



PUBLIC VERSION

Case 473 – Investigation – Dumping Ammonium Nitrate exported from China, Sweden and Thailand

14 December 2018

Yahua Australia Pty Ltd ("**Yahua**") wishes to make the following submissions in relation to this investigation, including Preliminary Affirmative Determination No 473 (the "**PAD**").

Summary

Yahua strongly agrees with the submissions made by other parties to the Commission concerning the absence of any material injury to the Australian industry members, QNP, Orica and CSBP (the "**Applicants**").

It is also Yahua's firm view, based on its own experience, that AN exported from China during the investigation period was not dumped.

For the purposes of the PAD, the Commission had regard to information provided by the Applicants in order to determine the normal value of goods exported to Australia from China. That information comprised "constructed domestic selling prices" for four Chinese AN manufacturers (the "**Constructed Prices**"). It was based on "production cost economics" from "subscription" sources, which the Applicants chose not to publicly disclose. The Applicants told the Commission that they do not have any knowledge of actual domestic selling prices for AN in China.

As an arms length purchaser of AN in China, the Yahua Group does have direct knowledge and evidence of the actual domestic selling prices, including for some of the four Chinese manufacturers for which the Applicants submitted Constructed Prices. The relevant pricing information is set out in this submission. It clearly demonstrates that the Constructed Prices are inaccurate and unreliable.

Yahua understands from the PAD that Chinese exporters have been "uncooperative" for the purposes of section 269T(1) of the Customs Act 1901 (the "**Act**"). However, Yahua submits that the Commission should rely on the pricing information in this submission in preference to the Constructed Prices and related information provided by the Applicants. The fact that the Applicants' information is so inconsistent with the actual prices paid by the Yahua Group during the investigation period demonstrates that the Applicants' information should not be relied upon in determining the normal price. Instead, the information provided in this submission is a reasonable basis for that determination.

Yahua Group

Sichuan Yahua Industrial Group Co., Ltd. ("**Yahua Group**") is an industrial group headquartered in Chengdu, Sichuan Province, China. It is a privately owned (i.e. not State owned) company listed on the Shenzhen Stock Exchange.

The business of the Yahua Group is the provision of civil blasting services and blasting materials. It has more than RMB 3 billion of assets and more than 3,000 employees.



The Group conducts operations in China, New Zealand and Australia. Yahua Group provides materials and services to numerous industries and sectors including mining, water resources and hydropower, road construction, urban renewal, geological prospecting, and defence.

Yahua Group does not manufacture or export AN. Instead the Group buys AN and mixes it with other explosive materials for use in blasting operations (which Yahua provides as a 'bundled' service).

Yahua Australia

The Yahua Group entered the Australian civil blasting market in 2016. Through Yahua Australia Pty Ltd, it has acquired ownership or a controlling interest in the following established civil blasting businesses:

- Nedrill Blasting Contractors Pty Ltd
- Sequel Drill and Blast Pty Ltd
- Caruana Blasting Pty Ltd
- North Star Blasting Pty Ltd

Through its various operating companies, Yahua Australia provides civil blasting materials and services in Queensland, Northern Territory, Victoria, South Australia and New South Wales. We manufacture end-use explosives, including at a facility in Darwin, using AN purchased from the Australian industry. Yahua Australia has not imported any AN into Australia. All of the AN which it has used in its Australian operations has been purchased from an Applicant or another Australian producer of explosive products.

In 2017/18, Yahua Australia's annual revenue was approximately \$AUD[**CONFIDENTIAL TEXT DELETED – number**]. Presently, our customers are primarily quarry operators. We provide them with 'bundled' blasting solutions comprising a combination of explosive products, drilling services and blasting services.

Yahua Australia and its subsidiaries employ approximately [**CONFIDENTIAL TEXT DELETED – number**] people and have [**CONFIDENTIAL TEXT DELETED – number**] operating sites across Australia.

