Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

Application for the continuation of a dumping and/or countervailing notice or continuation of an undertaking

ANTI-DUMPING COMMISSION
Form B600
September 2017

APPLICATION UNDER SECTION 269ZHC OF THE *CUSTOMS ACT 1901* FOR THE CONTINUATION OF A DUMPING AND/OR COUNTERVAILING DUTY NOTICE OR CONTINUATION OF AN UNDERTAKING

I hereby request, in accordance with section 269ZHC of the *Customs Act 1901* (the Act) that the Minister:

☒ continue a dumping duty notice, or

☐ continue a countervailing duty notice, or

☐ continue the undertaking given under the Act by

(Name of company or organisation)

in respect of the goods the subject of this application.

I believe that the information contained in this application:

- provides reasonable grounds for continuation of the anti-dumping measure; and
- is complete and correct to the best of my knowledge and belief.

Signature: 

Name:	John O'Connor
Position:	Director
Company:	John O'Connor and Associates Pty Ltd
ABN:	3909 865 0241
Date	27 July 2020

Signature requirements

Where the application is made:

By a company - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

By a joint venture - a director, employee, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

On behalf of a trust - a trustee of the trust must sign the application.

By a sole trader - the sole trader must sign the application.

In any other case - contact the Commission's client support section for advice.

Assistance with the application

The Anti-Dumping Commission has published guidelines to assist applicants with the completion of this application. Please refer to the '*Instructions and Guidelines for applicants: Application for continuation'* on the Commission's website.

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

Phone: 13 28 46

Fax: (03) 8539 2499

Email: clientsupport@adcommission.gov.au

Other information is available from the Commission's website at www.adcommission.gov.au

Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act* 2001), may obtain assistance, at no charge, from the Department of Industry, Innovation and Science's International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit www.business.gov.au or telephone the ITRA Service Hotline on +61 2 6213 7267.

Required information

1. Provide details of the name, street and postal address, of the applicant seeking the continuation.

The applicants requesting the continuation of anti-dumping measures on ammonium nitrate ("AN") exported from the Russian Federation to Australia are as follows:

(i) Orica Australia Pty Ltd
Contact Name: Mr Malcolm Hart
Company and position: Senior AN Product Manager – API, Orica Australia Pty Ltd
Address: 1 Nicholson Street, Melbourne Victoria 3002
Telephone: +61 3 9665 7309
Facsimile:
E-mail address: malcolm.hart@orica.com
ABN: 99 004 117 828

(ii) CSBP Limited
Contact Name: Mr Gerard Chan
Company and position: Commercial Manager – Ammonium Nitrate, CSBP Limited
Address: Kwinana Beach Road, Kwinana W.A. 6966

Telephone: +61 8 9411 8593
Facsimile: +61 8 9312 9767
E-mail address: Gerard.chan@csbp.com.au
ABN: 81 008 668 371

(iii) QNP Ltd
Contact Name: Mr David Armstrong
Company and position: General Manager, Queensland Nitrates Pty Ltd.
Address: Three Chain Road, Moura QLD 4718
Telephone: +61 7 4997 5100
Facsimile: +61 7 4997 1407
E-mail address: DArmstrong@qnp,com.au
ABN: 92 081 555 455

If you have appointed a representative to assist with your application:

The Applicant companies have appointed John O'Connor of John O'Connor and Associates Pty Ltd as their representative for the purposes of this application. Contact details for Mr O'Connor are as follows:

John O'Connor
Director
John O'Connor and Associates Pty Ltd
P.O. Box 329
Coorparoo QLD 4051
Tel: (07) 33421921
Email: jmoconnor@optusnet.com.au

2. **Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address.**

   Please see contact details at 1 above.

3. **Provide the names, addresses, telephone numbers and facsimile numbers of other parties likely to have an interest in this matter e.g. Australian manufacturers, importers, exporters, users.**

   Other parties considered to have an interest in this matter include:

   (i) Incitec Pivot Pty Ltd
   Level 8
   28 Freshwater Place
   Southbank Victoria 3006
   Tel: +61 3 8695 4400
   Fax: +61 3 8695 4419

   Dyno Nobel Asia Pacific Pty Ltd is a wholly owned subsidiary of Incitec Pivot. Dyno Nobel supplies locally manufactured and imported AN into the Australian market. Dyno Nobel's contact details are as follows:

   Dyno Nobel Asia Pacific Pty Ltd
   282 Paringa Road
   Murarrie Queensland 4172
   Tel: +61 7 3026 3900

   (ii) Yara Pilbara
   Lot 564 Village Road
   Burrup Peninsula, W.A. 6714
   Tel: +61 8 9183 4100
   Fax: +61 8 9185 6776

4. **The application must include a detailed statement setting out reasons for seeking continuation of the anti-dumping measure. Applicants must provide evidence addressing whether, in the absence of measures, dumped or subsidised imports would cause material injury to the local industry producing like goods. Applicants should refer to the "Guidelines for Preparing an Application for Continuation of Measures" for assistance.**

   Refer Attachment A.

