Canberra
6/2 Brindabella Circuit
Brindabella Business Park
Canberra International Airport
Australian Capital Territory 2609

Brisbane
Level 4, Kings Row Two
235 Coronation Drive
Milton, Brisbane
Queensland 4064

Melbourne
Level 39, 385 Bourke Street
Melbourne
Victoria 3000

Australia

Canberra +61 2 6163 1000
Brisbane +61 7 3367 6900
Melbourne +61 3 8459 2276

www.moulislegal.com

moulislegal
commercial + international

18 March 2019

The Director
Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra
Australian Capital Territory 2601

By email

Dear Director

Yara AB - ammonium nitrate from Sweden
Response to Statement of Essential Facts

Yara AB ("Yara") is part of an international group of companies, which has experience in a range of different economies at different levels of development and with different levels of government intervention. When we convey how shocked it was at the decision in the Statement of Essential Facts ("the SEF"), it needs to be understood in this context – this is not the naive reaction of some small, sheltered operation with little experience outside its immediate neighbourhood, rather it is a deep concern from an entity that is well versed in commerce and regulatory affairs.

The SEF recommends the imposition of anti-dumping measures to protect entities that supply over 97% of the Australian ammonium nitrate ("AN") market and make profits in excess of 20% on their sales into that market. That recommendation is based largely on unverified assertion in relation to seven negotiations to which Yara was not a party and guesswork as to what the outcome of those negotiations should or could have been.

To be frank, the SEF's conclusions and proposals are not those of an open, trade embracing first-world economy. Instead, they are deeply and unjustifiably protectionist. The proposed measures will be to no one's benefit but that of the highly profitable, market dominating applicants. The Yara Group has invested significant capital in Australia. Its exports of AN to Australia were demonstrably for the benefit of one of those investments. The proposal to impose measures in response to those exports reveals a willingness on the part of a public agency to interfere in private business for populist and subjective reasons, in a manner contrary to both the rule of law and the national interest.

Moulis Legal Pty Limited ACN 614 584 539

A The "injury" finding is based on unfounded assumption

The injury finding is based on the concept of "profits foregone". We understand that the amounts of "profit foregone" have been calculated by adding the dumping margin or margins to price offers made by CSBP and QNP, in order to ascertain what prices could have been offered had the imports not been dumped. Then, on the basis of these "undumped prices" an amount of revenue foregone has been determined being, presumably, the revenue that would have been received on the sales had the Australian industry achieved prices at the "undumped" price level.

Essentially, the SEF posits an alternate universe to establish what prices may have been like, had the goods not been exported to Australia. Sadly, as is the case in most forms of pop-culture that deal with alternate universes, this scenario is narrative-driven, full of inconsistencies and represents little relation to reality. We note that an injury finding cannot be based upon allegations, conjecture or remote possibilities. The finding in the SEF fails to pass this requirement, because:

- The "injury" and the materiality thereof, is based on the assumption that but for the exports from Sweden and other countries, the applicants would have been able to receive the "undumped prices". No attempt appears to have been made to factor in price observations relating to AN offers or sales by other Australian industry members.

- The injury finding related to QNP is based upon unverified assertion arising from a single submission. Unless the Commission has access to more information than is noted on the public record, we do not believe this is an appropriate basis to draw any conclusions regarding how QNP could have performed.

- There is no suggestion that the prices *actually* achieved by QNP and CSBP were not profitable. Given four of these examples relate to additional volumes above and beyond already contracted amounts, we would suggest that the sales of those volumes at profitable levels is actually not injurious at all. Moreover the blended price for the overall volumes to the customer from QNP and CSBP's perspective would of course be higher than the price for the additional volumes.

- QNP has access to imports, and likely imported some of the goods during the period of investigation. Example 11 all but confirms this, stating that during one of the scheduled shutdowns QNP offered to supply ammonium nitrate through alternative local and import sources.[1] Given QNP has not been verified, to what degree can the Commission be certain that any of the examples relating to QNP would have been supplied by its own produced AN? If the sales were not of Australian produced AN, then any impact is not an impact on the Australian industry producing like goods. We note that QNP had significant shutdowns in the first half of FY18 and of FY19. These would have impacted supply under examples 4, 5 and 6.[2] Further QNP would no doubt honour major existing contracts first, from Australian supply. New offers or spot sales would much more likely involve imported AN. The

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1 SEF, page 73.

