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Mr Tim King  
Case Manager  
Investigations 2  
Anti-Dumping Commission  
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Canberra ACT 2601

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## Public File

Dear Mr King

### **Investigation 565 – Particular market situation – ammonium nitrate ex Russian Federation – EU imposition of definitive anti-dumping duty on imports of ammonium nitrate originating in Russia**

#### I. Background

The European Commission ("EC") published EU Regulation No. 2020/2100 on 15 December 2020 announcing a decision to continue anti-dumping measures on ammonium nitrate originating in the Russian Federation ("Russia"). The measures were previously extended on 8 June 2016 (refer EU Regulation 2016/1036). The anti-dumping measures on ammonium nitrate exported from Russia were originally imposed in 1995 (European Council Regulation 2022/95).

The EC was satisfied that the expiration of the measures would lead to a recurrence of dumping. Additionally, the EC determined that in the absence of the measures, the EU market would be attractive to Russian exporters of ammonium nitrate ("AN") as prices *"on the Union market are much higher and therefore more profitable than those on the domestic and other third markets"*<sup>1</sup>.

It is appropriate to examine the EC's findings concerning the future threat of dumping and material injury that exists from Russian exporters of AN that resulted in a finding to extend the anti-dumping measures in the EU for a further five-year period.

#### II. Likelihood of dumping

Similar to the present circumstances involving AN exported to Australia by the Russian AN producers, the volumes of AN exported to the EU from Russia during the investigation period (i.e. 1 July 2018 to 30 June 2019) were relatively minor. In its assessment of whether future exports from Russia would be at dumped prices, the EC considered:

- Russian AN exports to third countries;
- Production capacity and spare capacity in Russia; and

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<sup>1</sup> European Union Regulation No. 2020/2100 of 15 December 2020, Paragraph 345.

- Attractiveness of EU market.

(a) *Russian exports to third countries*

The EC found that during the review investigation period (RIP), the sampled exporters (i.e. Uralchem JSC, Eurochem (including Joint Stock Company Nevinnomyssky and Joint Stock Company Azot , and Acron Group) sold over 50 per cent of production to third markets (of which 70 per cent was to markets in Latin America). The EC determined that “*the weighted-average ex-works price to their main third country markets during the RIP was lower than their actual weighted average domestic ex-works price paid or payable during the RIP*”<sup>2</sup>. The EC concluded that as the weighted average export price was below the weighted average ex-works domestic price, it was considered that Russian producers would sell into the EU at dumped prices<sup>3</sup>.

(b) *Production capacity and spare capacity in Russia*

The EC confirmed the following concerning production of AN in Russia during the RIP:

- production capacity for AN was 10.5 million tonnes;
- spare production capacity (for the sampled exporters) was 440,000 tonnes;
- AN production capacity increased by approximately 400,000 tonnes following an upgrade of existing facilities by a sampled exporter; and
- spare capacity exists in Russia, with additional production capacity available for increased export volumes.

(c) *Attractiveness of the Union market*

The EC considers that the EU remains an attractive market to Russian AN producers due to its “*size, potential and geographical proximity to Russia*”. Additionally, the EC found that the “*Russian exporting producers developed considerable logistical and marketing capabilities that would facilitate their access to AN sales operations in the Union market*”.

The EC also established that anti-dumping measures apply to AN exported from Russia in Australia, India and the Ukraine. Contrary to arguments presented by Russian AN exporters, the measures remain current in the Ukraine.

The factors identified by the EC concerning the likelihood of dumping into the EU are relevant considerations for the Commissioner to have regard to in the current continuation of measures investigation No. 565. It has been established that Russian AN exports into Latin America were at dumped prices (and have likely continued in the current period of investigation), there exists excess production capacity to increase exports of AN to Australia should the measures be allowed to expire, and the Australian market for AN is an attractive, growing market for Russian suppliers.

It is therefore apparent that there exists a high likelihood of a recurrence of dumping by Russian producers of AN for exports to Australia should the measures be allowed to expire.

III. Recurrence of material injury

The EC examined the economic condition of the AN industry in the EU. It confirmed that<sup>4</sup>:

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<sup>2</sup> Ibid, Paragraph 79.

<sup>3</sup> The EC did not calculate a normal value for Russian AN producers during the RIP due to the low volumes of exports to the EU during the RIP.

<sup>4</sup> Ibid, Paragraphs 213 and 214.

