PUBLIC RECORD

Australian Government
Department of Industry, Science, Energy and Resources

Anti-Dumping Commission

This document has been erroneously labelled as an Exporter Supplementary Questionnaire. Please read it as a response to the Industry Supplementary Questionnaire. The contents of this questionnaire are a response to the Industry Supplementary Questionnaire.

Exporter Supplementary Questionnaire

Case number: 565

Product: Ammonium nitrate

From: The Russian Federation

Inquiry period: 1 July 2019 to 30 June 2020

Response due by: 3 November 2020

Return completed questionnaire to: investigations2@adcommission.gov.au

Anti-Dumping Commission website: www.adcommission.gov.au

DECLARATION

I believe that the information contained in this response is complete and correct.

Signature:

Name:

Position:

Company: Orica Austraia Pty Ltd

ABN: 99 004 117 828

Date: 02.11.2020

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BACKGROUND & GENERAL INFORMATION

Purpose of this questionnaire

The purpose of this supplementary questionnaire is to assist the Commission to obtain further information it considers necessary to assess whether a "particular market situation" exists in the Russian Federation (Russia) domestic market and whether selling prices for ammonium nitrate in Russia are not suitable for determining normal values under subsection 269TAC(1) of the Customs Act.

Response to this questionnaire

Australian Industry members do not have to complete this supplementary questionnaire. However, if you do not respond, the Commission may be required to rely on information supplied by other parties.

If you choose to respond to this questionnaire, the response is due by **Tuesday, 3 November 2020**.

If you decide to respond

Should you choose to provide a response to this supplementary questionnaire, please note the following:

Confidential and non-confidential versions

You are required to lodge a 'for official use only" and a 'public record" version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either "**FOR OFFICIAL USE ONLY**" (for the confidential version) or "**PUBLIC RECORD**" (for the non-confidential version) in the header and footer.

All information provided to the Commission "for official use only" will be treated confidentially. The public record version of your submission will be placed on the public record, which all interested parties can access.

Your public record submission must contain sufficient detail to allow a reasonable understanding of the substance of the "for official use only" version. If, for some reason, you cannot produce a public record summary, contact the case manager (see contact details on Page 1 of this questionnaire).

Declaration

You are required to make a declaration that the information contained in the response is complete and correct. You must return the signed declaration with the questionnaire response.

Lodgement

Lodgement by email or SigBox is preferred. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email, you are still required to provide a "for official use only" and "public record" version of your submission by the due date. If you wish to lodge your response by SigBox, please contact the case manager to make appropriate arrangements.

Clarification

If you have any difficulties in completing the supplementary questionnaire, or require clarification on any questions asked, contact the Commission as soon as possible.

Future questions and verification

Please note that after receiving the response to this supplementary questionnaire, the Commission may seek additional information.

The Commission may also seek to examine relevant records and to verify the information provided. The Commission has temporarily suspended onsite verification due to the COVID-19 pandemic (refer to Anti-Dumping Notice No. 2020/29). However, the response to the questionnaire may still be subject to onsite verification should the suspension of onsite verifications be lifted. Alternatively, we may seek to verify information remotely through email correspondence, videoconferences and teleconferences. You will be contacted in advance to make any necessary arrangements.

A complete response, including all of the documentation requested, must be submitted to the Commission before a verification meeting will be considered.

If verification meetings are unreasonably delayed or cancelled, the assessment of a particular market situation may be based on the facts available to the Commission.

The purpose of the verification meeting will be to verify the information provided in your supplementary questionnaire response. It is not intended to be a second opportunity to provide new or additional information. Accordingly, it is important that your response be as complete and accurate as possible.

SECTION A
MARKET SITUATION

Section 269TAC(1) of the ***Customs Act 1901*** (Cth) (the Act) provides that, subject to this section, the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

In addition, section 269TAC(2)(a)(ii) of the Act provides that, subject to this section, where the Minister is satisfied that because of the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1), the normal value of the goods exported to Australia cannot be ascertained under subsection (1).

Australian Industry claim that a particular market situation exists with respect to the goods within the Russian Federation (Russia)[1].

As part of its inquiry, the Commission will consider if a market situation exists in the ammonium nitrate market in Russia during the review period. The Commission will also investigate whether any market situation, if found to exist, influences a comparison between export prices and normal values. To undertake this assessment, the Commission requires further information about the respective markets.

[1]EPR document number 1

A-1 Whether sales are suitable

If the Minister is satisfied a market situation exists during the inquiry period, the Minister must consider whether, because of that market situation, exporters' domestic sales of the goods are suitable for determining a price under section 269TAC(1) of the Act.