5. **The applicant must provide details of the current anti-dumping measure(s) the subject of this continuation application, including:**

   - ***tariff classification***

     Ammonium nitrate ("the goods") is classified to subheading 3102.30.00 statistical code 05 in Schedule 3 to the *Customs Tariff Act 1995*. The rate of duty on ammonium nitrate is 'free' from all sources.

   - ***the countries or companies***

     The country the subject of the measures is the Russian Federation.

   - ***specified date of publication of the measure***

     The notice advising of the expiry of the anti-dumping measures applicable to AN exported from the Russian Federation was contained in Australian Dumping Notice No. 2020/052 published on the Anti-Dumping Commission website on 28 May 2020.

Provision of data

Industry financial data must, wherever possible, be submitted in an electronic format.

- The data should be submitted on a media format compatible with Microsoft Windows.
- Microsoft Excel, or an Excel compatible format, is required.
- If the data cannot be presented electronically please contact the Commission's client support section for advice.

Lodgement of the application

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either:

- preferably, email, using the email address clientsupport@adcommission.gov.au, or
- post to:

  The Commissioner of the Anti-Dumping Commission
  GPO Box 2013
  Canberra ACT 2601, or

- facsimile, using the number (03) 8539 2499.

Public Record

During an investigation all interested parties are given the opportunity to defend their interests, by making a submission. The Commission maintains a public record of these submissions. The public record is available on the Commission's website at www.adcommission.gov.au.

At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application must be

submitted. Please ensure each page of the application is clearly marked “FOR OFFICIAL USE ONLY” or “PUBLIC RECORD”. The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence. If you cannot provide a non-confidential version, contact the Commission’s client support section for advice.

The application must include a detailed statement setting out reasons for seeking continuation of the anti-dumping measure. Applicants must provide evidence addressing whether, in the absence of measures, dumped or subsidised imports would cause material injury to the local industry producing like goods. Applicants should refer to the "Guidelines for Preparing an Application for Continuation of Measures" for assistance.

(i) Subject goods – ammonium nitrate

The goods the subject of anti-dumping measures that are due to expire on 24 May 2021 are as follows:

> "*ammonium nitrate, prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10kg, exported to Australia from the Russian Federation*".

Ammonium nitrate is broadly classified into two grades – low density and high density. Low density ammonium nitrate ("LDAN") is generally of solid prilled form and is typically used in the manufacture of explosives. It may be blended with fuel oil to make one of the most commonly used explosives in Australia. LDAN is predominantly used in the production of bulk explosives, including ANFO (porous prilled ammonium nitrate mixed with fuel oil), heavy ANFO (a mixture of porous prilled ammonium nitrate, ammonium nitrate emulsion and fuel oil) and emulsion-based explosives (a mixture of porous prilled ammonium nitrate and ammonium nitrate emulsion). Locally produced LDAN is substitutable with imported LDAN given that the goods and like goods are sold to the same customers, predominantly commercial explosives and associated blasting services providers.

High density solid ammonium nitrate ("HDAN") is generally in granular form (it also can be in prill form) and is typically used as a fertiliser. High density ammonium nitrate can also be used in the manufacture of explosives (particularly emulsion-based explosives). HDAN and ammonium nitrate solution produced by the Australian industry are directly substitutable with imported HDAN, given that HDAN and ammonium nitrate solution is sold to the same customers for the purposes of producing ammonium nitrate emulsion. In Report No. 473[1], the Anti-Dumping Commission ("the Commission") reaffirmed that the local producer Orica Australia Pty Ltd ("Orica Australia") produces a solid type of ammonium nitrate that is directly substitutable with imported HDAN.

The Commission has determined in past investigations (more recently in Continuation of Measures Investigation 312 ("Invest 312" and Report 473) that the locally produced ammonium nitrate and the imported goods perform the same function and are used in the same end-use applications.

