



Our Ref. QNP – 220713 QNP Non-Confidential Submission re Preliminary Reinvestigation Report 565

13 July 2022

The Director
Investigations Unit 2
Anti-Dumping Commission
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Attention: Ms Leora Blumberg

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Dear Sir/Madam

Preliminary Reinvestigation Report of certain findings in Report No. 565 – Ammonium Nitrate from Russia

Queensland Nitrates Pty Ltd (“QNP”) has reviewed the Preliminary Reinvestigation Report (the “Report”) in respect of ADRP Review No. 2021/134 concerning ammonium nitrate exported from Russia.

QNP does not agree with the Commissioner’s findings in the Report. Specifically, QNP disagrees with the Commission that:

- (i) the 30 per cent gas export tax (“GET”) is an appropriate adjustment to the German gas benchmark price for determining a market price for natural gas sold in Russia (thereby impacting the determination of normal values and dumping margins for Russian exporters); and
- (ii) the Commissioner remains not satisfied that the expiration of the measures would lead to, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

In respect of the GET, the Anti-Dumping Commission (“the Commission”) has relied upon its own research on:

- the export tax regime of the Government of Russia on natural resource exports;
- the Gazprom 2019 and 2020 annual accounts;
- the use of export taxes in other WTO countries;
- its own understanding of suppliers and pricing influences for gas in the German market.

The Commission has not consulted with any third-party experts as to the appropriateness of adjusting the 30 per cent gas export tax to obtain an understanding whether the tax is a typical export tax (or

levy). It would appear that no approach has been made to a global tax expert to understand whether the GET can be considered an export tax or, whether, it is relevantly considered a mere payment by a majority-owned Government of Russia ("GOR") monopolistic gas supplier and distribution entity to the GOR.

QNP continues to be of the view that the adjustment to the benchmark gas price merely returns the benchmark to the equivalent GOR distorted domestic gas price in Russia. The methodology by which an external gas price (i.e. in Germany) that is influenced by the largest exporter of gas into that market (according to the Commission accounting for approximately 40 per cent of supply in Germany) is adjusted back to the supplier's domestic price is somewhat anomalous (as indicated by the ADRP Member). QNP questions whether the next equivalent major supplier price into the German market would attract the same adjustment (as it is unlikely that the government of that supplier levies a 30 per cent export tax) to arrive at the same price level as the Russian domestic price.

It therefore appears that the adjustment assists the GOR and the Russian ammonium nitrate industry with an artificially low benchmark gas price against which Australian ammonium nitrate producers must compete.

The acceptance of the incorrect benchmark gas price in the determination of normal values and dumping margins for Russian ammonium nitrate exporters is also incorrect and not preferable (as the determined normal values are artificially low and dumping margins are negligible).

QNP also rejects the Commission's finding (Finding Two) that the Commissioner is not satisfied that the expiration of the measures would lead, or likely lead, to a recurrence of material injury from dumped exports of ammonium nitrate from Russia. Russia is the cheapest source of ammonium nitrate globally. The Commission's narrow view that any injury to the Australian industry is limited to the 'spot' sale market is fanciful. In the absence of measures, traders and suppliers will seek to supply increased volumes of ammonium nitrate – including from the expanded Kemorovo facility – to influence contract negotiations for longer-term supply. The contract market does not operate in isolation to the spot market – a fact that the Commission appears to have ignored.

The Commission has failed to adequately consider the ADRP Member's request to investigate the validity of the GET and whether it is appropriate to make an adjustment to the German benchmark gas price. The Commission has not sought independent expert advice to confirm whether the GET is a typical export tax, or whether it is merely a price-setting mechanism for the GOR. The reinvestigation has not resolved whether it is appropriate to adjust the benchmark gas price and therefore it is incorrect for the Commissioner to not be satisfied of a recurrence of dumping and material injury will occur (or be likely to occur) should the measures be allowed to expire.

The findings in the preliminary report are not the correct or preferable decisions to be satisfied that the dumping and material injury will not recur should the measures expire. QNP has formed the view that the Commission has merely set out to affirm its flawed original recommendation as contained in Report 565.

If you have any questions concerning this submission, please do not hesitate to contact me.

Yours sincerely



David Armstrong
General Manager



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