1. In the event that the Minister is satisfied a market situation is found to exist during the inquiry period, please comment and provide any relevant evidence on:
   (a) the effect of the market situation on exporters' domestic prices in Russia (as relevant);
   (b) the effect of the market situation on exporters' export prices;
   (c) whether the effect of the market situation is such that exporters' domestic prices and export prices cannot be properly compared.

Orica Australia Response:

Orica Australia Pty Ltd (Orica) refers to the Australian industry application that details the Government of Russia's ("GOR") influence of domestic gas prices within the Russian Federation. In the Australian industry's application, the findings of the previous continuation investigation (i.e. Investigation No. 312) confirmed that the GOR controlled the domestic pricing for natural gas in Russia.

The following findings were highlighted:

> "***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:***

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

- ***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."

The Australian industry's application reinforces the findings of the previous continuation investigation and asserts that the GOR ***continues*** (in 2020) to regulate domestic gas supply in accordance with the identified Federal Laws.

It was further identified in the Australian industry application:

"***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" (emphasis added). 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 behaviour of a state-run organisation.

[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 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."***

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).""

The European Commission ("EC") has recently completed[5] a ***Commission Staff Working Document*** "on significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations". In respect of natural gas in Russia, the EC found:

> ***As documented in Section 10.2.2, over 85% of Russia's gas production is accounted for by state-owned companies, mainly those belonging to the Gazprom Group (approximately 75% of production), as well as Rosneft (10%). Gazprom is the owner of the UGSS which gives it a privileged position in sourcing and distributing gas within Russia although this also imposes on Gazprom obligations related to maintenance and modernisation of UGSS. The company controls, directly or indirectly (via managing the UGSS and providing transmission and other UGSS-related services to other producers), some 74% of gas supplies within the Russian market. Gazprom is also the sole authorised exporter of piped gas outside Russia and it accounts for 20% of the LNG export segment, the most liberalised part of the Russian gas sector (P.252).***

With the Russian Federation accession to the WTO in 2012., Russia undertook specific commitments in relation to gas pricing. Despite these obligations, Russian gas prices continue to be distorted by the state and bear no resemblance to the cost of generating, supplying and distributing gas domestically.

The EC further noted:

> "***The Government's approach to regulation of gas pricing has evolved considerably since the collapse of the Soviet Union with different strategies adopted by the Government. While as of writing this report market forces play a much larger role in the sector that at the beginning of the transition, gas price formation is still broadly shaped by the State (Section 10.6.1.1). Retail tariffs are tightly regulated and are significantly lower than those for industrial customers. Wholesale prices for industrial users supplied by Gazprom and its subsidiaries are also set by the State. They are not explicitly differentiated by types of industries in which these consumers***

[4] Report 312, P. 28.
[5] Commission Staff Working Document on significant distortions in the economy of the Russian federation for the purposes of trade defence investigations, Brussels, 22 October 2020.

> ***operate but they are set accordingly to a price formula in which many parameters are determined by the State or relate entities like Gazprom, and/or in a non-transparent manner (Section 10.6.1.2) (P. 268, 269).***

It was also observed by the EC that "***The wholesale gas pricing formula links the domestic price to the export price rather than to specific actual cost of production of gas in Russia***." (P. 269).

The EC concluded:

> "***The discussion of the differences in Russia's domestic gas prices and prices charged to foreign consumers in its export markets shows that the domestic prices have remained at a level of approximately one-third of the export prices. Timing and size of the most recent adjustments to regulated gas tariffs do not seem correlated with inflation dynamics but rather seem to reflect political and socio-economic policy objectives. What is more, the Government seems to lower or freeze regulated domestic prices at times of low global prices, which prevents convergence towards export prices. As stated above, the latest international comparisons show how that, in 2018, in Russia and in other countries of the FSU regulated pricing mechanisms accounted for much higher shares of gas pricing than in other regions. They also show that Russia's wholesale gas prices remain the lowest in the world" (P.272)***.

