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5 February 2019

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 – Submission by China Chamber of International Commerce

We refer to the submission of 24 December 2018 on behalf of the China Chamber of International Commerce (“CCOIC”) concerning Chinese exports of ammonium nitrate (“AN”) to Australia. The submission states that the CCOIC represents the interests of members in international markets (including producers and exporters of AN), including the following members:

- Henan Jinkai Chemical Investment Holding Group Co., Ltd;
- Tianji Coal Chemical Industry Co., Ltd; and
- Shaanxi Xinghua Group., Ltd.

The CCOIC submission criticises that the Anti-Dumping Commission’s (“the Commission”) preliminary findings as detailed in Preliminary Affirmative Determination (“PAD”) No. 473. Specifically, the CCOIC submission:

- Challenges the dumping margin determined for all Chinese exporters;
- Argues that the Australian industry is responsible for the dumped imports from China;
- Considers the Australian industry has not suffered injury that is material from dumping; and
- Contends injury, if any, was not from the dumped exports;

CCOIC calls for the Commission to analyse the Australian industry’s condition and that once this has occurred conclude that there is no injury that can be attributed to the dumped exports from China.

Orica Australia Pty Ltd (“Orica”) rejects the contentions submitted on behalf of CCOIC.

As indicated in the “Note for File” (EPR Document No. 5), the Commission did not receive cooperation from a Chinese exporter of AN within the requisite time. PAD No. 473 further confirmed the absence of cooperation from a Chinese exporter of AN.

The dumping margin determined for the uncooperative Chinese exporters of AN was determined by the Commission “*having regard to all relevant information under subsection 269TAC(6) in accordance with subsection 269TACAB(1)*”. PAD No. 473 further states that

"the Commission has had regard to the information provided by the applicants in the application".

The *prima facie* dumping margin of 23.8 per cent included in the Australian Industry application was based upon published FOB export prices as obtained from Australian Bureau of Statistics ("ABS") import data. Actual ex-factory export prices were not available to the applicants. Following verification visits with Australian importers of AN, the Commission in the absence of cooperation from Chinese exporters determined reliable export prices for AN exported to Australia from China.

The identification of accurate export price information is considered by Orica to have influenced the determination of the 39.5 per cent dumping margin for the uncooperative Chinese exporters.

The CCOIC submission seeks to attribute the reason(s) for the dumped Chinese exports as originating from the Australian industry. The CCOIC submission states that *"Based on the PAD, the 'applicants' accounted for about 8% of the total imports under investigation"*. The volume of dumped imports that was supplied into the Australian market during the investigation period from China, Sweden and Thailand – excluding purchases by the Australian industry – still accounted for 47 per cent of the total imports. The dumped volumes (excluding imports by the industry) remain well in excess of the negligible volume threshold contained in the legislation. The CCOIC appears to include imports by Dyno Nobel as part of the Aust AN Industry. It is noted that Dyno Nobel is not a participant of the applicants' submission.

CCOIC further contends that the Chinese exports should not be cumulated with the dumped exports from Sweden and Thailand. It is suggested in the CCOIC submission that as the Australian industry's AN imports from China were LDAN, the remaining imports were of a grade not supplied by the Australian industry. Orica rejects the arguments made on behalf of CCOIC and refers to submissions made by the Australian industry in Exemption Inquiry 0066 where it is demonstrated that the Australian industry manufactures like goods to the goods the subject of the Exemption application.

CCOIC has not demonstrated that the volume of imports by non-Australian industry members is negligible. The CCOIC submission conveniently overlooks the significance of the dumped exports to blasting service providers in Australia throughout the period of investigation and the subsequent price-impact of the injurious export volumes as played out in customer contract negotiations. Orica has demonstrated to the Commission the price suppression and price depression that resulted from importers undercutting its selling prices and the detrimental impact on Orica's profit and profitability.

The CCOIC submission is made on behalf of the Chinese exporters of AN to Australia. It represents a broad overview of the volumes supplied to Australia by the Chinese AN exporters. It does not provide a detailed analysis of how the export prices were used by blasting service suppliers to influence contract outcomes during the period of investigation. As such, the assertions made in the CCOIC submission lack supportive evidence that contradicts the findings of the Commission as contained in PAD No. 473.

Orica does not consider that the criticisms of the Commission's analysis as outlined in PAD No. 473 are warranted. The CCOIC submission is limited in the information relied upon to challenge the Commission's findings. It is wholly reliant upon the deduced volumes of AN exported to Australia from China to non-Australian industry members. It claims that these volumes are "miniscule" and cannot have caused injury to the Australian industry. The available evidence, however, contradicts the CCOIC contentions, especially in relation to how dumped export volumes are used by blasting service providers in contract negotiations with customers.

It is Orica's view that the information provided by Orica in relation to contract negotiations supports the findings outlined in PAD No. 473. The assertions of the CCOIC submission do not carry any substance to challenge the Commission's preliminary findings as reflected in

PAD No. 473. The Australian industry producing AN has experienced injury that is material from the dumping of AN exported from China, Sweden and Thailand throughout the investigation period and, will continue to suffer material injury, unless interim anti-dumping measures are recommended by the Commissioner and imposed by the Minister for Industry.

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

