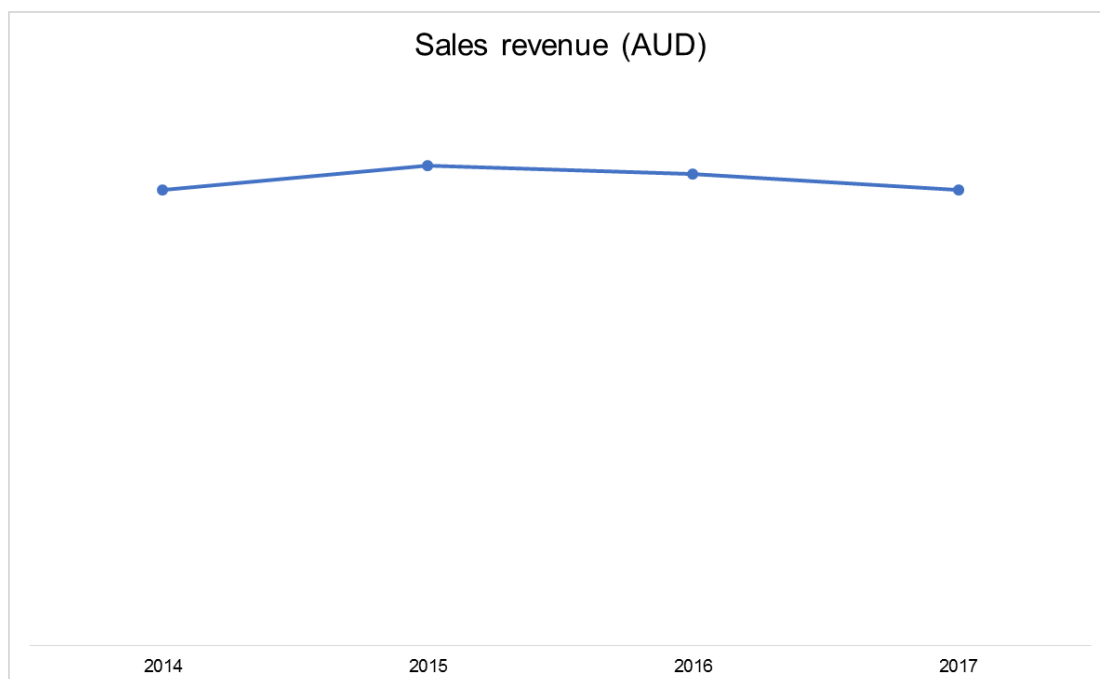


Figure 6: Applicants' total domestic sales revenue

The Commission observes that the applicants' sales revenues have decreased since 2015, which is mostly consistent with the trend in the applicants' prices (i.e. prices decreased in 2016 and 2017) and was further exacerbated by a decrease in sales volumes in 2017.

4.6.3 Conclusion - price effects

Based on the analysis in the preceding sections, the Commission considers that there appear to be reasonable grounds to support the applicants' claim that the Australian industry has experienced injury in the form of price depression, price suppression and reduced revenues in 2016 and 2017.

4.7 Profit and profitability effects

The applicants claim that the Australian industry has experienced injury in the form of loss of profits and reduced profitability.

The applicants allege that profit declined in 2016, and because the Australian industry experienced reductions in selling prices and was unable to 'adjust selling prices to reflect increases in production costs', profit and profitability also decreased in 2017.

Figure 7 shows the trend in the applicants' aggregated domestic profits and profitability during the period 2014 to 2017.