2 Wesfarmer's Half Year Report to December 2018 (accessible here https://www.wesfarmers.com.au/docs/default-source/asx-announcements/2019-half-year-report-(incorporating-appendix-4d).pdf?sfvrsn=0) states as follows:
"Production from QNP was affected by a planned major shutdown during the half but earnings for the business remained broadly in line with the prior period."

conclusion that any adverse outcome arising out of those negotiations is injury to the Australian industry producing like goods is assumption only.

- We reiterate the content of Yara's submission dated 21 February 2019 in relation to the CSBP negotiations. Nothing in the SEF changes our view, based on the clear terms of the CSBP visit report, that these examples did not refer to Swedish exports of AN. As a result Yara cannot be considered to have caused whatever injury is thought to have been suffered by CSBP.

- Finally, we note that it is not uncommon in the Australian AN market for "imports" to refer to sales from the West Australian producer/s into the eastern markets and *vice versa*, and not only to imports from overseas. We also note that the Moncourt submission dated 17 August 2018 reveals that some 35,593 MT of AN was imported into the Gladstone port from an Australian source (likely CSBP).[3] It is likely that this would have competed with QNP's sales given the close geographical proximity to the Moura plant.[4] Why has this not been considered when considering the prices that QNP could have achieved in the same geographical market absent the exports from the subject countries?

The finding required by Section 269TG(2) of the Customs Act 1901 ("the Act") is that dumping *has caused* or *is causing* material injury to the Australian industry producing like goods. For the reasons stated above, the SEF could never amount to more than a finding that a fear of competition, that has cowed certain Australian industry members into offering low prices, could lead to the Australian industry members making less money than they would like to over the future course of the contracts under which it is paid those prices. The requirements of Section 269TAE(2AA) have been included in the Act to avoid such a scenario. Any imposition of measures must be based on fact. The SEF does not provide any factual basis to suggest that the Australian industry has actually been materially injured by dumping, and so does not justify the need for measures.

B The "materiality" of injury is speculative

With regard to the materiality of the injury, the SEF concludes as follows:

> *The Commission determined the profit forgone (on a per annum basis) based on the 'undumped price' (which is, on average, approximately 4.8 per cent lower than the USP) derived for each example. The Commission considers that the applicants would have been able to achieve these prices in the absence of dumping.*
>
> *The Commission found that profit forgone as a percentage of the applicants' total profit is significant and is material to the Australian industry as a whole.* [footnotes omitted]

There is some suggestion, at least with regard to "profit injury" that the impact has been determined over the duration of the new contracts, all other things being held equal.[5] This suggests that some, or all of the injury the Commission considers to be material has not occurred as yet.

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3 Doc No.0011 electronic public record.

4 Although in stating this we note that the concept of "import parity pricing" adopted for this investigation does not even seem to require the allegedly injurious imports to be anywhere near the country – fear is enough, apparently, to connect them to future injury.

5 Page 78.

Yara requested a better explanation of the materiality finding, for the purpose of making this submission. We also requested that the amount of profit foregone be revealed to interested parties The Commission merely stated that it would have regard to those requests for the purpose of completing the report to the Minister. As such, this submissions does not have the benefit of a proper description of the methodology used in the SEF, of any knowledge of the quantum of injury relative to the profits that the Australian producers will continue to earn on all of the other the sales that make up their 97% market share.

That notwithstanding, we note as follows:

- Given the reference to the "duration of the contracts" we take it that the profit foregone has been determined using the undumped prices rather than the prices the Australian industry agreed to over the life of the contract. But how was the "significance" to the Australian industry determined? As a percentage of the applicants profits in one year? Over some assumption regarding profits over the life of the contracts? This finding is fundamental to the recommendation in the SEF, but it has been reported so opaquely that interested parties have little idea what the Commission's methodology actually has been.

- Injury needs to be material to the Australian industry as a whole. There is no explanation as to how this materiality has been determined against the performance of the whole industry. The SEF appears to make just a flat statement as to the materiality of the injury without analysis. Neither Orica nor Incitec-Pivot have been found to have been injured. Surely not, when each Orica's EBIT of AN sales was AUD381.19 million in FY2018 and Incitec-Pivot's for the same period wasAUD205.4 million.[6] These two are dominant producers of ammonium nitrate in the Australian market.

- What information has been used to determine the significance of the profit foregone for QNP? We note that the Commission undertakes verification to ensure the accuracy, completeness and relevance of the data submitted by interested parties, including the applicants. QNP is not an applicant and the extent of the financial data it has offered up to the Commission is not clear. What is clear is that it has not been verified. The SEF does not reveal any reason to believe the information pertaining to QNP is accurate, complete or relevant and so does not point to credible evidence to establish that materiality.