The impact of the government-regulated gas prices on downstream ammonium nitrate production is addressed also:

> "***According to the Academy of Industrial Market Studies, a Russian consulting firm, producers of nitrogen fertilisers (including ammonium-nitrate) achieve competitiveness in the global market due to the low price of Russian natural gas, which is an essential factor of the production cost. Russian ammonia producers consume about 1200 m3 of gas on average for the production of one ton, which is one-third higher than the average European level. However, due to the gas price difference, the direct costs of Russian ammonia and carbamide per ton are 2-3 times lower than in Europe. Therefore, the profitability of the chemical industry is mainly achieved by contractual domestic prices of natural gas that are significantly lower than world prices. The cost of electricity in Russia is also lower than in the world market, because the main components of power generation (such as coal, black oil (mazut), natural gas and uranium) are all produced in Russia and mainly belong to state-owned corporations and because energy resource prices are regulated by the Government monopolies to maintain competitiveness and stimulated domestic production."*** (P. 434).

Orica submits that the GOR continues to regulate the domestic price of natural gas such that it is significantly lower than it would otherwise be in the absence of the government regulation. 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 suppressed domestic gas price impacts the domestic selling price for ammonium nitrate ("AN") such that it is also sold at artificially low prices when compared with domestic prices for AN in other domestic markets. There have been no material changes in the GOR's approach since the findings of the Report 312 that would justify any different position now.

Orica further contends that as determined by the Commission (and the preceding Customs and Border Protection) in Investigations 312, 168 and 105, the export prices of Russian AN exporters' of AN are also distorted by the GOR's intervention via government laws to regulate the raw material domestic gas price in Russia.

Orica considers that domestic selling prices for AN continue to be distorted by the GOR's intervention and that domestic selling prices are not suitable for determining normal values under subsection 269TAC(1) of the ***Customs Act***. The effect of the GOR intervention is that the Russian export prices of downstream value-added gas products (including AN) are artificially low due to the impact of the GOR's Federal Laws that suppress domestic gas prices in Russia.

Orica does not consider that, for the purposes of determining normal values, the exporter's domestic prices and export prices for AN can be properly compared.

2. Please provide any further information and evidence you may wish to submit.

Refer to response to A-1 above.

SECTION B
AUSTRALIAN MARKET

B-1 Prevailing conditions of competition in the Australian market

1. Describe the Australian market for ammonium nitrate and the prevailing conditions of competition within the market, including:
    (a) an overall description of the market in Australia, which explains its main characteristics and trends over the past five years;
    (b) the sources of demand for ammonium nitrate in Australia (including different customers, users or consumers of the product), and the estimated proportion of sales revenue that each source of demand comprises;
    (c) the factors that influence consumption/demand variability in Australia, such as seasonal fluctuations, factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;
    (d) any market segmentations in Australia (such as geographic or product segmentations), and the estimated proportion of sales revenue that each segment comprises;
    (e) the way in which Australian manufactured, Russian and other imported goods compete in the Australian market;
    (f) the ways that ammonium nitrate is marketed and distributed in the Australian market; and
    (g) any other factors that are relevant to characteristics or influences on the Australian market for ammonium nitrate.

Provide documentary evidence to support the responses to B-1(a) to (g).

Orica Australia Pty Ltd response:

(a) Market description

The Australian market for ammonium nitrate is estimated at xxx million tonnes per annum. It is estimated to have increased from approximately xxx million tonnes per annum over the last 5 years at an average annual growth rate of xxx% cagr. Orica estimates that it is forecast to grow at xxx% cagr over the next 5 years.

AN is used primarily as a raw material for the manufacture of commercial explosives used in the mining, quarry and construction industries. It is also used as a raw material in the manufacture of liquid fertilisers (eg UAN). Small volumes are used to make specialty medical gases.

The estimated volume proportion used in Australia is set out in the table below based on Orica's market intel:

[Removed: Table detailing commercially sensitive market assessments]

Source: Orica Intell, Orica Market Demand Model, Company announcements.

(b) Market demand and variability

For explosives applications the key drivers of demand are:

- ***production of mineral commodities from mining companies and earth moving contractors as they seek to meet global demand for seabourne trade of minerals (such as iron ore, thermal and coking coal, gold, copper and various other base metal ores)***
- ***demand for domestic coal fired power stations***
- ***domestic infrastructure and construction projects and demand for quarry materials (eg road base, cement)***

For these applications, demand typically varies +/- 10-15% over a year for the following reasons:

- ***overall level of mining activity at a particular customer***
- ***the nature of mining – underground operations use a lot less than open cut operations***
- ***overburden strip ratio at a particular mine which can vary with the overall economic cycle for the commodity***
- ***start-up of new operations which requires extensive overburden stripping***
- ***weather events where mining activity may be temporarily ceased or cut back; this may also occur more seasonally in some areas due to climatic conditions***
- ***product mix issues at a particular customer***
- ***project nature of quarry/construction activity***

For fertiliser applications, demand is driven by the nutrient requirements of particular crops and the seasonal application requirements of crops. Demand can vary +/- 30-40% at key times of the year.