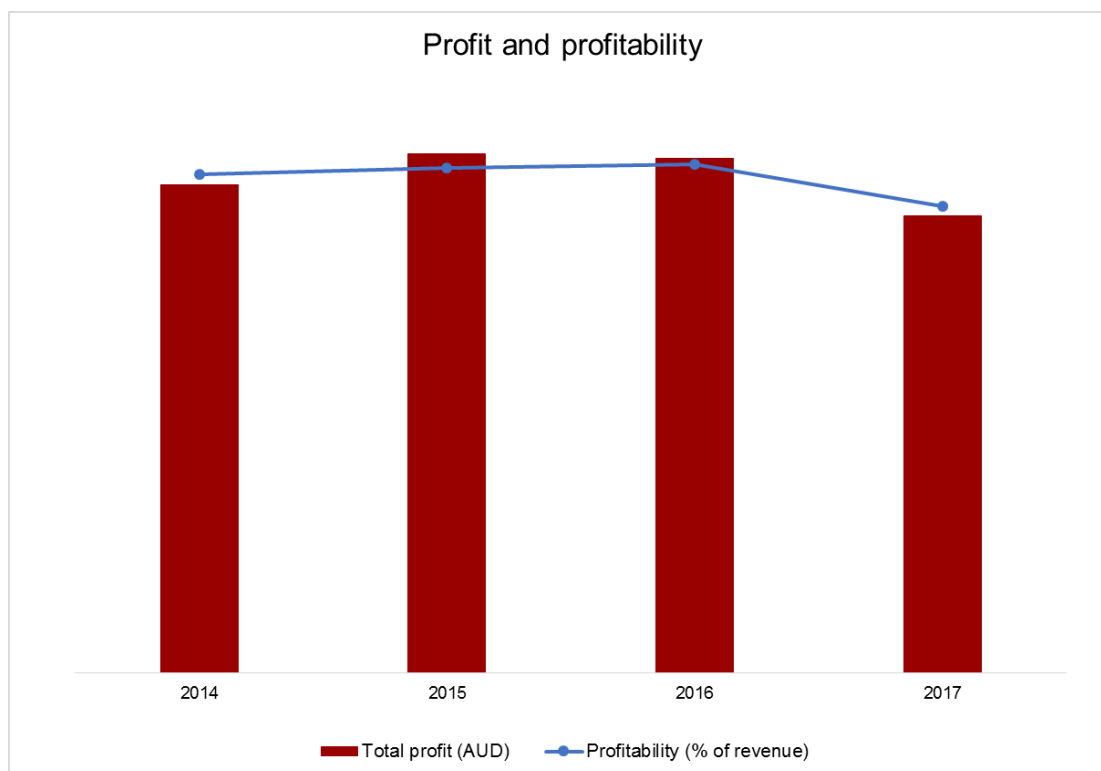


Figure 7: Applicants' total profit (AUD) and profitability (profit as a percentage of total domestic revenue)

The Commission observes that the applicants' profit increased in 2015, decreased slightly in 2016, and decreased in 2017. The applicants' profitability increased in 2015, remained constant in 2016, and decreased in 2017.

4.7.1 Conclusion - profit and profitability effects

Based on the analysis in the preceding sections, the Commission considers that there appear to be reasonable grounds to support the applicants' claim that the Australian industry has experienced injury in the form of loss of profits and reduced profitability in 2017.

4.8 Other injury indicators

The applicants claim that the Australian industry has also experienced injury in the form of a reduction in the return on investment (ROI), lower capacity utilisation and a reduction in employment in 2017.

4.8.1 Return on investment

The applicants claim that the Australian industry has experienced injury in the form of reduced ROI in 2017 which can be attributed to the decline in the Australian industry's selling prices and revenues.

The Commission observes that the trend in ROI varied across the applicants. This will be further assessed during the course of the investigation.

4.8.2 Production capacity utilisation

The applicants claim that the Australian industry has experienced injury in the form of reduced production capacity utilisation as a result of a reduction in production volumes in 2017.

The Commission observes that some of the applicants have demonstrated a decrease in their capacity utilisation rates in 2017. This will be further assessed during the course of the investigation.

4.8.3 Reduction in employment

The applicants claim that the Australian industry has experienced injury in the form of reductions in employment numbers in 2017.

The Commission has aggregated the number of employees (relevant to ammonium nitrate production including support staff) for all three applicants and observes that employment has been decreasing steadily since 2014. The Commission will further assess the trend in employment numbers during the course of the investigation.

4.8.4 Conclusion - other injury factors

The Commission has considered the other injury factors outlined above and based on the information provided in the application there does appear to be reasonable grounds to support the claim that the Australian industry has suffered injury in the form of a reduction in ROI, lower capacity utilisation and a reduction in employment. The Commission will further assess these factors as they specifically relate to like goods during the course of the investigation.