Constructed Prices

Part B-4 of the Application sets out the Applicants' estimate of the domestic selling prices charged by four Chinese producers during the investigation period.

The Application states the Constructed Prices have been calculated using production cost economics for the four manufacturers. The source of the relevant information is described as follows:

"... a member of the Applicant industry has access to a number of sources under subscription that examine production cost economics for certain Chinese chemical industries, including AN".

No further public details concerning the source of the information or the cost economics were provided. The public description of the methodology employed by the Applicants in constructing the selling price is similarly general and omits key details.



The Applicants' decision not to publicly disclose any further details prevents Yahua and all other interested parties from being able to comment on the accuracy of the information, the reliability of its source/s and the appropriateness of the calculation methodology used by the Applicants. However, it is entirely plausible that there are fundamental flaws in one or more of those aspects of the Constructed Prices. Indeed, given the differences between the Constructed Prices and the actual prices paid by Yahua, as set out below, it appears that must be the case.

Actual domestic selling prices in China

Confidential Attachment 1 lists all purchases by the Yahua Group in China during the investigation period from the following producers listed in Part B, section B-4 of the Application (the "**Relevant Producers**"):

- **[CONFIDENTIAL TEXT DELETED – counterparty names]**

It includes the following details for each transaction:

- Invoice number and date
- Quantity of AN purchased
- Price in CNY (exclusive and inclusive of VAT)
- Price in AUD and USD, including the applicable exchange rate for the relevant invoice date
- Relevant Producer
- Purchasing entity and delivery location (**[CONFIDENTIAL TEXT DELETED – pricing details]**)
- Comparison with the 'constructed' domestic selling price

Confidential Attachment 2 is a copy of each invoice listed in Confidential Attachment 1. To assist the Commission, we have handwritten on each copy an English translation of relevant Chinese words and symbols.

The 26 purchases listed in Confidential Attachment 1 are for a total of **[CONFIDENTIAL TEXT DELETED – number]**MT, which is material compared with the 19,960 MT detailed in Table B-2.1 of the Application.

The listed transactions were all on an arms length basis, as defined in section 269TAA of the Act. Yahua Group does not have any commercial or financial interest in the Relevant Producers (or any other AN producers in China), nor do any AN producers in China have any commercial or financial interest in the Yahua Group.

The information in Confidential Attachment 1, and corresponding primary evidence in Confidential Attachment 2:

- clearly demonstrate that the Constructed Prices in the Application for the Relevant Producers are inaccurate;
- given those inaccuracies, create significant doubt concerning the accuracy of the other Constructed Prices in the Application and the information on which all of the Constructed Prices have been based, such that the Commission could not reasonably be satisfied that the Constructed Prices or the related information supplied by the Applicants should be used to determine the normal price in China during the investigation period; and



- are a reasonable and proper basis for the Commission to conclude that there was no dumping of AN manufactured by the Relevant Producers during the investigation period.

Material injury to Australian industry

Yahua agrees with the submissions made by other parties that there has not been any material injury to the Australian industry. In particular, Yahua agrees with the submissions made by or on behalf of Downer EDI Mining-Blasting Services, BHP Billiton Iron Ore Pty Ltd and Moncourt Group.

By industry standards, Yahua buys small quantities of AN which we exclusively source from Australian suppliers. We understand all the AN we purchased in 2018 was imported by the Australian industry.

Details of the prices paid by Yahua for AN in 2018 are set out in Confidential Attachment 3.

Those prices are significantly higher than what Yahua understands is the cost to the Australian industry of imported AN, plus a reasonable profit margin. Accordingly, Yahua does not believe the prices it has paid have been impacted by the export price. The Australian industry members appear to set the price at they see fit.

Conclusion

Yahua requests that the Commission terminate this investigation under section 269TDA(13) of the Act as soon as possible.

Attachments:

[CONFIDENTIAL ATTACHMENTS 1, 2 AND 3 DELETED – pricing information]