The applicants do not consider there have been any recent changes concerning the subject goods that would alter or impact these recent findings.

(ii) Application coverage

The anti-dumping measures applicable to exports of ammonium nitrate from the Russian Federation extend to all exporters and applies to both LDAN and HDAN.

PART A – Will the dumping continue, or recur?

(iii) Anti-dumping actions by other countries

The European Union presently has anti-dumping measures applicable to exports of ammonium nitrate from the Russian Federation. The EU has maintained the measures in AN exported from the Russian Federation since 1995.

In 2016, the United States conducted a "sunset" review of applicable anti-dumping measures on ammonium nitrate exported from the Russian Federation. Following the review, the applicable measures were revoked in August 2016.

[1] Report 473 – ammonium nitrate exported from the People's Republic of China, Sweden and the Kingdom of Thailand, July 2019.

(iv) Relevant evidence as to the current normal values for ammonium nitrate in the Russian Federation

(a) Report 312 and current Gazprom prices

In Report 312 the Commission was "*satisfied that there is a situation in the market in Russia such that sales of ammonium nitrate in Russia are not suitable for use in determining the normal value of the goods under subsection 269TAC(1)*."

The Commission was advised in Investigation 312 by the Government of Russia ("GOR") that[2]:

- *the Federal Law No. 147-FZ of 17 August 1995 'On Natural Monopolies' (as last amended on 21 July 2014) was enacted to enable the GOR to regulate the price of goods and services produced by natural monopolies;*
- *the Federal Law No. 69-FZ of 31 March 1999 "On Gas Supply in the Russian Federation" (as last amended on 30 December 2012) provides the GOR with the authority to establish the principles used in formulating gas prices;*
- *the Resolution of the Government of the Russian Federation No. 1021 of 29 December 2000 "On State Regulation of Gas Prices and Gas Transportation Services Tariffs on the Territory of the Russian Federation" provides guidance on the setting of gas prices and tariffs for the transportation of gas on a cost-plus profit basis;*
- *the regulated prices in the gas sector are only applicable to:*
  - *the gas produced by Gazprom and its affiliates; and*
  - *services for the transportation of gas produced by privately owned companies through pipelines owned by Gazprom and its affiliates.*
- *the Resolution of the Government of the Russian Federation No. 333 of 28 May 2007 established regulated prices for Gazprom, with minimum and maximum price levels for different consumer categories and regions. The right to negotiate and determine gas prices within these minimum and maximum limits is granted to suppliers and buyers. The resolution also introduced measures whereby the domestic gas prices would be increased to align them with international gas prices by 2011.*
- *the price levels for gas are regularly assessed by the Russian Government FTS,22 taking into account:*
  - *recovery of economically justified costs covering gas production, overheads, financing charges, and gas transportation;*
  - *maintenance and upgrade of extraction and distribution infrastructure;*
  - *investment in exploration and development of new fields;*
  - *price regions, which generally match the territory and entities of the Russian Federation, to take into account the location of customers from the gas fields; and*
  - *recovery of reasonable profits.*
- *the price for transportation services of gas from non-Gazprom producers through the gas pipe network owned by Gazprom is dependent on the volumes of gas being transported as well as the distance travelled.*

It should be noted that the regulated prices are inclusive of transportation costs.

The Commissioner was satisfied that the GOR exerted control over the natural gas industry through its price regulation.

[2] Report 312, Section 6.3.3, P. 23.

The Applicants note that the applicable Federal Laws concerning gas supply in Russia continue to apply in 2020.

The Commissioner further noted Report 312 the comments of the Oxford Institute for Energy Studies:

> "*Due to unforeseen developments in European gas pricing which were largely linked to higher oil price levels, the implementation of Resolution No. 333 in 2007 by the Russian Government in 2007 has to date not resulted in domestic Russian gas prices matching prices of Russian gas being sold within the European market*."

