



## Importer Verification Report

### Verification & Case Details

<b>Initiation Date</b>	20 August 2020	<b>ADN:</b>	2020/093
<b>Case Number</b>	565		
<b>The goods under consideration</b>	Ammonium nitrate		
<b>Case type</b>	Continuation		
<b>Importer</b>	Nitro Sibir Australia Pty Ltd		
<b>Remote Verification from</b>	September 2020	<b>to</b>	November 2020
<b>Inquiry Period</b>	1 July 2019	<b>to</b>	30 June 2020

THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION

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## **PREFACE**

On 20 August 2020, the Commissioner of the Anti-Dumping Commission (the Commissioner) published a notice announcing the initiation of an inquiry into whether the continuation of anti-dumping measures in respect of ammonium nitrate exported to Australia from the Russian Federation is justified (Continuation Inquiry 565).

Following the initiation, the Anti-Dumping Commission (Commission) wrote to Nitro Sibir Australia (NSA) and invited them to cooperate with the inquiry. NSA cooperated with the inquiry and completed the importer questionnaire and relevant attachments.

This report details the findings, analysis, evidence relied upon and reasoning on key verification outcomes of data submitted to the Commission by the verification team for publication on the public record.

It provides interested parties with information regarding all material aspects of the verification, including explanations of any material issues identified during the verification. It outlines the nature, extent and consequences of any changes made to the data submitted, including data corrections made by the company or by the verification team.

Verification teams are authorised to conduct verifications under section 269SMG and 269SMR of the *Customs Act 1901* (the Act).<sup>1</sup>

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<sup>1</sup> References to any section in this report relate to provisions of the Act, unless specifically stated otherwise.

## **1 COMPANY BACKGROUND**

### **1.1 Corporate structure and ownership**

Established in 2013, Nitro Sibir Australia (NSA) is an Australian manufacturer and supplier of explosive products and services to the Australian mining sector. NSA advised that the company are run by an Australian management team. Originally formed by Australian shareholders with equity participation from the Nitro Sibir Group of Russia, a global emulsion producer. The ownership structure of NSA changed in 2017, when Auxin Holdings (Hong Kong) Limited, a subsidiary of Beijing Auxin Chemical Technology Ltd (Auxin Tech) acquired the stake of the Nitro Sibir Group in NSA. NSA advised that Auxin Tech is a global manufacturer and supplier of comprehensive commercial blasting services.

NSA uses ammonium nitrate as one of the primary ingredients in the manufacture of explosives products, which are used to provide blasting services to mining companies. The ammonium nitrate is typically sourced by NSA from various suppliers, which has included both Australian industry produced and imported ammonium nitrate. Where imported, NSA has acquired ammonium nitrate from a range of manufacturers from a range of countries.

### **1.2 Related parties**

The verification team examined the relationships between parties involved in the importation and sale of the goods during the period of inquiry.

#### **1.2.1 Related suppliers**

NSA's single importation of ammonium nitrate from Russia during the inquiry period was from a Russian exporter not related to NSA. However, the importation was through a Hong Kong based intermediary/trader which is associated with the parent company of Auxin Tech.

#### **1.2.2 Related customers**

The verification team did not find any evidence that NSA is related to any of its customers during the investigation period.

## 2 THE GOODS

### 2.1 The goods

The goods under consideration are defined in ADN 2020/093 as follows:

*'[a]mmonium nitrate, prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10 kg'.*

The goods include low and high density ammonium nitrate. Low density ammonium nitrate is generally in solid prilled form and is typically used in the manufacture of explosives. NSA advised that LDAN is typically used in the manufacture of ANFO explosives. Solid high density ammonium nitrate is generally used in the agricultural sector as a fertiliser, but also finds applications in the manufacture of emulsions explosives.

Ammonium nitrate, whether or not in aqueous solution, is generally classified within sub-heading 3102.30.00, statistical code 05 of Schedule 3 to the *Customs Tariff Act 1995*. This tariff classification and statistical code may include goods that are both subject and not subject to this inquiry. The listing of this tariff classification and statistical code is for convenience or reference only, and does not form part of the goods description.

### 2.2 Model control codes (MCCs)

NSA did not provide its data in accordance with the Commission's proposed MCCs.

### 2.3 Like goods

NSA uses both PAN (prilled ammonium nitrate) and PPAN (porous prilled ammonium nitrate) in its explosive manufacturing. The PAN is a High density (HDAN) variant, while PPAN is a low density (LDAN) variant of ammonium nitrate. NSA have used both these two types of ammonium nitrate during the inquiry period.

NSA believes that the HDAN or PAN imported by it from Russia during the inquiry period was not like goods to the LDAN produced by Australian industry.

The verification team assessed and obtained NSA's comments on the imported ammonium nitrate based on the following parameters used to determine its likeness to the goods under consideration.