In reality, we are talking about seven contracts – four of which were sales of volume in excess of already contracted amounts and one of which was merely spot sales – in the context of a market that conservatively is constituted of over 2 million tonnes. Over 97% of this market is supplied by the Australian industry, whether through their own production, or through imports they acquire either directly or through traders when they suffer supply shortfalls. More than half of the Australian market is supplied by Orica and Incitec Pivot, both of whom have not been impacted by the outcome of these negotiations. On what basis is this considered to be material?

There are three further things to note. Again, Section 269TG(2) is only activated if it is established that material injury has been or is being caused to the Australian industry producing like goods. Any

[6] As per, *Orica Annual Report 2018* (accessible here: https://www.orica.com/Investors/annual-report#.XI8ON6Azbcc) at page 16 and *Incitec Pivot Annual Report 2018* (accessible here: http://media.corporate-ir.net/media_files/IROL/17/170340/1.%20IPL%20Annual%20report%202018_final.pdf) page 11. Notably, both entities report increased EBIT in FY18 over FY17.

finding for the purposes of Section 269TG(2) is governed by the requirements of Section 269TAE of the Act.

Firstly, to the extent that the SEF injury finding considers the profit impact over the life of the contract, it is not a finding that material injury *has been caused* or *is being caused*. What happens in the future is unknown, the supposed injury has not occurred. This is not a basis on which the Act allows the imposition of measures.

Secondly, as already mentioned, Section 269TAE(2AA) specifically prevents reliance on allegations or mere conjecture in an injury finding. For the reasons stated above, the "profit foregone" is mere conjecture. As a consequence, so too is the finding of materiality.

Finally, the Commissioner is directed by the Minister that material injury must be *greater than that suffered in the normal ebb and flow of business.*[7] We note that the Commission is legally required to comply with this direction, but we see no attempt to ensure this is the case.[8] The application indicates the following trend regarding profit:[9]

Period	**2014**	**2015**	**2016**	**2017**
Index	100	100.6	92.8	87.5

2016 shows a 7.75% decrease in profit compared to 2015. 2017 shows a further decrease 5.7% decrease over 2016. Between 2014 and 2017, the applicants' profits trended downward by 12%. In this regard, we note the following finding:

> *The Commission found that the majority of the applicants' sales during the investigation period were made in accordance with contracts negotiated several years prior to the investigation period, and in some instances, before the volume of the goods exported from China, Sweden and Thailand increased substantially. Therefore, the applicants' selling prices and volumes observed from 1 April 2014 to 31 March 2018 mostly reflect the contract terms, including prices and volumes, negotiated and agreed to before the investigation period.*[10]

These profit variations represent the "usual ebb and flow" of the applicants' businesses. Even if all the other points we have made regarding the fitness of the materiality of injury finding were put aside, that injury would still need to be greater than the trend established over the injury analysis period. There is no indication that this is the case. Added to this concern is the fact that the Commission's own profitability analysis shows CSBP increasing its profit and profitability year on year for the past three years, with the actual dollar amount of profit flowing into its coffers being 75% higher than in 2015.

In summary, the finding that any injury caused was material is significantly flawed. The SEF simply has not established that material injury was suffered by the Australian industry.

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7 *Ministerial Direction on Material Injury 2012*.
8 Section 269TA(1) of the Act.
9 Application for the publication of dumping and/or countervailing duty notices Ammonium Nitrate Exported from The People's Republic of China, Sweden and Thailand March 2018, page 67.
10 SEF, page 65.

C Exports did not cause injury

To once again reiterate the requirements of Section 269TG(2): it must be found that injury has been *caused or is being caused* to the Australian industry because of dumping. Section 269TAE(1) expands upon this clearly requiring that it be established that material injury has been or is being caused by any circumstances in relation to the export of the goods to Australia from the country of export. Section 269TAE goes on to highlight that, in determining this, the Minister may have regard to:

> *…the effect that the exportation of goods of that kind to Australia from the country of export in those circumstances has had or is likely to have on the price paid for goods of that kind, or like goods, produced or manufactured in the Australian industry and sold in Australia* [11]

The SEF has based its causation finding on the use of import data by two of the applicants when setting price offers or prices to their customers. We do not accept this is a circumstance relating to the export of the goods. We do not accept that this is an "effect" of the exportation of the goods.