The Commission referred to Gazprom's selling prices for gas within Russia and external to Russia. As identified in Report 312 (and reported by Gazprom[3]):

- *the average sale price of gas sold domestically within Russia was 3,543 roubles per 1,000 cubic metres; and*
- *the average delivered sale price of Russian gas sold to European and other countries was approximately 10,992 roubles per 1,000 cubic metres (net of customs duties and excise taxes).*

The Commissioner also identified in Report 312 that some of the variance between the domestic Russian prices and those abroad could be accounted for transportation costs, however, the Commissioner was satisfied that there is a "discrepancy" between the prices. The Commissioner attributed this discrepancy to "*a result of the GOR regulating natural gas prices at levels lower than would have been payable had market conditions prevailed*." The Commissioner referenced Gazprom selling 51 per cent of its total gas volume in Russia in 2014 generating only 27 per cent of its total gas sales revenues. Gazprom is more than 50 per cent (direct and indirect) owned by the Russian Federation. The sales within Russia continue to account – by volume – for approximately 50 per cent of total gas sales, and account for approximately one-quarter of sales revenues. The GOR continues to regulate Russian gas prices (as confirmed in earlier investigations) and thereby restricts the profit maximising behavior of a state-run organisation.

The Commissioner's findings in Report 312 confirmed Gazprom's prices are not representative of market prices and instead reflects suppressed prices in Russia.

The Commissioner further confirmed in Report 312 that sales of domestic HDAN fertiliser grade were made with reference to the price established by the All-Russian Association of Fertiliser Manufacturers. The Commissioner stated:

> "*Each month the ammonium nitrate producers from across Russia meet to discuss a ceiling price to propose to the Association. This is set with reference to the price of Russian ammonium nitrate at the Black Sea and Baltic Sea ports as published in Fertecon Weekly, a major industry publication which is used globally as a benchmark for ammonium nitrate sale and market data. The Association either accepts or rejects the proposed ceiling price."*

Further, the Commissioner identified:

> *"Prices at the Black Sea and Baltic Sea are almost exclusively for ammonium nitrate from Russia, with minimal sales from other countries such as Ukraine. As such, the prices are reflective of the domestic price for the majority of the product sold, being fertiliser grade HDAN. This, combined with the arrangement with the Association detailed above, results in a feedback loop where the domestic price influences the export price, and vice versa."*

[3] Extracted from Gazprom in Figures 2015-2019, http://www.gazprom.com/f/posts/91/415561/gazprom-in-figures-2010-2014-en.pdf, p 81 at Non-Confidential Attachment 2.

The Commissioner concluded that domestic prices from HDAN are artificially low "*due to the competitive advantage afforded by the non-competitive gas prices*[4]." This confirmed to the Commissioner that *"..a situation exists in the Russian market for ammonium nitrate such that domestic prices are unsuitable for use in determining normal value under section 269TAC(1). As such, the normal value of the goods will be determined under subsection 269TAC(2)(c) and, for uncooperative and all other exporters, under subsection 269TAC(6).*"

(b) Russian Federation gas market

Gazprom accounts for approximately 72 per cent of gas sales in Russia – 48 per cent of its own gas and 24 per cent of gas from other domestic producers. Other independent producers account for the remaining 28 per cent of gas sales, however, these sales are transported through Gazprom's monopoly gas pipelines[5].

Gazprom is subject to the regulatory pricing regime of the Federal Antimonopoly Service (FAS) which sets the tariff for Gazprom's domestic sales each July.

Interestingly, the independent analysis suggests that whilst there is a regulated gas price in the Russian Federation, some nitrogen producers report gas prices below the regulated price. Gazprom was forecast to increase its domestic gas price in July 2019 by 3.1 per cent[6]. However, Gazprom only implemented a 1.4 per cent increase. Combined with the depreciation of the rouble by 4 per cent and the Ministry of Economic Development announcing an inflation rate for industrial gas prices for the period 2020-2024 not exceeding 3 per cent, an actual reduction in US dollar terms was observed.

This reduction in gas pricing enables Russian nitrogen producers (including ammonia and ammonium nitrate) to remain a low cost producing industry.

(c) 2019 Gazprom prices

As identified in Report 312, the disparity between Gazprom's domestic and external gas prices continues in 2019. Gazprom[7] reported the following prices in 2019:

- the average sale price of gas sold domestically with in Russia was 4118 roubles per 1,000 cubic metres; and
- the average delivered sale price of Russian gas sold to European and other countries was approximately 13,613 roubles per 1,000 cubic metres (net of customs duties and excise taxes).

The applicants also observe that the price by Gazprom to other Former Soviet Union ("FSU") countries in 2019 was more than double the domestic price at 10,176 roubles per 1,000 cubic metres.

The applicants submit that as domestic prices for gas sold by Gazprom in 2019 were approximately 30 per cent of the prices for gas sold outside of Russia and the FSU, the artificially low prices continue to influence the domestic selling prices for HDAN and a particular market situation continues to apply for ammonium nitrate sold in Russia.