*Physical likeness:* Although the Commission considers that there appear to be some technical differences between HDAN and LDAN, the Commission identifies both goods as being physically alike because the finished products are in a solid form and look similar.

*Commercial likeness:* The HDAN and the LDAN used by NSA are sourced from imports and from Australian domestic suppliers respectively. NSA advised that

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HDAN, which is used in the manufacture of emulsions, cannot be supplied by Australian manufacturers.

*Functional likeness:* The verification team assessed the functional likeness of the two variants of ammonium nitrate by their end-use. NSA advised the verification team that it is able to use the two variants of ammonium nitrate in further processing to produce different bulk explosives. This interoperability of the two variants confers a high degree of functional likeness to the two variants of ammonium nitrate. Although NSA also claimed that Australian Industry does not produce HDAN for emulsions, NSA indicated that the LDAN produced by Australian industry was able to be used to manufacture some explosive products.

*Production likeness:* Both the LDAN and HDAN are derived by the same chemical process at the primary level by neutralising ammonium gas with nitric acid to produce ANSOL. LDAN and the HDAN are processed from this ANSOL using a slightly varied process and employing different additives and coating agents.

### 3 VERIFICATION OF SALES COMPLETENESS AND RELEVANCE

In its response to Importer's questionnaire, NSA claimed that it did not sell any of the imported ammonium nitrate directly into Australian domestic market without further processing or value addition.

Verification of relevance and completeness is conducted by reconciling selected data submitted "upwards" through management accounts up to audited financial accounts. The total sales value and quantity is reconciled to management reports with particular attention given to ensuring that all relevant transactions are included and irrelevant transactions are excluded. The total value from the management reports is then reconciled to the total revenue figure reported in the audited income statement.

The verification team verified the completeness and relevance of the sales listing provided in Part C of the questionnaire response by reconciling this to audited financial statements in accordance with ADN No. 2016/30.

The visit team verified the relevance and completeness of the sales data by reviewing NSA's sales during the inquiry period which reconciled to the audited statements of NSA and the management accounts of NSA. The review of NSA sales identified a negligible volume of sales of imported ammonium nitrate. NSA advised that these were ad hoc sales. Further analysis by the verification team identified that these negligible sales were not of Russian sourced ammonium nitrate. The verification team considered these sales to not be material.

The verification team did not identify any material issues. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

#### 3.1 Sales completeness and relevance finding

The verification team is satisfied that NSA, apart from some negligible volumes, did not sell imported ammonium nitrate in its purchased form.

## 4 DOWNWARDS VERIFICATION OF SALES

### 4.1 Verification of sales accuracy

The accuracy of data is verified by reconciling selected data submitted "downwards" to source documents. This part of verification involves the process of agreeing the volume, value and other key information fields within the sales data down to source documents. This verifies the accuracy of the data.

The verification team verified accuracy of the claim made by NSA that it did not sell ammonium nitrate without further processing or value addition, by verifying sales data down to source documents. This verification confirmed the accuracy of the stated nature of the sales and the products sold by NSA. The verification team also verified the accuracy of the negligible sales of ammonium nitrate to customers which confirmed the accuracy of these sales.

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

### 4.2 Sales accuracy finding

The verification team is satisfied that the sales data provided by importer is accurate. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.



## **5 VERIFICATION OF IMPORTS**

### **5.1 Import listing**

Nitro Sibir confirmed that the import listing extracted from the Australian Border Force (ABF) import database was a complete list of imports of the goods over the inquiry period.

The verification team verified the ABF import base data to the records of NSA.

The verification team calculated the weighted average free-on-board (FOB) export price by supplier at **Confidential Appendix 1**.

### **5.2 Verification of cost to import (CTI)**

NSA provided all key and relevant evidentiary documents related to the one shipment of ammonium nitrate exported from Russia. NSA provided the following set of documents relating to the imported ammonium nitrate from the Russia.

- Commercial invoice from the trader;
- Bill of lading
- Signed contract to import ammonium nitrate
- Proof of payment
- Customs entry
- Wharfage invoice
- Handling charges invoice

### **5.3 CTIS allocation method**

The verification team verified the reasonableness of the method used to allocate the CTIS provided in the questionnaire response.

<b>Cost Area</b>	<b>Method applied</b>
Ocean freight	On actual basis – The shipment was on CIF terms
Marine insurance	Actual
Duties	The measures are based on floor price method
Customs fees	Actual
Quarantine charges	N/A
Fumigation	N/A
Wharf storage	Actual
Port service charges	Actual
Delivery	Actual

**Table 1 Verification of cost calculation method**

## **PUBLIC RECORD**

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

### **5.4 Verification of CTIS accuracy**

The accuracy of data is verified by reconciling selected data submitted "downwards" to source documents. This part of verification involves the process of agreeing key information fields within the CTIS data down to source documents. This verifies the accuracy of the data.