(c) Market segmentation

The Australian market for AN has four distinct geographical areas, and is sold into two key segments – explosives and agricultural applications.

The table below details Orica's view of the geographic usage of AN in applications:

Region	*Est'd volume (Ktepa)*	*% share*
North East	***xxx***	***xxx***
South East	***xxx***	***xxx***
Pilbara	***xxx***	***xxx***
South west	***xxx***	***xxx***
Ag Manufacture	***xxx***	***xxx***
Total	***xxx***	

Source: Orica Intell, Orica Market Demand Model, Company announcements

AN manufactured in Australia competes with imported ammonium nitrate in its range of applications and uses. Imported AN is effectively in two forms:

(i) ***Porous prilled AN which is used as a dopant in bulk explosives formulations***

(ii) ***Denser AN which is used for fertiliser or dissolved into liquid solutions for manufacture of bulk emulsions in explosives applications or as an input to liquid fertilisers. AN solution from domestic manufacturing plants is a substitute for this.***

Depending on the additives contained in the AN, porous AN can sometimes be used to dissolve for applications in emulsion and fertilisers.

(d) Marketing and competition

In explosives markets, ammonium nitrate is typically marketed as an input to bulk explosives formulations and is sold on a delivered formulated product basis or sometimes on an ex works basis. Similarly, in liquid fertiliser applications it is marketed as a fertiliser solution or as a raw material for inputs to that manufacturing process.

In explosives markets, customers use competitive tendering processes to decide contracts of supply for explosives products. Through this process contract prices are agreed through a competitive process which are binding (including any margin) for the duration of the contract.

2. Provide a diagram that outlines the Australian market structure for ammonium nitrate, ensuring that all categories of participants are included. In this diagram use linkages to illustrate the different levels of trade and distribution channels within the Australian market.

Orica's view of the market channel structure is attached below:

[***Removed – Commercially sensitive market structure***]

Source: Orica

3. Describe any commercially significant market participants (at each level of trade) in the Australian market for ammonium nitrate over the inquiry period. Include in your description:
    - the name of each participant, and the relevant level of trade (e.g. manufacturer, reseller, retailer, importer);
    - a description of the degree of integration (either vertical or horizontal) for each market participant; and
    - an estimation of the market share held by each participant.

Orica has identified the following estimated AN share for each of the market participants in the following table:

[***Removed: Table detailing commercially sensitive estimated market share of industry participants***]

Source: Orica Intell,

[Local manufacturers] are all manufacturers of AN who supply customers directly with AN and also to other explosives distributors

[Company] is the main AN producer for Agriculture products with [company] supplying small volumes on the East Coast to other manufactures of UAN.

It is Orica's understanding that [customer] is the only large end-use customer who imports AN directly.

4. Identify the names of commercially significant importers in the Australian market for ammonium nitrate over the inquiry period, and the estimated market share held by each importer. Specify the country each importer imports from and their level of trade in the Australian market, if known.

Orica's estimated view of import sourcing in the Investigation period is as follows

[***Removed: Table detailing commercially sensitive import estimates of industry participants].***

From time to time, manufacturers Orica, Dyno and CSBP will import temporary volumes to cover shutdown periods for maintenance to ensure stock coverage is in hand to supply customers

5. Describe the regulatory framework of the Australian market for the goods as it relates to competition policy, taxation, product standards and the range of the goods. Refer the Commission to any relevant regulation described with a brief explanation of how it applies.

Ammonium nitrate is classified as a Dangerous Good and as a Security Sensitive Material, for which there are requirements to be met, but no other special requirements in the areas mentioned.

6. Describe any entry restrictions for new participants into the Australian market for ammonium nitrate. Your response could include information on:
    - resource ownership;
    - patents and copyrights;
    - licenses;
    - barriers to entry;
    - import restrictions; and
    - government regulations (including the effect of those government regulations).

In responding to B-1.6, ensure that relevant regulations are referenced.

Ammonium nitrate is classified as a Dangerous Good and as a Security Sensitive Material (SSAN), for which there are regulatory requirements that are required to be met. Dangerous Goods classification requires compliance with certain tests defined by the UN Code. SSAN is dictated by state govt authorities.

A licence is required from state government authorities to purchase, sell, make, store and transport ammonium nitrate.

