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**30 March 2021**

Mr Justin Wickes  
Director  
Investigations 2  
Anti-Dumping Commission  
GPO Box 2013

Canberra ACT 2601

**SENT BY EMAIL: [investigations2@adcommission.gov.au](mailto:investigations2@adcommission.gov.au)**

### Public File

Dear Mr Wickes

#### **Investigation 565 – Merchant Research and Consulting Report**

We refer to recently published Statement of Essential Facts No. 565 (SEF 565) and the Anti-Dumping Commission's (the Commission) references to the Merchant Research and Consulting Report titled "Ammonium Nitrate Russia Market 2021" (the 'Merchant Report').

The Commission references the report at Section 7.5.3 of SEF 565. Specifically, the Commission states:

*"This report points to an increase in the production capacity of Russian producers of ammonium nitrate, and a corresponding increase in demand for ammonium nitrate in its domestic market."*

The Commission's findings and conclusion include a heavy reliance on the Merchant Report, which makes observations about the low volume of exports from Russia to Australia (due to effective measures) and a deterioration in the economic condition of the Australian industry, at Section 7.11:

*"The Commission observed the capacity constraints and a growing domestic market focused on its agricultural sector and supported by government measures minimises Russian exporters' ability to participate in long-term contract negotiations for supply to Australia, which require producers to lock in supply volumes for a period of time".*

The Commission has made these observations based on comments concerning "confidential information" which it states will "reduce the likelihood of the continuation or recurrence of injury caused by dumping of ammonium nitrate from Russia". In doing so, it appears to have dismissed or had little regard to the conclusions contained within the CRU Report, which was included in the application of the Australian industry. Having addressed the issues concerning the "confidential information" in Orica Australia's 25 March 2021 submission, the focus of this submission addresses the reliability of the information included in the Merchant Report.

Firstly, it is beyond doubt that the CRU Group (CRU) is a reputable and experienced industry acknowledged specialist that is focused on detailing developments, cost economics, and industry trends within the AN industry. CRU understands the market dynamics of the ammonia and fertiliser industry. They have an equally high reputation for their analysis on mineral commodity markets such as coal, iron ore and many metal commodities. This enables CRU to form a credible and informed view of key demand drivers for ammonium nitrate for mining and fertiliser applications. CRU employs former industry personnel and is a recognised-industry specialist in commentating and reporting on the AN industry, with staff that specialise in nitrogen

industry analytical roles. The Commission is familiar with the CRU Group – and not just in AN but across the broader steel manufacturing and metals industry. CRU published a “Technical Ammonium Nitrate (TAN) Market Outlook Report” (most recent in October 2020) which “explores supply and demand fundamentals, describes major trade routes and the drivers behind them, and provides price forecasts for 2020-2024 for the opaque explosives grade nitrates market”. The CRU Group is an established, credible and reliable source for AN industry participants globally.

By contrast, the Merchant Report is not a widely referenced report on Russia within the AN industry. It is relatively inexpensive to purchase and largely comprises documents that are available in the public domain and which can be accessed on the internet. The Merchant Report has not been prepared (or endorsed) by any Industry-recognised specialist. We refer to the following Disclaimer contained within the Merchant Report:

*“The data and information found in this research should not be treated as universal.*

*The data were [sic] collected from many sources (various databases, statistics committees, market participants; interviews, etc) and those are reliable. Efforts are made to ensure accuracy of data.”*

And additionally:

*“Although all care is taken to ensure integrity and the quality of this publication and the information herein, no responsibility is assumed by the publisher for any damage to the property or persons as a result of operation or use of this publication and/or the information contained therein.”*

The Merchant Report has utility as a research document only and pulls together publicly available information in one report. The lack of endorsement by any industry specialist is also a reason to question the legitimacy and correctness of its content. It is, most definitely not, a source that participants within the AN industry would use or rely upon to obtain accurate and reliable information concerning the global AN industry. It is inexpensive to purchase when compared to other more reliable and trustworthy sources of information about the AN industry (including the CRU), which supports the inference about its lack of reliability.

We have provided an extract from the CRU Group’s Technical Ammonium Nitrate Outlook (refer Confidential Attachment A) which confirms:

- Russian production of LDAN operates at close to production capacity;
- Russian AN producers possess production flexibility to “switch” between LDAN and HDAN (refer Table 14);
- the ‘flex’ capacity raises Technical AN production from 3.4M tonnes per annum to 5.6 M tonnes per annum (Figure 24), away from the lower under-utilised HDAN production capacity to Technical AN. significantly raising the available capacity to export to the attractive growth explosives market in Australian by 2.2 million tonnes.

It is difficult to reconcile the Commission’s findings in SEF 565 in light of this data. The available under-utilised capacity in plants that can switch from HDAN to Technical explosives grade AN seems to have been omitted and overlooked in SEF 565. This is a real situation given the actual modifications that have been carried out in production plants such as Acron’s Novgorod facility and others to be able to produce both HDAN and LDAN products.

Orica Australia requests that the Commission reconsider the information provided to the Commission by CRU which included extensive analysis, research and evaluation by CRU in relation to the available spare capacity for Russian AN production, which is a critical issue that demonstrates a significant future threat of injury to the Australian industry. The future threat of injury from Russian producers’ capability to switch to Technical AN production cannot be ignored and demonstrates a future likelihood of a recurrence of an increase in dumped exports to Australia in the absence of measures.

Orica Australia welcomes any questions arising from this submission. I can be contacted on (03) 9665 7309.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Malcolm Hart', with a stylized flourish at the end.

Malcolm Hart

Senior Market Manager AN – APA