4.9 The Commission's assessment

The Commission considers that there appear to be reasonable grounds to support the applicants' claim that the Australian ammonium nitrate industry has experienced injury in the form of:

- a decline in production;
- reduced sales volumes;
- reduced revenues;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced return on investment;
- lower capacity utilisation; and
- reduction in employment.

The Commission's assessment of the economic condition of the Australian industry is at **Confidential Appendix 8**.

5 REASONABLE GROUNDS - CAUSATION FACTORS

5.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the applicants' claim that the Australian industry has suffered injury caused by dumping and that the injury is material.

5.2 Cause of injury to the Australian industry

5.2.1 Legislative framework

Under section 269TG, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice is that the material injury suffered by the Australian industry was caused by dumping. This issue is considered in the following sections.

Matters that may be considered in determining whether the Australian industry has suffered material injury caused by dumped goods are set out in subsection 269TAE(1).

5.2.2 Cumulation of the effect of exports of the goods from different countries

For the purposes of subsection 269TAE(1), in determining the effect of the exportations of the goods to Australia from different countries of export, the relevant Minister should consider the cumulative effect of those exports in accordance with subsection 269TAE(2C).

Subsection 269TAE(2C) specifies that, in relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day (as is the case in this investigation), the cumulative effects of such exports may be assessed if:

- the margin of dumping established for each exporter is not negligible; and
- the volume of dumped goods that have been exported to Australia is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

Having regard to the information provided in the application, and as outlined in section 2 of this report, the Commission is satisfied that the conditions of competition between the goods, and between the goods and like goods that are domestically produced, are similar.

The Commission therefore considers that it is appropriate to consider the cumulative effect of the allegedly dumped exports from China, Sweden and Thailand, given that:

- the margin of dumping for each country is not negligible;
- the volume of exports from each country is not negligible; and

- a cumulative assessment is appropriate in light of the conditions of competition between the imported goods and the like goods.

5.3 The applicants' claims

The table below summarises the applicants' causation claims.

Injury caused by dumping
<p><u>Volume effects</u></p> <ul style="list-style-type: none"> • Reduced sales and production volumes due to price undercutting. • Lower production volumes have resulted in lower utilisation of production capacity and therefore increasing fixed costs. <p><u>Price effects</u></p> <ul style="list-style-type: none"> • The applicants have reduced prices in response to lower price offers from China, Sweden and Thailand, in order to secure supply contracts. • Reduced revenues as a consequence of lower prices and sales volumes. <p><u>Profit effects</u></p> <ul style="list-style-type: none"> • An inability to increase selling prices to counter rising costs, and downward pressure on prices and sales volumes has had a direct impact on profit and profitability.
Injury caused by other factors
<p>Overcapacity in the global ammonium nitrate market and the effect on export prices. While the applicants acknowledge the over-supply in the global market, the applicants assert that injury from dumping is material in its own right.</p>

Table 10: Applicants' causation claims

5.4 Volume effects

The applicants claim that the Australian industry's sales volumes declined in 2017, whereas import volumes of the dumped goods from China, Sweden and Thailand have increased during this period and have been increasing since 2015.

The applicants allege that these increasing import volumes at relatively low prices (further discussed in section 5.5 of this report) from the countries the subject of the application have undercut the Australian industry's selling prices which has caused the applicants to lose sales volumes in 2017. The applicants have also alleged that the Australian industry's production volumes declined in 2017, which appears to be the direct result of the reduction in sales volumes.

Figure 3 and Figure 4 (in sections 4.5.2 and 4.5.3 of this report respectively) show that the Australian industry's sales volumes and market share have slightly decreased in 2017, while import volumes from the countries the subject of the application, including their market share, have increased during this period. The Commission also notes that the ammonium nitrate market has contracted slightly in 2017 (Figure 1 in section 2.5.1 of this report refers).

Figure 8 separately shows the trends in import volumes from China, Russia,²⁵ Sweden, Thailand and all other countries since 2014.