*“The economic situation of the Union industry was thus non-injurious and the existence of anti-dumping measures on the imports of the product under review from Russia was **the main reason** for such a positive situation. (Emphasis added)*

And further:

*“...the Commission concluded that the Union industry did not suffer material injury during the review investigation period within the meaning of Article 3(5) of the basic Regulation.”*

In respect of the likelihood of future material injury, the EC found:

- it was likely that the Russian AN exporting producers would export AN to the EU should the measures expire;
- based upon export prices to third countries for Russian AN exports, EU selling prices were undercut by 24 per cent during the RIP; and
- at prices consistent with third country export prices, in the absence of measures, there “*would be a sharp increase of imports of AN from Russia in a small period of time*”.

The EC also was satisfied that the EU – as the largest AN market in the world – is attractive to Russian AN exporting producers due to its size and prices achieved. It was further satisfied that Russian AN prices would significantly undercut the EU industry’s prices in the absence of measures.

*The EC considers that the lapsing of the measures “would very likely allow Russian exporting producers to rapidly gain market shares in the Union market. The Union industry would then face an immediate drop in its sales volumes, market share and an increase in its fix costs per unit. Indeed, the AN industry is a capital intensive industry which needs to maintain a certain volume of production to keep the fixed costs at sustainable levels. The increase in fixed costs following a decrease in production and sales will negatively affect the profitability.”*

In combination with an expected contraction in demand for AN in the EU market, the EC was satisfied that the lapsing of the measures on AN exported from Russia “*would lead to a situation of recurrence of injury*”. The EC contends that the EU industry’s profit would – should the measures lapse – decline to negative 25 to negative 29 per cent.

The EC’s recent findings (published on 15 December 2020) are current and relevant to the Commissioner’s consideration as to a likelihood of a recurrence of material injury should the measures be allowed to expire on AN exported to Australia from Russia on 26 May 2021.

The Australian AN market is also an attractive market for the Russian AN exporting producers. Selling prices for AN in Australia are similarly sold at prices above prevailing prices in the third countries (predominantly Latin America) to which the Russian AN producers supply. The Australian AN market is open and transparent and is open to supply from domestic producers as well as AN exporters globally. Russian AN is sold at prices globally that undercut all other producers – due to the Government of Russia’s influence on raw material gas prices. The expiration of the measures would enhance the attractiveness of the Australian market to Russian AN exporters – culminating in an increase in export volumes to Australia at prices that would significantly undercut the Australian industry.

The economic impact considered by the EC on the EU industry should the measures lapse would also be replicated in Australia and substantially curtail the economic performance of the Australian AN industry should measures be allowed to expire. Members of the capital-intensive Australian industry have undertaken expansions (and new production facilities) over the last five-year period that would be economically jeopardised – as the industry would likely experience price undercutting from

the Russian AN exports, loss of sales volumes and market share and reduce capacity utilisation impacting profits and profitability.

The Australian economy has benefited greatly from the contribution of the mining industry. This growth has been underpinned by suppliers expanding to meet the needs of the industry. The Australian AN industry has invested significantly (in excess of \$3bn in capital) in ammonium nitrate production facilities to supply and support the growth of the Australian mining industry and the associated direct and indirect employment opportunities, which has seen ammonium nitrate volumes increase at over xx% cagr over more than 30 years. The Australian AN industry has competed with imports over a long period of time but seeks to ensure that those imports are on a fair economic basis and are not dumped.

#### IV. Recommendations

The Commissioner must consider a recommendation to the Minister for Industry, Science and Technology ("the Minister") as to whether the expiration of the measures on AN exported from Russia "*...would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the dumping measure is intended to prevent.*"


The EC has recently considered this identical issue in respect of AN exported from Russia. The EC was satisfied that if the measures lapsed in the EU it is likely that future exports of AN from Russia to the EU would be at dumped prices resulting in a recurrence of material injury.

The Australian industry considers that the expiration of the anti-dumping measures on AN exported from Russia will lead, and be likely to lead, to a recurrence of the dumping and material injury that the measures are intended to prevent.

The AN industry proposes that the Commissioner recommend to the Minister that she take steps to ensure that the measures on AN exported from Russia do not expire on 26 May 2021 and that the measures continue for a further five-year period.

If you have any questions concerning this submission, please do not hesitate to contact me on (07) 3342 1921.

Yours sincerely



John O'Connor  
Director

On behalf of the Australian AN industry<sup>5</sup>

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<sup>5</sup> Supporting members CSBP Limited, Orica Australia Pty Ltd and Queensland Nitrates Pty Ltd.