



13 December 2018

Ms Jasna Hallilovic
Director
Investigations 2
Anti-Dumping Commission
Level 35
55 Collins Street
Melbourne Victoria 3000

Email: investigations2@adcommission.gov.au

Public File

Dear Ms Hallilovic

Re INV 473 - Ammonium nitrate exported from P R China, Sweden and Thailand

I. Recommendation

CSBP Limited (“CSBP”) submits that the appropriate basis for an Unsuppressed Selling Price (“USP”) from which the Non-Injurious (“NIP”) is derived is an average of the Australian industry’s weighted average selling prices across the three years prior to the investigation period. CSBP further proposes that the form of measures to be applied to the dumped exports be based upon the combination form of measures.

II. Unsuppressed selling price

The Dumping and Subsidy Manual (“the Manual”) details that the USP is a selling price that the Australian industry could reasonably expect to achieve in a market unaffected by dumping¹. The Anti-Dumping Commission (“the Commission”) will normally select the Australian industry’s selling prices from a period unaffected by dumping (and subsidisation). Where the Australian industry’s selling prices have been affected by dumping and subsidisation over the period prior to the investigation period, it may be appropriate construct a selling price using the Australian industry’s cost to make and sell, plus an amount for profit.

Where either market selling prices and/or the constructed cost methodology is considered not suitable, the Commission may examine the selling prices of undumped or unsubsidised imports on the Australian market.

CSBP notes the requirement that selected selling prices should be no older than five years. CSBP submits that the impact of the dumped exports from China, Sweden and Thailand was evident during 2017 and beyond (including into 2018). As the dumped imports from Sweden and Thailand held only minor shares of the total import volume prior to 2017, it is CSBP’s view that the selling prices in the Australian market prior to the investigation period would be unaffected by the dumped exports to Australia.

III. Lesser duty rule

The Minister is required to afford consideration to applying a level of measure that is sufficient only to remove the injury from dumping (i.e. the lesser duty rule).

The Minister is not required to consider the lesser duty rule if one or more of the following conditions exists:

¹ Refer Dumping and Subsidy Manual, Section 23 “The Lesser Duty Rule and Non-Injurious Price”, P. 132.

- In the case of a dumping duty notice, the normal value was not determined under subsection 269TAC(1) due to the provisions of subsection 269TAC(2)(a)(ii) and sales are considered 'unsuitable' for normal value purposes;
- The Australian industry comprises of at least two small-medium enterprises;
- In the case of the countervailing duty notice, the country concerned had not complied with Article 25 of the Subsidies and Countervailing Measures Agreement for the compliance period.

In respect of the current investigation, normal values have been determined for Sweden and Thailand under subsection 269TAC(1). Normal values for China have been preliminarily determined under subsection 269TAC(6). There are no small-medium enterprises in the Australian AN industry manufacturing like goods, and the investigation does not involve subsidisation inquiries.

The Minister, therefore, is required to consider the lesser duty rule in the current investigation.

IV. Form of measures

CSBP notes that the Commission has applied provisional measures in PAD 473 based upon the combination form (i.e. a floor price plus a fixed duty component). The Commission states that where there are limited grades of goods, the combination form of measure is an effective measure to be administered.

CSBP supports measures to be applied on the combination form. This form of measure is considered less susceptible to exporters reducing export prices to absorb the interim dumping duty payable (i.e. *ad valorem* measure) and addresses the injurious effects of dumping where exports continue from the subject exporters (as evident in recent ABS import data for China and Sweden).

V. Recommendation

Having established that the Minister is required to consider the lesser duty rule in Investigation No. 473, it is CSBP's position that the USP (from which the NIP is derived) should be determined by reference to weighted average selling prices of the Australian industry members – preferably over a three-year period prior to the commencement of the investigation period (i.e. the three years ending 31 March 2017). The weighted average selling price over this period is considered by CSBP to be unaffected by dumping.

CSBP requests the Commission to recommend to the Minister that the form of measures to be applied to the dumped AN exports be based on the combination method. This form of measure is considered the most effective measure to be applied to new exporters, where limited grades of the goods applies.

If you have any questions concerning the attached response, please do not hesitate to contact me on (08) 9411 8593 or CSBP Limited's nominated representative Mr John O'Connor on (07) 3342 1921.

Yours faithfully



Gerard Chan
Commercial Manager – Ammonium Nitrate