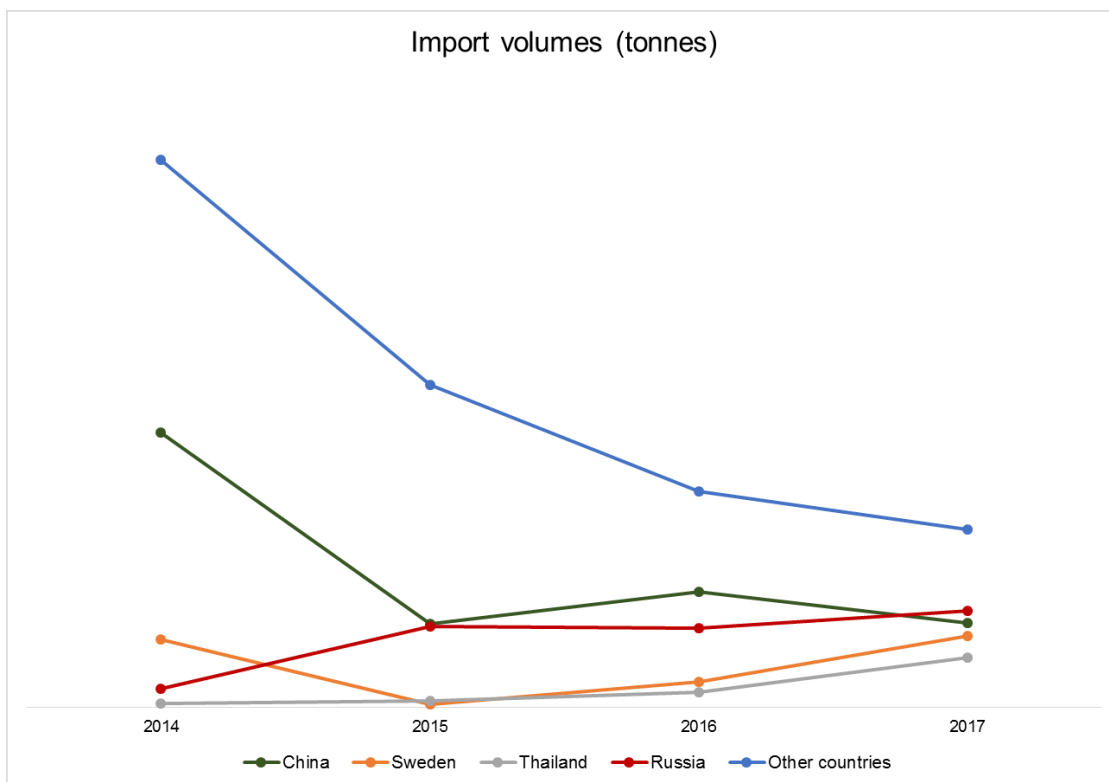


Figure 8: Imports of ammonium nitrate²⁶

The Commission observes that import volumes from Sweden and Thailand have increased steadily since 2015; while import volumes from China appear to have increased in 2016 before declining in 2017. The Commission also observes that import volumes from Russia have also increased during this period, while imports from other countries have declined significantly since 2014. Overall, imports of ammonium nitrate from China, Sweden and Thailand have increased as a proportion of total imports, from 19 per cent in 2015 to 43 per cent in 2017.

The Commission considers that there appear to be reasonable grounds to support the applicants' claim that the dumped goods imported in increasing volumes since 2015 have caused injury to the Australian industry in the form of reduced sales and production volumes, although the Commission qualifies this consideration given that the ammonium nitrate market appears to have contracted, albeit slightly, in 2017.

During the course of the investigation the Commission will further consider injury in the form of reduced production and sales volumes. More specifically, the Commission will consider the additional production and sales volumes that the applicants may have obtained in the absence of dumped imports from the

²⁵ On 24 May 2016, anti-dumping measures were continued for another 5 years in relation to ammonium nitrate exported to Australia from Russia.

²⁶ Import volumes obtained from ABF import database.

subject countries, and the consequential impact on the applicants' sales revenue and profit.

