



Australian Government
Department of Industry, Science,
Energy and Resources

Anti-Dumping
Commission

Customs Act 1901 Part XVB

CONSIDERATION REPORT NO. 605

Application for a dumping duty notice

**submitted by CSBP Limited, Orica Australia Pty Ltd
and Queensland Nitrates Pty Limited**

in relation to ammonium nitrate

**exported to Australia from Chile, Lithuania
and the Socialist Republic of Vietnam**

31 May 2022

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ABBREVIATIONS

Abbreviation / short form	Full reference
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
the applicants	collectively, CSBP, Orica and QNP
the commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
CSBP	CSBP Limited
CTMS	cost to make and sell
the Direction	<i>Ministerial Direction on Material Injury 2012</i>
EXW	Ex Works
FOB	Free on Board
the goods	ammonium nitrate
NSW	New South Wales
Orica	Orica Australia Pty Ltd
QNP	Queensland Nitrate Pty Ltd
the subject countries	Chile, Lithuania and Vietnam
Vietnam	the Socialist Republic of Vietnam
WA	Western Australia

1 FINDINGS AND RECOMMENDATIONS

This report provides the result of the consideration by the Anti-Dumping Commission (the commission) of an application under section 269TB(1) of the *Customs Act 1901* (the Act)¹ by CSBP Limited (CSBP), Orica Australia Pty Ltd (Orica) and Queensland Nitrates Pty Ltd (QNP). The application is for the publication of a dumping duty notice in respect of ammonium nitrate (the goods) exported to Australia from Chile, Lithuania and the Socialist Republic of Vietnam (Vietnam). CSBP, Orica and QNP (collectively, the applicants) allege that the Australian industry producing ammonium nitrate has experienced material injury, and / or that material injury is threatened, caused by ammonium nitrate exported to Australia from Chile, Lithuania and Vietnam (collectively, the subject countries) at dumped prices.

The legislative framework that underpins the making of an application and the consideration of an application is contained in Divisions 1 and 2 of Part XVB of the Act. The commission has prepared this report to support the Commissioner of the Anti-Dumping Commission (the Commissioner) in his consideration of the application, pursuant to the commission's function specified in section 269SMD.

1.1 Findings

In accordance with section 269TC(1), the commission has examined the application and is satisfied that:

- the application complies with the requirements of section 269TB(4) (as set out in chapter 2.2 of this report)
- there is an Australian industry in respect of like goods (as set out in chapter 2.4 of this report) and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in chapters 3, 4 and 5 of this report).

1.2 Recommendations

Based on the above findings, the commission recommends that the Commissioner decide not to reject the application and initiate an investigation to determine whether a dumping duty notice should be published.

The commission further recommends that:

- exports to Australia during the period 1 April 2021 to 31 March 2022 be examined for dumping and
- details of the Australian market from 1 April 2018 be examined for injury analysis purposes.

If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision (**Attachment 1**) in accordance with the requirements set out in section 269TC(4).

¹ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

2 THE APPLICATION AND THE AUSTRALIAN INDUSTRY

2.1 Lodgement of the application

2.1.1 Legislative framework

The procedures for lodging an application are set out in section 269TB. The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

2.1.2 The Commissioner's timeframe

Event	Date	Details
Application lodged and received by the Commissioner under sections 269TB(1) and (5)	7 April 2022	The commission received an application from the applicants which alleges that the Australian industry has experienced material injury caused by ammonium nitrate that has been or will be imported into Australia from the subject countries at dumped prices.
Applicants provided further information in support of the application under section 269TC(2A)	27 April 2022 29 April 2022 13 May 2022	The information received on these dates restarted the 20 day period for consideration of the application.
Consideration decision due under section 269TC(1)	2 June 2022	The Commissioner shall decide whether to reject or not reject the application within 20 days after the applicants provided further information.

Table 1: Commissioner's timeframe

2.2 Compliance with section 269TB(4)

2.2.1 Finding

Based on the information submitted by the applicants, the commission considers that the application complies with section 269TB(4).

2.2.2 Legislative framework

Section 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that the application complies with section 269TB(4).

2.2.3 The commission's assessment

Table 2 summarises the commission's assessment of compliance with section 269TB(4).

Requirement for the application	Details
Lodged in writing under section 269TB(4)(a)	The applicants lodged, in writing, confidential and non-confidential versions of the application.
Lodged in an approved form under section 269TB(4)(b)	The application is in the approved form (B108) for the purpose of making an application under section 269TB(1).