(d) Russian Federation normal value

As normal values cannot be determined for Russian Federation exporters under subsection 269TAC(1), and the applicants do not have access to production costs for a Russian Federation exporter, normal values have been determined by reference to independent cost data sourced from a reliable industry source.

[4] Report 312, P. 28.
[5] Confidential Attachment 3 – Extract [Industry publication, under subscription].
[6] Confidential Attachment 4 – Extract [Industry source – under subscription)..
[7] Extracted from Gazprom in Figures 2015-2019, http://www.gazprom.com/f/posts/91/415561/gazprom-in-figures-2010-2014-en.pdf, p 81 at Non-Confidential Attachment 2.

The applicants have constructed a normal value domestic selling price in the Russian Federation for the twelve months ending June 2020 including a surrogate gas price for European gas. The constructed normal value is detailed in Table 1.

Table 1 – Constructed selling price for ammonium nitrate – Russian Federation

Russian Cost Summary	**Normal Value At actual prices US$**	**Normal Value with surrogate gas price US$**
Gas cost at Plant US$/mmBTU		
Gas conversion		
Gas cost US$/tonne		
Other Cash costs US$/tonne		
Ammonia Cost US$/tonne		
Conversion		
Ammonia for AN cost US$/tonne		
Other variable & fixed US$/tonne		
Total Cash costs ex-works		
Depreciation US$/tonne		
Production Cost (Incl Dep^{n}) US$/tonne		
ROE 0.70 US$:A$		
S,G&A A$/tonne		
Profit @ xx per cent A$/tonne		
Total CTM&S + Profit A$	**A$342/ tonne**	**A$431/tonne**

Notes:

1. Refer to independent cost data at Confidential Attachment 5.
2. The applicants consider the independent "other costs" for other variable, labour, maintenance and overheads are significantly understated and have adjusted – refer Confidential Attachment 5.
3. Depreciation based upon US$xxxM capex over xx years for 300kt p.a.
4. Selling, General & Administrative expenses based upon Australian industry average of approx. A$xxx per metric tonne;
5. Profit is based upon a xxx per cent return.

The applicants have constructed a domestic selling price for Russian-produced ammonium nitrate based upon gas sold by the Russian Federation to the European market (sourced from *Indexmundi*[8]*)*. The conversion costs of gas to ammonia and subsequent to ammonium nitrate are sourced from independent industry analyst data.

The constructed domestic selling price is at the ex-factory level. Adjustments to the constructed selling price are required for inland freight to port (in the Russian Federation), and port and handling charges at export port.

(v) Have exports continued following the imposition of measures and estimates of export prices

Russian Federation exporters have continued to supply AN to the Australian market following the continuation of anti-dumping measures on 24 May 2016.

The following Table 2 details import volumes from the Russian Federation since 2016/17.

[8] Source: https://www.indexmundi.com/commodities/?commodity=russian-natural-gas&months=60

Table 2 – Import volumes of ammonium nitrate from the Russian Federation (tonnes)

Source	2016/17	2017/18	2018/19	2019/20*
Russian Federation	9,350	21,756	30,691	5,478
China, Sweden & Thailand	49,743	82,455	70,298	27,347
Indonesia	86,540	13,800	9,218	35,200
Others	6,773	19,492	95,104	71,141
Total	152,407	137,503	205,312	139,166

Source: Australian Bureau of Statistics monthly import data[9].
Note: 1. 2019/20 includes 11 months to May 2020 only.

Following the continuation of measures in May 2016 for a further five-year period, exports of ammonium nitrate from the Russian Federation have continued. The exports increased in 2017/18 by 233 per cent, and then again in 2018/19 by a further 141 per cent.

In 2019/20 (11 months year to date) exports from the Russian Federation have declined to 5,478 tonnes as imports from other sources at lower FOB prices have entered the market.

The applicants draw to the attention of the Commission that imports of ammonium nitrate from the Russian Federation accounted for approximately 6 per cent of total imports in 2016/17 and accelerated to 15 per cent of total imports in 2018/19.

Russian Federation exporters of ammonium nitrate have demonstrated an ability to increase exports over a short period of time as required – as reflected by the increases in 2017/18 and again in 2018/19.

(vi) Have Russian Federation exporters' maintained distribution links in Australia?