5.5 Price effects

In the application, the applicants submit that ammonium nitrate is supplied to mines (whether to mining principals or via mining services providers) via long-term and spot contracts arranged through competitive tender processes.

The applicants claim that this tender process, and the dual sourcing by mine operators, exposes the Australian industry to competition from imports, with customers citing the availability of imported ammonium nitrate as the 'benchmark or alternative source to the local ammonium nitrate supplier'.

The applicants further claim that:

The selling prices for AN [ammonium nitrate] supply in Australia is relatively transparent with import volumes and prices observable in published ABS data; the market itself may be described as "price sensitive" as all parties operate in full knowledge of the availability and pricing for alternate supply.²⁷

Emphasising this price sensitivity in the Australian ammonium nitrate market, the applicants allege that, from 2015,²⁸ importers of ammonium nitrate sought alternative sources of supply as Russian export prices became less attractive.

The applicants claim that in negotiations with customers in 2016 and 2017, import prices for ammonium nitrate from China, Sweden and Thailand were prominent in negotiations, and note that the FOB prices for exports from China, Sweden and Thailand have been significantly below the FOB prices for exports from Russia.

The applicants allege that exports from these countries, at allegedly dumped prices, were referenced and used by customers to secure reduced prices in long-term contracts with the applicants. The applicants provided seven 'case studies' in the application to support these claims.

The applicants allege that the dumped export prices have undercut the Australian industry's selling prices during 2017 and have resulted in price depression and price suppression, and this downward pressure on prices has had a direct impact on profits and profitability.

The Commission's assessment of these claims is outlined in the following sections.

5.5.1 Export price analysis

The Commission compared the FOB prices²⁹ of exports from China, Sweden and Thailand to the FOB prices of exports from Russia and other countries during the period 2014 to 2017, and observes the following:

²⁷ Page 23 of the application refers.

²⁸ During 2015, the Commission conducted an inquiry into the continuation of anti-dumping measures applying to ammonium nitrate exported from Russia.

²⁹ FOB prices derived using data from the ABF import database.

- export prices from all countries have been steadily decreasing since 2014;
- export prices from China, Sweden and Thailand were relatively lower than the export prices of all other countries, including Russia, in 2017, consistent with the applicants' claims; and
- export prices from Sweden were significantly lower than export prices of any other country in 2016 and 2017.

The Commission was not able to identify and distinguish between HDAN and LDAN in the ABF import database. During the course of the investigation, the Commission anticipates that it will obtain more detailed information to allow for a precise comparison of export prices based on the density of ammonium nitrate.

5.5.2 Price undercutting

Price undercutting occurs when the imported goods are sold at a price below that of the Australian industry.

The applicants have provided seven 'case studies' which the applicants claim demonstrate instances where prices have been negotiated by customers using import sources of supply (at allegedly dumped prices) from China, Sweden and Thailand as leverage in supply contract negotiations.

The Commission notes that some of the case studies provided in support of the applicants' allegations relate to sales of explosives, which are not like goods to the goods under consideration. Nevertheless, the Commission recognises that ammonium nitrate is a major raw material input into the production of this downstream product and therefore competition for the supply of explosives amounts to indirect competition between imported and locally produced ammonium nitrate. The Commission will further assess this downstream market during the course of the investigation as it directly affects demand for ammonium nitrate.

Further, for some of the examples provided, while it is apparent that the applicants had indeed reduced their prices to secure supply contracts with customers, the evidence provided by the applicants was not conclusive in terms of whether the applicants had reduced prices because of direct competition with imports from China, Sweden or Thailand; or whether the applicants reduced prices for other reasons (e.g. possibly as a result of direct competition among Australian producers, or imports of like goods from other countries).

The Commission also notes that the majority of the examples provided by the applicants relate to negotiations undertaken prior to 2017. During the course of the investigation, the Commission anticipates that it will obtain more contemporary information relevant to the investigation period in relation to tenders for supply of ammonium nitrate and contract negotiations.

The Commission's analysis in relation to these case studies is at **Confidential Appendix 9**.