The verification team verified the accuracy of the CTIS provided in the questionnaire response by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

### **5.5 Forward orders**

NSA did not list any import forward orders in its importer questionnaire response. The verification team did not identify any evidence of any formalised forward import orders.

### **5.6 CTIS verification finding**

The verification team is satisfied that the CTIS provided by NSA, including any required amendments is accurate.

A table detailing the weighted average unit CTIS is at **Confidential Appendix 3**.

## 6 Injury and causation Claims

NSA claimed that Australian ammonium nitrate industry has a high entry to barrier in terms of the facilities needed to be able to serve the Australian domestic ammonium nitrate end users. NSA claimed that Australian industry, if at all, has been injured by the additional ammonium nitrate production capacities brought on stream by Australian industry.

NSA claimed that the Australian ammonium nitrate producers have suffered at the expense of large ammonium nitrate buyers/end-users such as Australian mining companies.

NSA claimed that the Western Australia ammonium nitrate market is tightly constrained in the form of limited storage capacity for imported ammonium nitrate. High transport/shipping costs from the Australian east coast suppliers is an additional impediment for sourcing domestically produced ammonium nitrate in Western Australia.

NSA indicated that AN can only be stored at a limited number of licensed facilities, which are typically owned by third parties. NSA alleged that some of the Australian industry have also rented some of these storage facilities which further limited the ability to import and store ammonium nitrate. The attraction of imported ammonium nitrate compared to the price of Australian industry supplied ammonium nitrate, is reduced by need to import and store large volumes (approximately 5,000 MT in case of Russian imports) of ammonium nitrate to justify the importation costs. This need to import large volume of ammonium nitrate, locks a significant amount of working capital in ammonium nitrate inventory.

NSA provided further confidential information in relation to its sources of ammonium nitrate during the inquiry period and in the future. This information indicates that NSA is less likely to import ammonium nitrate in the near future. The information provided by NSA is contained in **Confidential Appendix 4**.

## 7 EXPORT PRICE

### 7.1 The importer

The verification team considers Nitro Sibir Australia Pty Ltd (NSA) to be the beneficial owner of the goods at the time of importation and therefore the importer of the goods, as NSA is named as the importer on:

- Commercial invoice from its supplier;
- The Consignee on the bill of lading;
- declared as the importer on the importation declaration to ABF;
- pays for all the importation charges; and
- arranges delivery from the port.

### 7.2 The exporter

The goods were imported to Australia by NSA. The verification team considers, subject to further information being provided, Kemorovo JSC Azot to be the exporter of the goods<sup>2</sup>, as Kemorovo JSC Azot is named as the exporter on:

- Certificate of origin;
- bill of lading; and
- Agreement of sales between NSA and the trader

### 7.3 Profitability of imports

The verification team was unable to specifically test the profitability of the one imported AN consignment from the Russian Federation, given that the said consignment was further processed and used across significant number of service sales during the inquiry period. The verification team assessed the profitability for the one shipment of ammonium nitrate based on the overall profitability of the operation.

To assess the profitability, the verification team relied on the audited financial statement for the year ending December 2019, which covers the first six months of the inquiry period. For the remaining 6 month period the verification relied on the financial statement generated by the 'SAGE' system.

Overall, the verification team is satisfied that the operations in which Russian imported AN was used were profitable.

The assessment is at **Confidential Appendix 3**.

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<sup>2</sup> The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

## **7.4 Related party suppliers**

Noting the association with the intermediary involved in the Russian importation, the verification team did not find any evidence that NSA is related to the supplier of ammonium nitrate exported from the Russian Federation during the investigation period.

## **7.5 Arms length**

In respect of imports of ammonium nitrate to Australia by NSA during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.

Therefore, subject to further inquiries with the exporter and intermediary/trader, the verification team is satisfied that the imports between NSA and its suppliers are arm's length transactions.

## **7.6 Export price assessment**

The verification team is of the opinion that for the goods imported by NSA from Kemorovo JSC Azot:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter(s); and
- the purchases of the goods by the importer were arm's length transactions.

Subject to further inquiries with Kemorovo JSC Azot and the intermediary/trader, the verification team recommends that the export price for ammonium nitrate imported by NSA from Kemorovo JSC Azot can be established under section 269TAB(1)(a) of the Act, using the invoiced price, less transport and other costs arising after exportation.

**8 ATTACHMENTS**

<b>Confidential Appendix 1</b>	Export price
<b>Confidential Appendix 2</b>	Profitability of imports
<b>Confidential Appendix 3</b>	Confidential information provided by NSA
<b>Confidential Attachment 1</b>	Verification Work Program