We note, with specific regard to Sweden's exports:

(1) Yara exported AN to Australia.

(2) This supply agreement was entered into in [CONFIDENTIAL INFORMATION DELETED - date]. This was prior to the POI.

(3) During the POI, Yara did not participate in competitive tenders that match the descriptions given to the seven examples that form the basis for the injury finding.

As such, Yara did not compete with CSBP or QNP in relation to any of the seven examples that are said to prove they have suffered injury. Yara's exports were not in competition with CSBP or QNP in relation to these sales. Yara was not an alternate supply possibility for the customers with whom CSBP and QNP were negotiating. They could have offered AN to their customers at any unreasonable price and Yara still would not have supplied those customers. Because the SEF can find no injury other than through limited examples of price competition in which Yara was not involved it cannot be said that Yara impacted on the applicants' sales, or the sales of the Australian industry generally.

The only linkage is that:

- In exporting the goods to Australia, some undisclosed body or bodies have recorded details of Yara's pricing to its sole Australian customer.
- Separate from this CSBP has engaged in three sets of negotiation in a market in which Yara did not supply AN or compete to supply AN in the future and has considered some information regarding imports in the context of those negotiations. For the reasons stated in Yara's submission of 21 February 2019, we do not believe this information related to Yara's product.

11 Section 269TAE.

- Separately, QNP has been asked to make price offers in two instances (example 4 and example 6 first negotiation) and some spot sales (example 7) with entities that are not Yara's one Australian customer.[12]

- In setting a price for these three examples, QNP has used price data from this undisclosed body or bodies which may or may not include prices of Yara's exports from Sweden. Through some form of analysis, QNP has then made a price offer that considers, but does not always match what it determines to be the IPP.[13]

The SEF aberrantly refers to "price pressure" as causing the injury.[14] There is no evidence of this price pressure and, again, based on the lack of competitive interaction between Yara's exports and the AN produced by QNP and CSBP, no such evidence would exist. In the absence of such competitive interaction there is no price pressure, because QNP and CSBP do not risk losing sales to Yara's exports.

CSBP and QNP's pricing decisions were not caused by Yara's exports. It was a decision these entities made of their own volition, based on their own commercial circumstances free from any risk of losing business to Yara. It is their own decision making that has caused them injury (if indeed negotiating profitable prices can be said to be injurious). The fact they have sought data that may include information about Yara's pricing, and the fact they have considered such data in their own price setting is not an effect of the exportation of Yara's product.

Accordingly, the SEF does not include an adequate basis to determine that Yara's export have caused QNP, CSBP or the Australian industry more broadly any form of injury.

D It is inappropriate to accumulate Swedish exports with other exports

The SEF rejects Yara's call that the effect of its exports not be accumulated with the effect of exports from Thailand and China. The reason given for this is that:

> *The Commission has considered Yara's claims and the information obtained during the course of this investigation thus far. The Commission considers that the particular circumstances of the goods exported to Australia from Sweden, as outlined by Yara, do not support Yara's assertion that the goods exported from Sweden do not compete with goods exported from China and Thailand, and like goods produced by the Australian industry. The Commission considers that the goods exported from Sweden compete with goods exported from China and Thailand, and like goods that are domestically produced given that these goods are sold to the same or similar customers and are interchangeable in end-use applications.*[15]

It is unclear why the SEF takes this view. Again, we recall that Section 269TAE(2C)(e) only allows for accumulation of the impact of exports where:

> *(e) it is appropriate to consider the cumulative effect of those exportations, having regard to:*

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12 We note with regard to example 5, QNP lost a contract to a specific export source. This was not Yara.

13 Noting that example 6, negotiation 1 states that the price quoted by QNP was slightly below the price it worked out was the "landed ammonium nitrate" price.

14 SEF, page 66.

15 SEF, page 48.

(i) the conditions of competition between those goods; and

(ii) the conditions of competition between those goods and like goods that are domestically produced.

We again reiterate that it is inappropriate to adopt a cumulative approach with respect to Yara's exports in the circumstances of this case.

With regard to the conditions of competition between exports from the subject countries, we note that Yara's sales to Australia were made subject to a contract agreed to in [CONFIDENTIAL INFORMATION DELETED - date]. This agreement was made subject to specific pricing principles that were agreed to by [CONFIDENTIAL INFORMATION DELETED – applicant]. The Commission has clear evidence of this. The Commission also has evidence that the purpose of these pricing principles was explicitly to support - ie *benefit*, not injure - another member of the Australian industry. [CONFIDENTIAL INFORMATION DELETED – details of price setting]. The prices are based on the circumstance underpinning the agreement. These facts are highly relevant to this investigation any yet have been totally omitted from the SEF.

