

18 March 2020

The Director
Investigations 2
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601

By email: investigations2@adcommission.gov.au

For Public File

Dear Sir/Madam

Reinvestigation 473 – Ammonium nitrate exported from The People’s Republic of China, Sweden and the Kingdom of Thailand

I. ADRP request for Reinvestigation

CSBP Limited (“CSBP”) is a member of the Australian industry manufacturing ammonium nitrate (“AN”) and an applicant company requesting the imposition of anti-dumping measures on AN exported to Australia from The People’s Republic of China (“China”), Sweden and The Kingdom of Thailand (“Thailand”).

On 3 December 2019 CSBP was requested to provide updated financial data for the Anti-Dumping Commission’s (“the Commission”) Reinvestigation Inquiry No. 473. The Reinvestigation Inquiry follows a request by the ADRP to investigate certain aspects of Report No. 473 (“Report 473”) as follows:

1. That the injury caused by dumping is material; and
2. That exports from Sweden should be cumulated with other exports to Australia.

In respect of (1), the ADRP requested that the Commissioner examine the materiality of injury including:

- a) A separate analysis of profit forgone in the investigation period and post-investigation period;*
- b) An examination of the evidentiary validity of profit forgone in the post investigation period;*
- c) An alternate methodology comparing the Australian industry applicants’ profitability;*
- d) Reassessment of materiality of injury with regard to profits forgone, taking into consideration (a) to (c);*
- e) The possibility of double counting if aggregating profit foregone in the investigation period and post investigation period.*

CSBP provided updated information to the Commission for the period to 30 September 2019. Additionally, CSBP provided detailed information concerning the quantification of injury on the [Customer Contracts].

II. Reinvestigation Report No. 473

CSBP endorses and welcomes the preliminary findings as detailed in the Anti-Dumping Commission's "Preliminary Report to the Anti-Dumping Review Panel". The findings in the preliminary report affirm the findings in Report 473 that the Australian industry manufacturing AN has suffered material injury from the dumped exports from China, Sweden and Thailand.

The Reinvestigation Report details the basis for the Commission's assessment of profit forgone in the investigation and post-investigation periods. The profit forgone in the post investigation period is greater than that which occurred in the investigation period as contracts were renegotiated during the investigation period. The quantified injury is material in nature. CSBP concurs with the Commission that the quantification of the injury in percentage terms based upon profitability diminishes and disguises the true impact of the profits forgone – which are ultimately in the millions of dollars.

CSBP notes that the Commission has relied (in Reinvestigation 473) upon the verified contracts identified in Report No. 473 as the basis for quantifying the injury impact to the Australian industry for the investigation and post-investigation periods. It is further noted that this approach ignores a significant portion of injury from the dumped exports that has occurred to the largest east-coast producer Orica Australia Pty Ltd. CSBP is surprised that none of the examples involving Orica in Report No. 473 were included in the quantification of injury, which leads to the implication that injury to the largest east-coast manufacturer appears to have been overlooked in the quantification of injury methodology.

CSBP considers that the Commission's re-investigation of the materiality of injury sustained by the applicant industry members is comprehensive and reliable. The analysis however is limited to the contracts as detailed in Report 473 and does not take into account the broader price-impact of the availability of dumped imports on total Australian industry sales. For this reason the Commission's quantification of profit forgone that has been attributed to the dumped exports from China, Sweden and Thailand must be viewed as conservative.

CSBP also agrees with the Commission's Re-investigation finding that it is appropriate to cumulate the injury from dumped exports from Sweden with the dumped imports from China and Thailand. CSBP concurs with the finding on the cumulative effect of the exportations from different countries of export as addressed in Section 3.3 of Reinvestigation Report 473 (as required by Section 269TAE(2C) of the Customs Act). CSBP notes that the goods exported from Sweden and those exported from China and Thailand, are alike to AN produced by the Australian AN industry. The exported goods may be used interchangeably including in the applications of customers to the AN industry with selling price a primary consideration for customers. The Commission's finding that the exports from Sweden should be cumulated with the exports from China and Thailand is the correct and preferred decision.

III. Recommendations

The Commission's Preliminary Findings concerning its Reinvestigation of Certain Findings in Investigation 473 is welcomed and supported by CSBP. The Commission's findings concerning the materiality of profit forgone in the investigation and post investigation periods is based on sound principles and reliable, updated information.

CSBP agrees with the Commission's findings that the determination of profit forgone based upon 'profitability' percentages does not accurately reflect on the magnitude of the profit forgone by the Australian industry. It is therefore recommended that the Commission's methodology in assessing profit forgone based upon actual declines in profit is the correct and preferred methodology. CSBP agrees that the quantification of the injury as material is well supported and is also the correct and preferred decision.

CSBP concurs with the Commission's finding that it is the correct and preferred decision to cumulate the effects of exports from Sweden with the injury attributable to exports from China and Thailand due to the conditions of competition evident between exports from the three countries.

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

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gerard Chan', with a horizontal line extending to the right.

Gerard Chan
Commercial Manager – Ammonium Nitrate