Storage and manufacturing facilities also need to be licensed and approved by state government authorities. This typically involves a detailed quantitative risk assessment. Manufacturing facilities are classified as Major Hazard Facilities which require ongoing assessment with regulators every few years.

Movement of AN through ports is determined by local Port Authorities. In general, the volumes of AN that can be transited via a port is capped (and varies for each port) and the specific ports that allow movement is also specifically defined by each state. The maximum shipment volume is usually determined by a risk assessment and approved by the relevant state regulatory authority

Regulations vary by state, with some reference material detailed below:

AN Storage Links

WA AN Storage Code:
http://www.dmp.wa.gov.au/Documents/Dangerous- Goods/ DGS_COP_StorageSolidAmmoniumNitrate.pdf#

Qld IB53 SSAN storage info bulletin:
https://www.dnrme.qld.gov.au/business/mining/safety-and-health/alerts-and-bulletins/explosives/storage-req-security-sensitive-ammonium-nitrate-ssan

Other states use AS 4326-2008 "The storage and handling of oxidising agents" for AN storage.

AN Transportation

ADG Code: https://www.ntc.gov.au/codes-and-guidelines/australian-dangerous-goods-code

The ADG Code is picked up through DG Transport Regulations for each state. For example, NSW summary:

https://www.epa.nsw.gov.au/your-environment/dangerous-goods/dangerous-goods-nsw-overview

ADG Code gives the primary legal effect for the UN testing under Special Provision 306 (this special provision is from the UN documents):

306	This entry may only be used for substances that are too insensitive for acceptance into Class 1 when tested in accordance to Test Series 2 (see Manual of Tests and Criteria, Part I).

WA Guidance Note on handling explosion risk goods through ports (this also mentions the testing requirements)

http://www.dmp.wa.gov.au/Documents/Dangerous-Goods/DGS_GN_ExplosionRiskGoods.pdf#

AS3846-2005 "The handling and transport of dangerous cargoes in port areas" is used throughout Australia. This also touches on testing requirements.

NSW regulations

NSW Explosives Regulation 2013 (covers storage)
https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2013-0476

NSW WHS Regulation 2017 (chapter 9 covers MHF obligations)
https://www.legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2017-0404

NSW SafeWork summary page for MHF
https://www.safework.nsw.gov.au/hazards-a-z/hazardous-chemical/major-hazard-facilities

B-2 Goods in the Australian market

1. Generally describe the range of the goods offered for sale in the Australian market. The description should include all goods, including those produced by your company. Your description could include information about:

    - differences in quality;
    - differences in price;
    - differences in supply/availability;
    - differences in technical support;
    - the prevalence of private labels/customer brands;
    - the prevalence of generic or plain labels;
    - the prevalence of premium labels; and
    - product segmentation.

The AN products used in the Australian market are summarised in the table below:

Product	*Description*	*Uses*
LDAN	***Solid low density porous prill***	***Primarily used as a dopant in the manufacture of bulk and packaged explosives*** ***Some additive systems may enable it to be dissolved and used as a substitute for AN solution/HDAN***
AN solution	***Liquid AN solution***	***Most is sold as a hot concentrated (85-90%) solution for use in the manufacture of bulk emulsion for explosives*** ***May also be used as a raw material for fertiliser grade solutions or UAN manufacture. Weaker strength solutions are also sold for fertiliser applications***
HDAN	***Solid high density AN***	***Primarily used when AN solution is not directly available to make either bulk emulsion or fertiliser solutions. Is imported into Australia***

Because AN is largely a raw material, the branding is primarily used to denote different additive systems. Finished goods bulk explosives and fertiliser products are branded more strongly.

2. Describe the end uses of ammonium nitrate in the Australian market from all sources.

    See responses in Table at B-2.1 above.

3. Describe the key product attributes that influence purchasing decisions or purchaser preferences in the Australian market. Rank these preferences or purchasing influences in order of importance.

    Purchasers typically use a range of criteria, which include:

    - ***Product quality***
    - ***Availability of supply***
    - ***Reliability of supply***
    - ***Flexibility to change volume and or timing of delivery***
    - ***Price***

4. Identify if there are any commercially significant market substitutes in the Australian market for ammonium nitrate.

In explosives applications, there is some flexibility in changing product mix which impacts the amount of low density AN and emulsion needed. Fundamentally though ammonium nitrate has proven to be a very cost effective and efficient component for use in explosives.

For fertilisers there are alternatives such as urea or imported UAN directly, but this depends on crop nutrient needs and product distribution resources.