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Requirement for the application	Details
Contains such information as the form requires under section 269TB(4)(c)	The applicants: <ul style="list-style-type: none"> • provided a completed declaration • answered all questions that were required to be answered • completed all appendices and • provided sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in confidence.
Signed in the manner indicated in the form under section 269TB(4)(d)	Each applicant provided a letter indicating the appointment of a common representative for the purposes of the application. The representative signed the application in the manner indicated in Form B108.
Supported by a sufficient part of the Australian industry under section 269TB(4)(e) and determined in accordance with section 269TB(6)	The application states that the Australian industry comprises five entities, CSBP, Orica, QNP, Dyno Nobel Asia Pacific Pty Ltd and Yara Pilbara Nitrates Pty Ltd. This reflects the commission's understanding from previous cases which examined ammonium nitrate. As set out in chapter 2.5, the commission is satisfied that persons, being CSBP, Orica and QNP, who produce or manufacture like goods in Australia and who support the application: <ul style="list-style-type: none"> • account for not less than 25% of the total production in Australia on the basis of the estimated production quantity reported for Australian producers of ammonium nitrate, and • account for more than 50% of the total production of like goods produced or manufactured by that portion of the Australian industry that has expressed either opposition to or support for the application.
Lodged in the manner approved under section 269SMS for the purposes section 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to an address provided in that instrument. The application was therefore lodged in a manner approved under section 269SMS(2).

Table 2: Commission's assessment of application

2.3 The goods the subject of the application

The table below outlines the goods as described in the application, and the tariff classifications the goods are generally, but not exclusively, classified to.

Full description of the goods, as subject of the application		
Ammonium nitrate, prilled, granular, or in other solid form, with or without additives or coatings, in packages exceeding 10 kg.		
Tariff classification (Schedule 3 to the <i>Customs Tariff Act 1995</i>)		
Tariff Subheading	Statistical Code	Description
3102	MINERAL OR CHEMICAL FERTILISERS, NITROGENOUS:	
3102.2	- Ammonium sulphate; double salts and mixtures of ammonium sulphate and ammonium nitrate:	
3102.30.00	05	- Ammonium nitrate, whether or not in aqueous solution

Previous investigations
<p>Anti-dumping measures are currently in place for ammonium nitrate exported to Australia from the People's Republic of China, Sweden and the Kingdom of Thailand.²</p> <p>Anti-dumping measures were imposed on ammonium nitrate exported to Australia from the Russian Federation, either directly or via Estonia, on 24 May 2001. Those measures were allowed to expire on 24 May 2021 as a result of the decision of the then Minister for Industry, Science and Technology, following their consideration of <i>Anti-Dumping Commission Report No. 565</i>. The Anti-Dumping Review Panel is currently reviewing that decision.³</p>
Other administrations
<p>Whilst anti-dumping measures are in place in other jurisdictions with respect to ammonium nitrate, none relate to the goods exported from the subject countries.⁴</p>

Table 3: The goods

2.4 Like goods and the Australian industry

2.4.1 Finding

The commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- CSBP, Orica and QNP all produce goods that have characteristics that closely resemble the goods the subject of the application and
- at least one substantial process of manufacture is carried out in Australia.

2.4.2 Legislative framework

Section 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

Like goods are defined under section 269T(1). Sections 269T(2), (3), (4) and (4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

2.4.3 Locally produced like goods

The table below summarises the commission's preliminary assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

The applicants identified three likely exporters of the goods:

- Enaex S.A. (Chile)
- AB Achema (Lithuania)
- Mining Chemical Industry Holding Corporation Limited (Vietnam)

² For further details refer to the *Dumping Commodity Register* on the commission website, www.adcommission.gov.au, and *Anti-Dumping Commission Report No. 473*.

³ For further details refer to the Anti-Dumping Review Panel website, www.adreviewpanel.gov.au.

⁴ World Trade Organization *Integrated Trade Intelligence Portal*, viewed 11 April 2022: <https://i-tip.wto.org/goods/default.aspx?language=en>.

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The applicants claim that the imported ammonium nitrate is in prill or granular form, whereas the like goods produced by the Australian industry are produced in prill and solution form.

This assessment is therefore based on the application, the commission's examination of the websites of the identified exporters, the commission's analysis of the Australian Border Force (ABF) import database and its understanding of ammonium nitrate from previous cases.