We note that Confidential Attachment 10 provided something of a summary of the background of Yara's exports. This attachment omitted crucial facts regarding the purpose of the supply agreement. It also included information that would seem, on the face of it, irrelevant. For example, it mentions that the supply agreement provided in Yara's exporter questionnaire response was not signed. This has nothing to do with the circumstances of the exports from Sweden. We note, also, that the exporter questionnaire was submitted on 16 August 2018 following which both Yara and its customer were verified by the Commission and that the Commission has since sought additional information from Yara. At any of these points a signed copy of the agreement could have been asked for if it was considered relevant to the Commission's consideration. One is now attached for your records. Please find attached also a copy of the Confidential Attachment 10 edited to include additional relevant information, which has already been provided to the Commission. We ask that this version be included in any final or termination report. If the Commission consider this is not appropriate, please contact that writer as soon as possible to explain why.

Competition, if any, between Yara's exports and those from the other countries occurred at the time the supply agreement was entered into. Since then, there has been no competition between those exports.

The same is true with regard to the conditions of competition between Yara and domestically produced like goods. During the POI, Yara engaged in only one tender and was quickly informed its prices were too high, resulting in Yara withdrawing from the tender immediately. Absent that, there was no direct competition between Yara's exports and the goods produced by the Australian industry. Yara further notes:

- Yara did not export any product to the Western Australian market.
- Yara certainly did not compete to supply any entity in the West Australian market.
- As per Yara's submission of 21 February 2019, it is apparent that CSBP did not consider data regarding Yara prices when negotiating prices in examples 1, 2 and 3.
- With regard to QNP, we note that example 5 and example 6 second negotiation relate to scenarios where QNP's offer was rejected for some reason, and the customer sought supply

from export sources. These could not have been Yara, because Yara only had one customer in Australia and its relationship with that customer existed prior to the period of investigation.

- With regard to example 4, 6 second negotiation and 7, Yara did not compete for supply of these contracts.

Finally, to the extent the Commission may think competition between Yara's customer and the Australian industry or exports from China and Sweden are relevant to the question of accumulation, we note that Yara has one Australian customer. That Australian customer has publicly stated that it *supplies blasting services and bulk explosives which include AN and ammonium nitrate emulsion, in almost all cases under a contract which effectively "bundles" all the supplies and services together in one package.*[16]

The SEF finds that:

> *Only one of the contracts that the Commission reviewed (refer section 9.2.1 of this chapter – example 9) was for a bundled product and service. The injury claimed by the applicant in relation to this contract negotiation has not been included in the Commission's injury assessment due to other reasons, as stated in that section. All other contracts reviewed were for ammonium nitrate supply only, and one bundled contract separately identified the ammonium nitrate pricing.*[17]

So there are zero instances where the resale of Yara's exports have been found to have been injurious.

Cumulation is something that can only occur where it is appropriate to do so having regard to the above conditions of competition. It is appropriate to do so in circumstances where the exports for each country and the Australian industry sales are so interlinked competitively that isolating the individual impacts of one exporter or country would be an impossibility. This is not such a case. In this case, if it is accepted that the injury finding is accurate, the impact of all of the subject exports is found to be in relation to those seven examples cited in the SEF, each of which the Commission has information regarding what it considers the impact to be from each of the countries.

It is not appropriate in these circumstances to accumulate the impact of Swedish exports with those of other countries, because such an approach:

- attributes injury that has been found to have occurred in the West Australian market to Yara's exports, in factual circumstances in which Yara could not have caused that injury;[18]
- attributes loss of contracts to specific exports to Yara's exports in circumstances where Yara did not tender for or win any additional contracts; and
- the Commission has information before it to easily allow it to ascertain the individual impact of different countries' exports on each of the seven examples that form the basis of the injury finding.

16 Doc No.00027 Electronic Public Record.
17 SEF, page 80.
18 We note the SEF considers that the divide between the east and west market is significant when it comes to determining the USP. It is equally significant when determining the impact of the goods from Sweden.

As such, the cumulation of Swedish imports with those from other countries is inappropriate, because it significantly inflates the impact of Yara's exports on the Australian industry producing like goods contrary to the evidence before the Commission.