5. Identify if there are any commercially significant market complements in the Australian market for ammonium nitrate.

   See response above.

6. Have there been any changes in market or consumer preferences in the Australian market for ammonium nitrate in the last five years? If yes, provide details including any relevant research or commentary on the industry/sector that supports your response.

   Customer preferences have remained steady at reliable supply of quality AN in a cost-effective manner.

B-3 Relationship between price and cost in Australia

1. Describe (and provide evidence to support) the importance of the Australian market to your company's operations. This should include:
    (a) the proportion of your company's sales revenue derived from sales of ammonium nitrate in Australia; and
    (b) the proportion of your company's profit derived from sales of ammonium nitrate in Australia.

    Ammonium nitrate is a key raw material for the manufacture of bulk explosives. Over the Investigation Period, sales of AN by Orica Australia represent xxx% of the Australia Pacific Asia regionally declared sales in FY2019 and xxx% of the declared 2019 EBIT for the same region. [reference the Orica FY 2019 Financial results presentation attached]

2. Do you consider your company to be the price leader for ammonium nitrate in the Australian market? If no, please explain why and specify the name(s) of the relevant price leaders.

    Selling prices on the Australian market are established by reference to import parity prices.

3. Describe (and provide evidence to support) the nature of your product pricing in Australia (e.g. market penetration, inventory clearance, product positioning, price taker, price maker etc.).

    Orica determines prices based upon the alternate import supply delivered to site.

4. Describe your price strategies in Australia (e.g., competition-based pricing, cost-plus pricing, dynamic pricing, price skimming, value pricing, penetration pricing, bundle pricing). If there are multiple strategies applied, please rank these by importance. If there are different strategies for different products, please specify these.

    Orica determines prices based upon the alternate import supply delivered to site.

5. Explain the process for how the selling prices of ammonium nitrate for the Australian market are determined by your business. Provide copies of internal documents that support how pricing is determined.

    Orica maintains a pricing policy for ammonium nitrate

    [Removed – commercially sensitive pricing policy for Orica].

    Details of the pricing process can be discussed with the Commission as apart of the Verification Visit.

6. How frequently are your Australian selling prices reviewed? Describe the process of price review and the factors that initiate and contribute to a review. Provide the names and positions of all persons involved.

[Removed – commercially sensitive pricing policy information of Orica].

7. Rank the following factors in terms of their influence on your pricing decisions in the Australian market, with the most important factor ranked first and the least important factor ranked last:

    - competitors' prices;
    - purchase price of raw materials;
    - cost to make and sell the goods;
    - level of inventory;
    - value of the order;
    - volume of the order;
    - value of forward orders;
    - volume of forward orders;
    - customer relationship management;
    - supplier relationship management;
    - desired profit;
    - brand attributes;
    - other [please define what this factor is in your response].

    There are a range of factors that will be considered as part of a customer proposal, which includes customer relationship, ability to supply, volume and volume growth outlook, price of alternatives and overall margin

8. Describe the relationship between selling price and costs to make and sell in the Australian market. Does your company maintain, or seek to maintain, a desired profit margin for ammonium nitrate? Provide copies of internal documents that support your response to this question.

    [Removed – commercially sensitive pricing policy for Orica].

9. Do you offer price reductions (e.g., commissions, discounts, rebates, allowances or credit notes) in the Australian market? If yes, provide a description and explain the terms and conditions that must be met by the customer to qualify. Explain how the cost to make and sell are considered in establishing these price reductions. Provide copies of internal documents that support your claims in response to this question.

    Orica does not tend to offer these additional discounts

    [Removed – commercially sensitive pricing information].

10. Do you offer bundled pricing[6] in the Australian market? If yes, explain how the pricing for bundled sales is determined. Explain how the cost to make and sell is considered in establishing these bundled prices for the goods. Provide copies of internal documents that support your claims in response to this question.

    Orica primarily sells an integrated offering of bulk explosives delivered down the hole at a customer site plus the associated delivery services, initiating and packaged explosives and accessories. Ammonium nitrate forms part of pricing of bulk explosives so in that respect ammonium nitrate is bundled as part of a complete offering. In some cases, customers explicitly negotiate the price of ammonium nitrate which is an input into that offering. In line with comments

[6] See definition of 'bundled pricing' in Glossary.

above the ammonium nitrate price is assessed at the time of the bid considering other alternatives for supply.

11. Does the volume of sales to a customer or the size of an order influence your selling price in Australia? If yes, advise how volume is used to determine selling prices. Explain how the cost to make and sell is considered in establishing volume based prices for the goods. Provide copies of internal documents that support your claims in response to this question.