As indicated above, Russian Federation exporters have continued to supply the Australian market following on from the continuation of the measures in May 2016. Russian Federation exports to Australia increased in successive years to 2018/19, and have only recently reduced – due to the availability of lower-priced imports (at prices the Australian industry considers are at dumped levels).

The applicants understand that manufacturers of explosives emulsions in Australia are motivated to source imported ammonium nitrate at dumped levels. The recent Investigation 473 confirmed that local emulsion manufacturers had sourced imported ammonium nitrate from suppliers in China, Sweden and Thailand – which were priced at levels below the non-injurious price for ammonium nitrate sourced from the Russian Federation. The Commission's investigations confirmed that the imported prices undercut the Australian industry's selling prices resulting in injury to the Australian industry.

If the current measures are allowed to expire on ammonium nitrate exported from the Russian Federation the applicants consider that it is very likely that importers (including emulsion manufacturers in Australia) would seek out imported ammonium nitrate from suppliers in the Russian Federation, which would impede domestic competition. The distribution and supply channels have been maintained throughout the tenure of the measures and importers would quickly return to regular supply from the Russian Federation.

It is therefore evident that the Russian Federation exporters have maintained well-established distribution and supply channels into the Australian market.

[9] Refer Confidential Attachment 6 for ABS import data for ammonium nitrate from 2016/17 to 2019/20.

(vii) Do Russian Federation producers/exporters retain excess capacity that may be directed to Australia?

A member of the Australian industry has commissioned an analysis of the production of ammonium nitrate in the Russian Federation. The analysis identifies the capacity of the industry for both technical ammonium nitrate ("TAN") (which includes explosive grade LDAN), and fertiliser grade ammonium nitrate ("FGAN")[10].

In 2019, the Russian Federation accounted for 20 per cent of global production of TAN and 35 per cent of FGAN. Production capacity in the Russian Federation for TAN is estimated at approximately 3.6 million tonnes per annum. This relates to production currently dedicated to producing LDAN in the Russian Federation. The analysis also confirms that Russian Federation FGAN producers have the capacity to supply 6.7 million tonnes p.a., although many of the producers possess the versatility to convert their plants from HDAN to LDAN grade (estimated spare capacity of up to 3.28 million tonnes p.a. which is available and could be directed to Australia).

The available evidence confirms that the Russian Federation accounts for approximately 40 per cent of all global trade in LDAN and approximately 50 per cent of all global trade in HDAN. The Russian Federation is, therefore, a significant source of ammonium nitrate – both LDAN and HDAN grades.

The applicants have obtained Russian Federation export data for ammonium nitrate by month, during 2019/20 (ytd[11]). Table 3 summarises export volumes and USD values over the periods July to December 2019 and January to April 2020 (not available to this date for all sources). Interestingly, the independent analysis suggests that whilst there is a regulated gas price in the Russian Federation, some nitrogen producers report gas prices below the regulated price. This would afford Russian Federation ammonium nitrate producers a further pricing advantage on global markets.

Table 3 – Russian Federation export volumes and unit FOB values (US dollars)

	Jul-Dec 2019			**Jan-Apr 2020**	
	Exports			Exports	
Destination	**Vol (tonnes)**	**FOB USD/te**		**Vol (tonnes)**	**FOB USD/te**
India	16,325	193.80		49,091	184.02
Australia	14,118	200.25			
Indonesia	15,358	232.96			
Malaysia	17,948	201.43		10,100	194.29
Philippines	3.154	215.97			
Peru	217,656	213.35		62,475	193.15
Chile	51,927	192.77		16,441	168.24
Brazil	1,166,115	180.41		274,248	173.67
Colombia	43,116	208.33		32,836	187.21
Estonia	98,281	168.43		4,338	146.10
Latvia	7,296	176.07			
Lithuania	18,627	179.07			
Data Average		186.14			178.50

Source: TradeData International.

Table 3 confirms that Russian Federation exporters supply ammonium nitrate to most markets at FOB prices which are significantly below export prices to Australia. The expiration of anti-dumping measures in Australia would likely result in a rapid increase in Russian Federation exports to Australia.

[10] See Confidential Attachment 7.
[11] See Confidential Attachment 8.

(viii) Will future exports of ammonium nitrate from the Russian Federation be at dumped prices?

The applicants consider that future exports of ammonium nitrate to Australia from the Russian Federation will be at dumped prices that would result in a recurrence of material injury to the Australian industry.

In the 2019/20 year there was a shipment of 5,478.4 tonnes declared from the Russian Federation in August 2019.