E The USP has no relation to the injury findings

The Unsuppressed Selling Price ("USP") is stated to be to establish *"a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping".*[19] The SEF determined a USP *"based on the average of the weighted average selling prices (at ex-works) for CSBP and Orica over a two-year period prior the investigation period (from 1 April 2015 to 31 March 2017)".*[20] It is said that this amount was then adjusted for movements in the CPI and movements in inflation to derive the USP.

The inclusion of Orica's prices in the USP is unexplained. None of the seven examples where dumping is said to have impacted the prices agreed to by the Australian industry related to Orica. Moreover, the application for this investigation reveals that Orica's prices in 1 April 2015 to 31 March 2016 and 1 April 2016 to 31 March 2017 were higher than its prices during the POI. Yet, in the POI, Orica has not been found to have been impacted by dumping. Thus the POI is itself a better representation of the prices at which Orica can sell its product in a market unaffected by dumping. Using information from early periods actually overstates what Orica should have been able to sell the goods during the POI, rendering that information inappropriate for the USP. If anything, it over protects the Australian industry from their habit of adopting import prices in uncontested negotiations.

More generally, with regard to the period in which the USP has been determined, we note that there is no finding that the Australian market for ammonium nitrate was affected by dumping to any significant degree during the period of investigation. We also note that the applicants' prices in the POI were found to be lower because of factors other than dumping, and yet the only adjustments to it have been inflationary in nature. Thus the USP is overstated.

In terms of adjustments to the USP, we further note that the CPI is a measure of inflation. Unless the Commission can advise us differently, we feel that adjusting a price for CPI movements and for inflation is a double adjustment for the same thing. If there is to be a pricing interference in the Australian ammonium nitrate market it should take place in an economically literate way. The lack of information about how this was done is also reason for concern – what information has been used to determine changes in CPI and inflation. Is it seasonally adjusted? Over what period, quarterly, annually etc.

The above explanation of the USP notwithstanding, it is worth recalling that the purpose of the USP is to ascertain a basis for determining the non-injurious price ("NIP"). The NIP is a legal concept, the USP is not. The NIP is defined to be:

> *The non-injurious price of goods exported to Australia is the minimum price necessary…if the goods are the subject of, or of an application for, a dumping duty notice under subsection 269TG(1) or (2)--to prevent the injury…referred to in paragraph 269TG(1)(b) or (2)(b).*[21]

The injury referred to in paragraph Sections 269TG(1)(b) and (2)(b) is that which necessitates the imposition of measures in the first place. That injury is said to be the difference between the prices

19 SEF, page 86.
20 Ibid.
21 A truncated Section 269TACA(a).

achieved in the seven negotiations identified by the Australian industry and the "undumped prices". We note that the USP is said to be, on average, 4.8% higher than the undumped prices. The clear conclusion then, is that the USP is greater than the minimum price necessary to prevent the injury found to have been suffered by the Australian industry.

The USP, and thus the resultant NIP has no relationship to the injury that is said to require the imposition of measures under Section 269TG(1) and (2). As the SEF points out, the *"purpose of anti-dumping measures is to remedy injury to the Australian industry caused by dumping and not to avert imports of ammonium nitrate"*.[22] The NIP over corrects the injury that has found to suffered, and this unjustifiably hampers imports.

Given the injury that motivates the proposal for the imposition of measures is the fact that the prices achieved in the seven negotiation examples was less than the "undumped prices" we would suggest that the appropriate basis for the USP would be the weighted average of all QNP and CSBP sales during the POI with prices achieved in the seven transactions that have been found to have been materially injurious replaced with the "undumped prices". This would result in a USP, and therefore an NIP, that is based on the most contemporaneous information regarding prices in the Australian market corrected for whatever impact the dumping has been found to have had in that same market. Failure to do otherwise would be an over-correction.

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Yours sincerely

Alistair Bridges
Senior Associate

[22] We also note this is an overs simplification of the purpose of the dumping system. As has been noted by the Federal Court of Australia:

It is apparent from the scheme of Part XVB that the legislature has sought to strike a balance, as the relevant international agreements no doubt seek to do, between various interests including not only those of Australian industries but also other WTO members and their own domestic industries, Australian consumers (in the broadest sense of that word) who may have an interest in acquiring imported goods at the lowest available prices and Australian exporters that supply their goods to other countries that are also members of the WTO (as per, Nicholas J in *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 87 at [148].