To further test the applicants' claim in relation to price undercutting, the Commission separately compared CSBP's and Orica's³⁰ monthly weighted average selling prices³¹ (at ex-works) in 2017 to corresponding weighted average selling prices³² (at Cost, Insurance and Freight, including import duties and other taxes) of the goods imported from China, Sweden and Thailand (depending on where the imported goods were discharged in Australia). For some import consignments, the Commission was able to compare the import prices to the Australian industry's prices for the same customers in the same regional markets (referred to by the applicants as 'dual' sourcing by some customers).

The Commission found that CSBP's and Orica's prices have been undercut by prices of the imported goods from China, Sweden and Thailand. The margin of undercutting ranged from 7 per cent to 25 per cent.

During the course of the investigation, the Commission anticipates that it will obtain more detailed information to allow for a more precise comparison of export prices to the Australian industry's prices based on the density of the ammonium nitrate.

Based on this analysis and the case studies provided by the applicants, the Commission considers that there appear to be reasonable grounds to support the applicants' claim that the dumped goods exported from China, Sweden and Thailand have caused injury to the Australian industry in the form of price depression.

The Commission also considers it is reasonable to conclude that the price pressures caused by the dumped goods appear to have prevented the Australian industry from increasing prices by any significant degree to counter rising costs, leading to price suppression.

The Commission's price undercutting analysis, based on CSPB's and Orica's sales data, is at **Confidential Appendix 10** and **Confidential Appendix 11** respectively.

5.6 Profit effects

As outlined in section 5.4 of this report, the Commission considers that there appear to be reasonable grounds to support the applicants' claim that the dumped goods from China, Sweden and Thailand have caused injury to the Australian industry in the form of loss of sales volumes. Further, as outlined in section 5.5 of this report, there appear to be reasonable grounds that the dumped goods from the countries the subject of the application have caused injury to the Australian industry in the form of price depression and price suppression.

Given that profit is a function of sales volume and profit margin, the Commission also considers that there appear to be reasonable grounds to support the applicants' claim that the dumped goods have also caused injury

³⁰ These two producers account for the largest proportion of the Australian industry's production volume.

³¹ For ammonium nitrate in solid form only.

³² Prices derived using data from the ABF import database. All import consignments of ammonium nitrate into Australia entail ammonium nitrate in solid form only.

to the Australian industry in the form of reduced profit and reduced profitability.

5.7 Injury caused by factors other than dumping

Apart from acknowledging the oversupply in the global ammonium nitrate market, the applicants did not attribute any injury to factors other than dumping from the countries the subject of the application.

In accordance with subsection 269TAE(2A), during the course of the investigation, the Commission will assess other potential causes of injury to the Australian industry, including, but not limited to:

- factors affecting the demand for ammonium nitrate, including mining activity and the economic condition of the iron ore and coal industries;
- unplanned manufacturing plant shutdowns;
- raw material costs, including gas prices in the Australian East and West coast markets;
- competition between Australian producers of like goods; and
- the volumes and prices of ammonium nitrate imported from other countries.

5.8 Conclusion - material injury caused by dumping

The Commission considers that:

- the level of the dumping indicated in the application and in the Commission's revised calculations;
- the preliminary assessment of loss of sales and production volumes;
- the preliminary assessment of price depression and price suppression; and
- the preliminary assessment of reduced profit and profitability,

provide reasonable grounds to support the applicants' claim that exports of the goods from China, Thailand and Sweden at dumped prices have caused material injury to the Australian industry.

6 APPENDICES AND ATTACHMENTS

Appendices	Title
Confidential Appendix 1	Australian industry support for application
Confidential Appendix 2	Australian market for ammonium nitrate
Confidential Appendix 3	Export price
Confidential Appendix 4	Estimate of normal value - China
Confidential Appendix 5	Estimate of normal value - Sweden
Confidential Appendix 6	Estimate of normal value - Thailand
Confidential Appendix 7	Dumping margins
Confidential Appendix 8	Assessment of the economic condition of the Australian industry
Confidential Appendix 9	Price undercutting case studies
Confidential Appendix 10	Price undercutting analysis using CSBP's data
Confidential Appendix 11	Price undercutting analysis using Orica's data

Attachments	Title
Attachment 1	Public notice