Table 4 – Estimated Dumping Margins for Russian Federation ammonium nitrate exports 2019/20

Period	Normal Value A$/MT	Export Price A$/MT	Dumping Margins A$/MT
August 2019	$511	$430	$81

Notes:
1. Normal value is based upon CTMS plus profit (incl surrogate gas) from Table 1, adjusted for bagging cost of US$xx/tonne, inland freight (increase of US$xxx/tonne plus storage, handling & port charges in export port of US$xx/ tonne, rate of exchange 0.70, for fair comparison with export prices that include overseas inland freight and port & handling charges);
2. Export prices sourced from ABS data;
3. Dumping margins based upon actual price.

The ammonium nitrate shipment imported in August 2019 was exported at dumped price of A$81 per tonne (or 15.9 per cent).

Should the anti-dumping measures be allowed to expire, it is considered likely that Russian Federation export prices to Australia would decline sharply, consistent with significantly lower FOB export prices to other destinations as reflected in Table 3 above.

PART B – Will material injury recur?

(a) Summary

The applicants contend that should the measures be allowed to expire, the Australian industry will again experience and be threatened with a recurrence of material injury that the measures are intended to prevent.

(b) Russian Federation supply

This application for the continuation of measures:

1. Recognizes that the Russian Federation is a significant manufacturer of ammonium nitrate, responsible for approximately 40 per cent of global trade in LDAN and approximately 50 per cent of global trade in HDAN.

2. That the underutilised HDAN producers in the Russian Federation can shift production to LDAN supply on their integrated plant with relative ease to meet changes in demand and dramatically increase exports of ammonium nitrate for explosives manufacture, should the measure be allowed to expire.

3. The domestic prices for ammonium nitrate in the Russian Federation are artificially low due to the Government of Russia's ("GOR") influence via regulated prices. Domestic gas prices are approximately 30 per cent of the level of Russian gas supplied to the European market. The low gas prices influences the prevailing domestic selling prices for ammonium nitrate such that they are lower than they otherwise would be. As identified by the Commission in

Report 312, the low gas prices in the Russian Federation also influence the Russian export prices, which account for a significant proportion of global trade.

Russian Federation export prices influence the levels of export prices for other suppliers such that they often do not recover the fully absorbed cost-to-make-and-sell. Russian Federation exporters, therefore, have a significant pricing advantage on export markets that has been afforded to the suppliers by the artificially low, regulated, gas prices in the country.

The applicants have also demonstrated that the import of ammonium nitrate from the Russian Federation in August 2019 was at a dumped level, even though anti-dumping measures were operative. The applicants consider that there exists a very and foreseeable threat that should the measures be allowed to expire on exports of ammonium nitrate from the Russian Federation, that there would be a rapid increase in exports of ammonium nitrate from the Russian Federation to Australia at dumped prices that will result in a recurrence of material injury to the Australian industry.

The very real prospect of an increase in exports from the Russian Federation is based on recognition that:

- Significant volumes (including to South America and in the Asia-Pacific region) have been exported by Russian Federation producers at FOB prices that are lower than recent export prices to Australia from the Russian Federation;
- the excess capacity of HDAN and LDAN producers in the Russian Federation can, at short notice, be used to supply the Australian market;
- the Russian Federation HDAN producers have the capability to readily switch production from HDAN to LDAN and supply the Australian market with relative ease; and
- the current anti-dumping measures have had a deterrent effect to dumping to ensure exports from the Russian Federation have been supplied at, or close to, fair prices.

(c) Australian market

The Australian market for ammonium nitrate has experienced further growth since the measures were last imposed in 2016. During this time, a new production facility has been constructed in the Pilbara region of Western Australia, and one industry member has significantly expanded its production output at Kwinana, also in Western Australia.

These significant capital investments – in excess of A$1 billion in aggregate, which are additional to more than $3 Billion already invested by the industry – have been achieved with the surety that anti-dumping measures have operated to ensure fair prices from exporters in the Russian Federation. It is considered that in the absence of the measures, these recent investments would have been less likely to have occurred. The Australian industry welcomes competition from fairly priced imports and observes that approximately 140,000 tonnes of imports were evident 2019/20.