Factor	The applicants' claims	The commission's assessment
Physical likeness	The goods produced by Chilean, Lithuanian and Vietnamese exporters are similar in physical appearance and specification.	Both the imported goods and the goods manufactured by the Australian industry have similar physical characteristics. The commission has previously found that while certain densities, states or forms of ammonium nitrate are technically more suited to the manufacture of different explosives, the essential characteristics of different ammonium nitrate products are not changed by those variations in density, state or form. ⁵
Commercial likeness	The imported goods compete directly with the locally produced goods and are interchangeable in end-use applications. The selling prices for the imported ammonium nitrate and the locally produced ammonium nitrate are similar, although the selling prices for imported ammonium nitrate at levels below prevailing industry selling prices.	Both the imported goods and the goods manufactured by the Australian industry are commercially alike as they compete in the same market segment, mainly for use as explosives in the mining and quarrying industry. There is direct competition between imported goods and the goods produced by the Australian industry.
Functional likeness	The imported goods and the locally produced goods perform the same function and are used in the same end-use applications (and are interchangeable).	Both the imported goods and the goods manufactured by the Australian industry perform the same function and are used in the same end-use applications. The commission has found that in Australia ammonium nitrate is predominately used to manufacture explosives that are used in the mining, quarrying and, to a lesser extent, in the civil construction industry. The commission notes that differing grades and types of ammonium nitrate may be suited to producing explosives with differing technical specifications.
Production likeness	The imported and locally produced ammonium nitrate are manufactured via similar production processes.	Both the imported goods and the goods manufactured by the Australian industry are produced in essentially the same way, using a substantially similar production process (i.e. a similar chemical reaction) and using similar raw material inputs (natural gas, nitric acid, ammonia).

⁵ Chapter 3.5.1 of *Anti-Dumping Commission Report No. 565*, the most recently completed case involving ammonium nitrate, includes further detail on these findings.

Commission's assessment
The commission's assessment is that the locally produced goods closely resemble the goods the subject of the application and are like goods. The primary physical characteristics are similar, the goods and like goods are commercially alike as they are sold to common end users, they have substantially the same end uses, and the imported and locally produced goods are manufactured in a similar manner.

Table 4: Like goods assessment

2.4.4 Manufacture in Australia

The table below summarises the commission's assessment of whether at least one substantial process of manufacture is carried out in Australia and whether the like goods are therefore considered to have been manufactured in Australia.

The applicants' claims
<p>The applicants claim that at least one substantial process of manufacture is carried out in Australia.</p> <p>Ammonium nitrate (or AN) is produced by neutralising nitric acid with ammonia (NH₃). Ammonia is produced from natural gas, which typically accounts for approximately 50% of the production cost of ammonium nitrate. Natural gas is reacted with steam and air to produce hydrogen, nitrogen and carbon dioxide. The carbon dioxide is removed and the hydrogen is reacted with nitrogen to produce ammonia.</p> <p>Nitric acid is produced through the reaction of ammonia with oxygen in the presence of a catalyst. The reaction produces nitric oxides, which are dissolved in water to produce nitric acid. The reaction of ammonia with nitric acid produces an ammonium nitrate solution (ANsol). This may be sold in the solution state or solidified by prilling or granulation.</p> <p>In order to manufacture prills, the solution is sprayed into the top of a prilling tower, a rising air stream cools and solidifies the falling droplets into spherical balls or prills.</p> <p>The density of the finished product is governed by the concentration of the solution. Low density AN prills are produced using a solution with a higher moisture content. The solidified prills also have a high moisture content and go through a lengthy drying process. High density prills are manufactured using a solution with a lower moisture content.</p> <p>To produce a low density product, additives are introduced prior to prilling which changes the structure of the prills during the prilling process to make it form a hollow, honeycomb type structure. It is the additives that increase the internal crystalline strength of the low-density product. Coating agents are applied to stop the product clumping together, and to improve handling and storage properties.</p> <p>Granules are made either by a rotating drum granulation process or fluid bed granulation process. Regardless of the production process, all granules are high density.</p> <p>The nature of the internal and external additives used can impact the application suitable for the ammonium nitrate type. For example, some additives are not compatible with manufacturing processes for ammonium nitrate emulsions used in explosives, whilst other additive types are. It is possible to manufacture a lower density form of ammonium nitrate which is compatible with both explosives use directly as a dopant (e.g. in ANFO) or as a raw material for emulsion or fertiliser manufacture. In that way the ammonium nitrate is considered universal in its application.</p>
The Commission's assessment
Based on the production steps outlined by the applicants and information gathered in previous cases concerning the production of ammonium nitrate, the commission considers that the process of manufacture of ammonium nitrate is wholly carried out in Australia and considers the like goods to have been manufactured in Australia.