    [Removed – commercially sensitive pricing details for Orica].

12. Does your business utilise sales contracts in the Australian market? If yes, provide a list of all customers under contract during the inquiry period, including copies of the two largest contracts (by sales revenue). In addition, describe:

    (a) the proportion of sales revenue derived from contracted versus uncontracted sales;
    (b) the proportion of sales revenue related to contracts that include exclusivity terms (if applicable);
    (c) the frequency that particular sales contracts are renegotiated;
    (d) the frequency that price is reviewed during the life of the contract;
    (e) the opportunities to review price during the life of a contract, including a description of the process and an explanation of the circumstances that might lead to a price review (e.g. due to changes in the cost to make and sell).

Orica's business is [Removed – commercially sensitive contract information - Orica].

Orica is typically contracted by customers on an all of requirements basis up to a defined volume. Contract durations vary depending on the contracting strategies of particular customers. Typically, these are 2-5 years with an average around 3 years.

[Removed – commercially sensitive pricing policy for Orica].

13. Provide copies of any price lists for ammonium nitrate used in the Australian market during the inquiry period. If you do not use price lists, describe the transparency of your prices in the Australian market.

Whilst Orica publishes price lists for initiating and packaged explosives, Orica does not use such lists for ammonium nitrate-based products. Prices are negotiated with customers and are held confidential.

14. How do you differentiate pricing for different products/models of ammonium nitrate in the Australian market? Describe how your products are grouped for price differentiation and the methodology used. Describe any cost to make or selling cost differences between differentiated products. Describe how these cost differences (if any) influence pricing decisions. Provide copies of internal documents that support your claims in response to this question.

[Removed – commercially sensitive pricing policy for Orica].

Product costs can be discussed with the Commission as part of the proposed Verification Visits.

15. Do you tier or segment your Australian customers for ammonium nitrate in terms of pricing? If yes, provide:
    (a) a general description of how this is done;
    (b) list the factors that influence pricing in different tiers or segments; and
    (c) explain how cost to make and selling costs are considered in making pricing decisions for different tiers or segments.

Pricing can vary across the country as the real costs to source imports into different geographies varies. Key factors include port limits, which impacts freight costs, local port and handling charges, land freight and local storage costs associated with storage infrastructure.

[Removed – commercially sensitive pricing policy information for Orica].

16. Do you sell the goods to related entities in Australia? If yes, describe how prices are set for related party transactions and specify what proportion of your sales in terms of sales revenue are to related party entities. If available, provide a copy of any internal documents relevant to establishing pricing to related parties.

[Removed – commercially sensitive supply details to JV partner].

B-4 Marketing and sales support in the Australian market

1. How does your company market the goods in the Australian market? Include in your response the value proposition used (e.g., competitive price, superior quality, reliability, availability, etc.).

   Ammonium nitrate is marketed as a component of bulk explosives products and services and raw material for liquid fertilisers on the basis of quality product with reliable supply.

2. Does your company conduct brand segmentation in the Australian market for ammonium nitrate? If yes, describe the brand segmentation used and provide the proportion of sales revenue derived from each brand segment.

   AN from different sources have different brand names as they have different additive systems and hence functional capability and this also makes it easier to identify and manage stock.

3. Provide examples of your Australian advertising of ammonium nitrate over the past five years. If you have not used advertising in Australia, provide examples of any other promotional campaigns for the goods you have conducted over the inquiry period.

   Supporting technical data and specifications for ammonium nitrate manufactured by Orica is available in the attached links:

   http://www.oricaminingservices.com/au/en/product/products_and_services/bulk_systems/page_bulk_systems/ammonium_nitrate_solution_ansol/1470

   http://www.oricaminingservices.com/au/en/product/products_and_services/bulk_systems/page_bulk_systems/nitropril/56

   http://www.oricaminingservices.com/au/en/product/products_and_services/bulk_systems/page_bulk_systems/anopril_prilled_ammonium_nitrate/1472

4. How many people are in your Australian market sales team and where are they located? In general terms, how are they remunerated? If they are offered performance pay based on sales, describe the performance indicators used to establish the performance pay. Provide copies of internal documents that support your claims in response to this question.

   Orica does not have sales staff dedicated to selling ammonium nitrate. Rather it has a sales and technical service team (approx.xxx) supporting the sale and management of explosives supply contracts. These employees are based in key regional offices close to mining and quarry customers at Townsville, Mackay, Brisbane, Kurri Kurri, Deer Park, Perth & Kalgoorlie.