From June 2018 the Commission conducted an investigation into the alleged dumping of ammonium nitrate exported from China, Sweden and Thailand. The investigation (i.e. Invest 473) was in response to an application by the Australian industry producing ammonium nitrate. Following investigations, the Minister imposed anti-dumping measures on all exporters in the three countries with effect from 3 July 2019. The Commission's investigation established that relatively small volumes of dumped imports can have a pervasive effect on the profit and profitability of an industry where three to five-year contracts for the supply of significant volumes of ammonium nitrate are not uncommon. The imports were supplied to emulsion explosives manufacturers at prices that undercut suppliers in the Australian industry.

In Australia ammonium nitrate is primarily used as a raw material for the manufacture of explosives. Customers primarily purchase ammonium nitrate through competitive tender processes either directly or from explosives suppliers. Typical tender terms are 3 years with some larger contract durations out to 5 years. The Commission has previously noted the nature of the market in both its Final Report No 473 and Report 312 in which contract prices are struck through tender negotiations which then sets a price and margin for the remainder of the term of that contract. The Commission particularly notes

that the presence of dumped imports strongly influences that price position and hence injury is carried for the remainder of that contract.

The applicants are concerned that should the measures on exports of ammonium nitrate from the Russian Federation be allowed to expire, Russian Federation exporters will seek to increase export volumes to Australia (from recent low levels) via already well-established distribution and supply channels and displace local production. Should the Russian Federation exports to Australia increase at dumped levels, members of the Australian industry that have invested significant capital in new and expanded production facilities, will experience declines in profit and profitability resulting in the recurrence of material injury that the measures are intended to prevent.

The applicants have included supporting financial data through until 30 June 2020 that clearly demonstrates the material impact of the dumping as verified in Investigation 473 and the consequent recovery from that 2017/18 period. It is considered that reductions in profit and profitability would be likely should the measures applicable to exports of ammonium nitrate from the Russian Federation are allowed to expire.

It is further considered likely should the measures be allowed to expire then there will be a sharp decline in export prices from Russian Federation exporters as reflected in recent export prices to other destinations (refer Table 3 above). It is the applicants' view that the likely material injury that would result from the decline in export prices and increased export volumes to Australia (from the Russian Federation) would far exceed the material injury experienced from the dumping of ammonium nitrate from China, Sweden and Thailand that was apparent in 2017/18.

Conclusions and Recommendation

This application for the continuation of anti-dumping measures on ammonium nitrate exported from the Russian Federation demonstrates that should the anti-dumping measures be allowed to expire on 24 May 2021 it is likely that the Australian industry will be subjected to a recurrence of dumping and material injury that the anti-dumping measures are intended to prevent. The applicants' assessment of a likely recurrence of dumping and material injury is supported by the following:

- Russian Federation exporters have continued to supply the Australian market following the continuation of measures in May 2016 (refer Table 2 above);
- Exporters in the Russian Federation have maintained distribution links and supply channels for supply to the Australian market;
- A *particular market situation* for ammonium nitrate sold in the Russian Federation continues to apply due to the GOR influence resulting in artificially low raw material gas input prices;
- Russian Federation gas prices continue to be regulated at reduced lower real prices in US dollar terms;
- exports of Russian Federation AN to Australia in August 2019 were at dumped prices;
- Russian Federation export prices to other destinations are at FOB prices below the export prices to Australia (and the applicable non-injurious FOB price);
- Producers in the Russian Federation possess significant excess capacity to increase supply of ammonium nitrate to Australia should the measures be allowed to expire;
- Australian market selling prices for ammonium nitrate are price sensitive and relatively transparent – the emergence of exports at dumped prices will impact on future negotiations;
- the under-utilised HDAN plants of Russian Federation exporters can be adapted to produce LDAN with relative ease, resulting in increased availability to supply the Australian explosives market;

- the EU has anti-dumping measures on ammonium nitrate exported from the Russian Federation that have been in place since 1995;
- the anti-dumping measures on ammonium nitrate exported from the Russian Federation have been effective to date; and

- the returns on new and expanded investments in ammonium nitrate completed involving capital outlays of some hundreds of millions of dollars following the continuation of measures in 2016 will be at risk to the likely increase of dumped exports from the Russian Federation.

The applicants have demonstrated that it is likely that should the anti-dumping measures on ammonium nitrate exported from the Russian Federation be allowed to expire on 24 May 2021 then it is likely that the Australian industry would experience a recurrence of dumping and material injury that the measures are intended to prevent. It is requested that the Commissioner commence a formal investigation into the continuation of anti-dumping measures to examine whether it is appropriate for the Commissioner to recommend to the Minister that the measures not be allowed to expire (and continued for a further five year period).