Table 5: Manufacture of like goods

2.5 Australian industry information

The table below summarises the commission's assessment of whether CSBP, Orica and QNP have provided sufficient information in the application to analyse the performance of the Australian industry.

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Have the relevant appendices to the application been completed?		
A1	Australian production	Yes
A2	Australian market	Yes
A3	Sales turnover	Yes
A4	Domestic sales	Yes
A5	Sales of other production	Yes
A6.1	Cost to make and sell (& profit) – Domestic sales	Yes
A6.2	Cost to make and sell (& profit) – Export sales	Yes
A7	Other injury factors	Yes
General administration and accounting information		
History	<p>CSBP traces its origins back to 1910 as a producer of fertilisers, before expanding into the production of chemicals including various acids, sodium cyanide, ammonia and ammonium nitrate after 1967. CSBP is a manufacturer and supplier of chemicals, fertilisers and related services to mining, agricultural and industrial sectors within Australia and throughout the world.</p> <p>Orica traces its origins back to 1874. Its parent company, Orica Ltd, is a multi-national producer and supplier of explosives, blasting systems, mining chemicals and geotechnical monitoring, digital solutions and a range of associated services to support customers in surface and underground mines, quarry, construction, and oil and gas operations.</p> <p>QNP was established in 1999 as a joint venture business.</p>	
Ownership	<p>CSBP is a wholly owned subsidiary of Wesfarmers Ltd.</p> <p>Orica is a wholly owned subsidiary of Orica Ltd.</p> <p>QNP is a 50:50 joint venture by Dyno Nobel Asia Pacific Pty Ltd (a subsidiary of Incitec Pivot Ltd) and CSBP.</p>	
Operations	<p>CSBP is an integrated ammonia and ammonium nitrate manufacturer. Its production plant is located at Kwinana in Western Australia.</p> <p>Orica is an integrated ammonia and ammonium nitrate manufacturer. Its production plants are located at Kooragang Island in New South Wales and Yarwun in Queensland.</p> <p>QNP is an integrated ammonia and ammonium nitrate manufacturer. QNP's ammonium nitrate production plant is located near Moura in central Queensland.</p>	
Financial year	<p>CSBP: 1 July to 30 June</p> <p>Orica: 1 October to 30 September</p> <p>QNP: 1 July to 30 June</p>	
Audited accounts and annual reports	<p>CSBP provided the Wesfarmers Ltd Annual Reports for 2020 and 2021 and a monthly performance report for December 2021. Quarterly production and cost data is provided for several years, to the quarter ending December 2021.</p> <p>Orica provided the Orica Ltd Annual Reports for 2020 and 2021 and a management report for December 2021. Quarterly production and cost data is provided for several years, to the quarter ending December 2021.</p> <p>QNP provided its financial reports for 2020 and 2021 and a board report for June 2021. Quarterly production and cost data is provided for several years, to the quarter ending December 2021.</p>	

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Production and sales information	Cost to make and sell information	Other injury factors
The commission considers the information relating to sales and production to be reasonable.	The commission considers the information relating to cost to make and sell to be reasonable.	The commission has no significant concerns regarding the data provided in Appendix A7 to the application.
The commission's assessment		
Based on the information in the application, which includes information relevant to the period between 1 January 2018 and 31 December 2021, the commission is satisfied that there is sufficient data on which to analyse the performance of the Australian industry.		

Table 6: Information about the Australian industry

In Australia, ammonium nitrate is primarily used as a raw material in the production of explosives consumed by the mining, quarrying and (to a lesser extent) construction industries.

Ammonium nitrate is a dangerous good.⁶ It has limited secondary usage in Australia as a fertiliser in the agricultural sector, relative to other nitrogenous fertilisers such as urea and urea ammonium nitrate solution. The commission understands that small volumes are used to make specialty medical gases.

Ammonium nitrate production facilities are located strategically close to major mining regions in New South Wales (NSW), Queensland and Western Australia (WA). In NSW, bulk explosives are used mainly in the coal mines of the Hunter Valley. The main areas of demand for ammonium nitrate in Queensland are in the coal mines in the Bowen Basin and in the central Queensland / Mount Isa region. In WA, the major areas of demand for ammonium nitrate are the Kalgoorlie goldfields and in the Pilbara region iron ore mines.

