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22 August 2018

Mr Justin Wickes
Director
Investigations 2
Anti-Dumping Commission
Level 35
55 Collins Street
Melbourne Victoria 3000

Email: investigations2@adcommission.gov.au

Public File

Dear Mr Wickes

Investigation No. 473 – Ammonium nitrate exported from P R China, Sweden and Thailand

I. Introduction

As you are aware, Orica Australia Pty Ltd ("Orica") is an Australian manufacturer of ammonium nitrate ("AN") with two production facilities located at Yarwun, Queensland and Kooragang Island, New South Wales, and one of the applicant companies that has sought the imposition of anti-dumping measures on AN exported from the People's Republic of China ("China"), Sweden and Thailand.

Representatives of the Anti-Dumping Commission ("the Commission') recently undertook a verification visit at Orica to verify information included in the application for measures that was submitted on Orica's behalf.

Orica discussed with the Commission the lead timeframes associated with investments in the AN industry, along with expected rates of return for high-risk investments in the industry. This submission addresses these matters further.

II. Ministerial Direction on Material Injury

In 2012, the then Minister responsible for anti-dumping matters detailed a Ministerial Direction on Material Injury ("the Direction"). The Direction included the following instruction:

> "*I note in cases where the dumped or subsidised imports hold a small share of the Australian market, it may be difficult to demonstrate material injury. I* *__direct__* *that no*

minimum standard should be used to determine whether dumped or subsidised imports have a sufficient share of the Australian market to cause material injury."

In other words, the Minister directed that there should be no minimum standard for determining what level of dumped imports is required to be sufficient to warrant the imposition of [anti-dumping?] measures.

The same Direction included comments concerning the slowing of the rate of an industry's growth, namely:

> "*I note that anti-dumping or countervailing action is possible in cases where an industry has been expanding its market rapidly, and dumping or subsidisation has merely slowed the rate of the industry's growth, without causing it to contract. In cases where it is asserted that an Australian industry would have been more prosperous if not for the presence of dumped or subsidised imports, I direct that you be mindful that* ***a decline in an industry's rate of growth may be just as relevant as the movement of an industry from growth to decline****. I direct that it is possible to find material injury where an industry suffers a loss of share in a growing market without a decline in profits. As in all cases, a loss of market share cannot alone be decisive. I direct that a loss of market share should be considered with a range of relevant injury indicators before material injury may be established."* (emphasis added).

Therefore, the Minister should be satisfied that an Australian industry that has experienced a retardation of profit in an expanding market due to dumped imports can demonstrate material injury, notwithstanding that it may not have experienced a shift in profits from positive to negative. Similarly, an Australian industry that has experienced a reduction in market share in an expanding market may also be experiencing material injury from dumping.

The Australian market for AN expanded x% in 2016 – the year in which the dumped imports from China, Sweden and Thailand commenced to materially impact the industry's economic performance – with the Australian AN industry securing only approximately half of that growth. The subsequent contraction of the market in 2017 – by approximately 3 per cent – was predominantly borne by the Australian AN industry. The dumped imports held an increased share of the net market growth in 2016 and 2017, with the Australian industry experiencing a reduction in market share in an expanding market.

III. AN Investment

Investment in AN production is a capital-intensive process with a substantial lead time for new investment – often involving a 5 to 7 year pre-start up approval/construction timeframe. AN production facilities are classed as Major Hazard Facilities and require internal company project approval as well as Department of Planning and Key Environmental assessment approvals from State and Federal Government agencies. Orica considers it appropriate to provide the Commission with an understanding of the necessary pre-conditions to securing increased investment in AN production in Australia, including insight into the relevant economic indicators required for a potential investment to proceed.

Orica has attached for the Commission's consideration the analysis associated with a new 300,000 tonnes per annum AN investment in Australia. The model assumes that construction commences three years prior to commencement of operation. Approvals to commence construction involve a minimum two-year feasibility period. Hence, consideration of a new investment precedes production by a 5 year period.

[Commercially sensitive comments regarding financial assessment of AN investment project]

The attached capital investment returns for AN illustrate the impact of reductions in selling prices brought about by the dumped imports. Orica's financial returns in 2017/18 demonstrate a deterioration in profit with prices falling as Orica responded to lower prices from dumped imports. Recent market intelligence confirms that further price reductions are likely in the absence of anti-dumping measures as evidenced by the confidential Orica case study examples provided in the Australian Industry submission. Orica's responses to dumped import prices at accounts where it supplies AN is unquestionably injurious and inhibits investment in its manufacturing plants due to the high risk associated with the extended payback periods (from the usual 3-5 year period) and reduced IRR.

The current pricing levels of dumped imports jeopardises future investment in the Australian AN industry, which experiences around 5-7% growth per annum (as demonstrated by average 5.5% growth over the last ten years).

Over the past 40 years, mineral output in Australia has increased dramatically, and mining customers have consistently sought local supply to underpin the growth in explosives needed for overburden removal at new mining projects. The AN market in Australia has grown at a compound average rate of x% per annum during this period and is forecast to experience growth of x% cagr over the next 5 years.

Figure 1: Historical AN Market Demand and Supply Balance

[Delete Confidential chart of historical AN volumes]
Source: Orica intel, ASX announcements and Investor Relations comments from websites for Orica, Wesfarmers, Dyno Nobel, IPL

In the past, customers have sought local supply for a number of reasons, including:

- Security of supply to reduce potential interruption to mine operations and to manage supply chain risk;
- Quality of product to ensure consistent blast performance which results in operational benefits in productivity and safety;
- Flexibility to meet surges or step changes in demand to capture profitable opportunities in their mining business.

Experience shows that AN imports do not always deliver preferred blast outcomes. AN is subject to temperature cycling so it is not well suited to long sea voyages through high temperature and high humidity zones, which often result in caked product on arrival requiring considerable additional handling costs. Some countries like China impose restrictions at short notice on AN movements, such as that experienced in 2016 following the Tianjin explosion, port closures for dangerous goods movements around the World Expo in 2016 and the restriction on exports to boost domestic fertiliser production in 2008.

The Australian AN industry has invested heavily in new plant to meet the growth requirements for the mining industry. Over AUD3 billion has been invested in AN and ammonia plant capacity since 2000. The capital costs for each individual expansion are considerable. Dumped imports of AN puts the economic viability of these investments and the security of supply of the Australian mining industry at risk.

Table1: Major Investments in Australian AN Manufacturing Capacity since 2000
[*Delete table of major AN expansions*]

Source: Orica documents; ASX announcements and Investor Relations comments from websites for Orica, Wesfarmers, Dyno Nobel, IPL

IV. Conclusions – material injury

In addition to the injury that Orica has experienced during the investigation period in the form of lost sales volumes and revenues (demonstrated separately to this submission), Orica can also demonstrate injury that is material in the following form:

- Reduced market share;
- Reduced growth in an expanding market; and
- Reductions in return on investment as reflected in falling prices that extend investment payback periods.

The reductions in selling prices in 2017/18 have resulted in significant price depression and suppression to Orica, directly impacting the company's return on investment (ROI). This deterioration in ROI negatively impacts Orica's ability to reinvest in the Australian AN industry, which by 2022 is expected to be in undersupply from local production based upon projected growth rates.

If you have any questions concerning the attached response, please do not hesitate to contact me on (03) 9665 7309 or Orica's representative Mr John O'Connor on (07) 3342 1921.

Yours faithfully

Malcolm Hart
Senior AN Market Manager – APA