   Front line customer employees are remunerated by a salary with performance review based on achievement of key safety and business-related goals associated with their customers' operations and contracts.

5. Describe what parameters are provided to sales staff to assist in establishing pricing for the goods when negotiating sales with customers. Provide copies of internal documents that support your claims in response to this question.

   Sales staff have access to recommended internal pricing policies for key components of bulk explosives. Internal approval with executive management is required as part of building up of a proposed customer offer.

SECTION C
PRODUCTION AND PRODUCTION COSTS

In responding to the questions in section C, please respond to these questions only in relation to the inquiry period.

C-1 Production of the goods

1. Describe how your company determines its volume of production for the goods, product mix of production and the factors that contribute to these decisions. How frequently are production volumes determined? How frequently is the product mix determined? Provide copies of internal documents which support your claims in response to this question.

Orica runs a Sales and Operations Planning (S&OP) process to plan both demand and production of its manufacturing plants,

[Removed – commercially sensitive detail of S&OP planning process].

2. What lead times are typically needed to adjust volumes of production for the goods? Provide copies of internal documents which support your claims in response to this question.

This depends on the issue at hand. Planning for shutdowns typically starts xx months in advance as contingency planning can be complex depending on the product. Should additional product be required to be purchased or imported this can require xx-xx months advance notice.

Contingency planning can be discussed with the Commission as part of the proposed Verification Visits.

3. Do you have warehousing facilities for the goods? If no, what do you do with excess inventory? If yes:
   (a) What is the volume capacity of these facilities?
   (b) What was the monthly amount of inventory maintained during the review period?
   (c) What is the average period of time that inventory is retained (describe how this is calculated)?

Provide copies of internal documents which support your claims in response to this question.

Orica retains inventory of AN at its AN manufacturing plants, at the ~ xx bulk explosives depots located in region closer to customers or on customer mine sites and at third party managed storage facilities.

Larger storage facilities are detailed in the table below:

AN Storage Location	*Licensed Storage Capacity (te)*
Kooragang Island	*xxxx*
Yarwun	*xxxx*
Bajool	*xxxx*
Newcastle – Tomago	*xxxx*
Kalgoorlie	*xxxx*
Rockingham	*xxxx*
Broome	*xxxx*

Average monthly inventory carried during the investigation period is xxxxx te of AN

Orica has already provided inventory data to the Commission

Average inventory is less than xxx weeks so turnover is frequent. Additionally, Orica recommends that product is used within 6 months to avoid deterioration. If poorly stored in adverse climatic conditions, AN quality can deteriorate due temperature cycling.

4. Have there been any changes to the type of capital or technology utilised by your company in the manufacturing of the goods in the last five years? If yes, provide details.

Manufacturing technology has been steady over the last 5 years. Orica has tried other additives systems over the last three years to make a product which meets the needs of low density AN as a dopant and is effective as an emulsion raw material. This work continues with the introduction of Anopril at Yarwun.

5. For each plant capable of producing inputs that could be utilised to make the goods, provide the date that production facility came into operation and the production capacity of the plant over the past five years. The production capacity should be based on an actual production capacity, not a budgeted production capacity. Provide copies of internal documents which support your claims in response to this question.

Site	*Original Commissioning Date*	*Production Capacity (Ktepa)*				
		2016	*2017*	*2018*	*2019*	*2020*
Kooragang Island	*1989 (1)*	*xxx*	*xxx*	*xxx*	*xxx*	*455*
Yarwun	*1993*	*xxx*	*xxx*	*xxx*	*xxx*	*470*

Note (i) Taken from commissioning of AN prill tower facility into industrial grade AN and production of AN solution.

6. Confirm whether management reports are prepared on production costs. If yes:
   (a) specify how often these cost reports are prepared;
   (b) describe the level of detail in those reports and whether they enable the establishment of costs of producing the goods; and
   (c) specify to whom within the company these reports are provided; and
   (d) provide copies of these reports for each month of the review period.

Monthly manufacturing reviews are conducted at plant level and communicated to Executive management for each manufacturing asset. Reporting details actual manufacturing costs for ammonium nitrate from the SAP enterprise business system at the fully absorbed site cost basis (including variable costs, operational fixed costs including site management costs and depreciation all associated with the AN manufacturing operation and its component parts). Reporting also covers status on other key business objectives such as safety and productivity improvement initiatives.

MBR reporting can be discussed with the Commission as part of the proposed Verification Visits.