



18 March 2019

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Public File

Dear Ms Hallilovic

Investigation No. 473 – Ammonium nitrate exported from P R China, Sweden and Thailand – CSBP Limited submission re Statement of Essential Facts

I. Summary

CSBP Limited (“CSBP”) refers to Statement of Essential Facts No. 473 (“SEF 473”) in respect of exports to Australia of ammonium nitrate (“AN”) from the People’s Republic of China (“China”), Sweden and Thailand published on 25 February 2019.

CSBP welcomes the Commissioner’s intended recommendation to the Minister for Industry, Science and Technology (“Minister”) that a dumping duty notice be published in respect of AN exported from China, Sweden and Thailand.

CSBP agrees with the Commissioner’s findings that exports from China, Sweden and Thailand were at dumped prices and that the Australian industry has suffered injury that is material from the dumping (and will continue to suffer injury in the absence of measures). CSBP considers, however, that the proposed measures should be based upon the *combination* form, as this form of measure is the most effective in addressing injurious dumping.

II. Like goods

CSBP consider it appropriate to acknowledge that it concurs with the Commissioner’s findings concerning like goods. That is, as per earlier investigations (including the findings in Trade Measures Report No. 28) that low density AN, high density AN and AN in solution are all sub-categories of the product AN and, irrespective of whether in solid or liquid form, prilled or granular form, low or high density, are like goods.

The “like goods” finding contained in Report No. 28 has been reaffirmed in subsequent reports including Reports No. 168, 169 and 312.

CSBP confirms that there has been no change in the forms of AN as examined in earlier investigations and the Commissioner’s conclusion concerning like goods and the substitutability of the goods in end-use applications is correct and was evident during the investigation period of this inquiry.

III. Normal values

CSBP has reviewed the Commissioner's findings concerning the determination of normal values. CSBP understands that normal values have been determined as follows:

- For all exporters in China, based upon information included in the industry's application under subsection 269TAC(6) of the Customs Act;
- For Yara AB ("Yara") of Sweden, using sales made in the ordinary course of trade under subsection 269TAC(1);
- For all remaining exporters in Sweden under subsection 269TAC(6) using information obtained from Yara of Sweden without adjustments; and
- For all exporters in Thailand, under subsection 269TAC(1) using information included in the industry application.

No manufacturers of AN in China or Thailand elected to cooperate with the Commission's investigation. The Commission has therefore relied upon the information contained in the industry's application that provided information as a basis for demonstrating dumping. In the absence of cooperation for manufacturer's in China and Thailand, the information provided by the applicants is considered the most reliable information available to the Commission.

IV. Injury from dumping

CSBP provided the Commission in the application, during the verification visit and in follow up requests for information, supporting evidence that it had experienced injury from dumping during the investigation period. CSBP notes that the Commission has addressed the examples provided by CSBP at Section 9.2.1 of the SEF.

CSBP reaffirms its representations to the Commission that during the investigation period it experienced price undercutting from dumped imports from China, Sweden and Thailand and that the renegotiated prices in contracts resulted in injury to CSBP. CSBP agrees with the Commission's findings that the dumping of AN from China, Sweden and Thailand has caused and threatens to cause material injury to the Australian industry producing like goods.

V. Form of measures

Section 12.1 of SEF 473 states:

"The Commissioner proposes to recommend to the Minister that anti-dumping measures be imposed on ammonium nitrate exported to Australia from China, Sweden and Thailand in the form of the **floor price duty method**, where the NIP is the operative measure." (emphasis added).

In its submission to the Commission (EPR Document No. 035) CSBP supported the Commission's form of measures as detailed in Preliminary Affirmative Determination No. 473 ("PAD 473") that provisional measures would be collected based upon the *combination form* of measure. The combination form of measure utilises both a fixed and variable component – where the 'fixed' component represents the margin of dumping between the ascertained export price ("AEP") and the normal value or non-injurious price – whichever is lower – and a variable component which represents the difference between the actual export price and AEP.

The combination form of measures is considered the most effective form of measure in addressing the injurious effects of dumping. This is particularly relevant where the variable factors increase following the imposition of measures. Where a "floor price" methodology is used, the determined floor price – as the Commission acknowledges – quickly becomes outdated. However, where the goods are subject to price volatility (which is evident in the AN market as raw material ammonia prices fluctuate readily) the combination form of measure does allow for the initial collection of interim dumping duty ("IDD") based upon the fixed component of IDD collected. Where there is an overpayment of IDD, the importer has the Duty Assessment process available to it to secure a refund of overpaid IDD. In contrast for measures based upon a fixed *floor price* methodology, where there is an underpayment of IDD due to increases in the variable factors, there is no reconciliation to permit the Commission to collect underpaid duties and hence the Australian industry is exposed (again) to injurious dumping.

CSBP would further highlight that the Australian market for AN is a price-sensitive market. There exists transparency in the negotiation process, with clarity as to import price alternatives. Additionally, the Commission did not receive cooperation from exporters in China and Thailand, the margins of dumping were

significant and, it is possible that exporters may seek to circumvent the imposed measures. Measures based upon a determined floor price is seen as high risk in the absence of cooperation from exporters of the goods.

For these reasons, CSBP supports anti-dumping measures based upon the combination methodology.

CSBP requests the Commission to reconsider the recommended form of measures to be applied to AN exported from China, Sweden and Thailand and base the form of measures on the combination method.

VI. Conclusions

CSBP supports the Commissioner's proposed recommendation to impose anti-dumping measures on exports of AN from China, Sweden and Thailand. CSBP affirms its support for the Commissioner's finding that the Australian industry produces like goods to the imported goods, irrespective of physical form (i.e. whether solid or solution, granular or prill, low or high density).

CSBP requests that the Commissioner reconsider the proposed form of measures to be applied to exports of AN from China, Sweden and Thailand and that the form of measures considered the most effective in addressing injurious dumping is that based upon the combination method.

If you have any questions concerning this submission, 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



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