⁶ The Australian Dangerous Goods Code classifies ammonium nitrate as a category 5.1 dangerous good. Licences issued by relevant state authorities are required to sell, purchase, transport and store ammonium nitrate. In addition, there are restrictions on the amount of ammonium nitrate receivable at a designated port at any one time.

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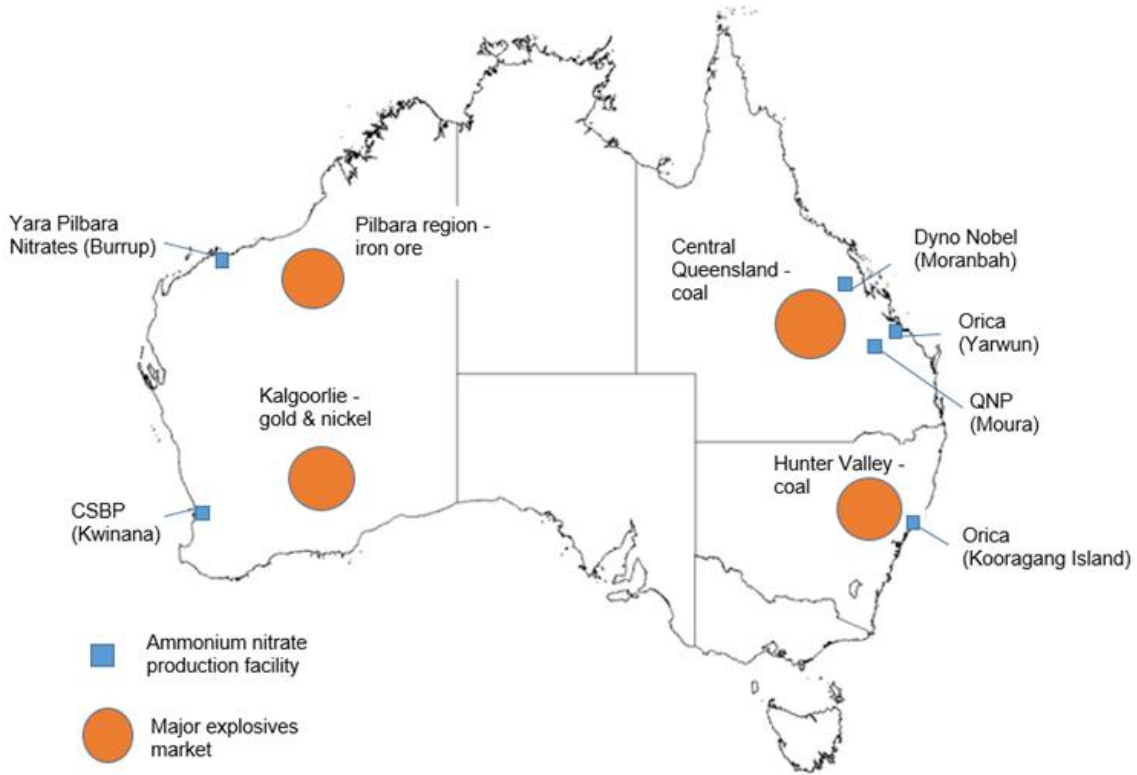


Figure 1: Location of major markets and ammonium nitrate production sites

Based on the information presented and previous cases for ammonium nitrate, the commission considers that the applicants represent more than 25% of the total volume of Australian production of the like goods. The applicants represent more than 50% of the Australian industry that has expressed a view on the application.

3 REASONABLE GROUNDS – DUMPING

3.1 Findings

Pursuant to section 269TC(1)(c), the commission considers that there appear to be reasonable grounds to support the claims that:

- the goods have been exported to Australia from Chile, Lithuania and Vietnam at dumped prices
- the estimated dumping margin for exports from the subject countries is greater than 2% and therefore is not negligible and
- the estimated volume of goods from the subject countries that appear to have been dumped is greater than 3% of the total Australian import volume of goods and therefore is not negligible.

3.2 Legislative framework

Section 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods, i.e. that dumping has taken place (to an extent that is not negligible).

3.2.1 The investigation period vs. the period for the purposes of screening the application

The application proposes that a two year investigation period be used to assess whether dumping, and injury caused by dumping, has occurred. The Commissioner establishes the investigation period upon initiation of an investigation.

The *Dumping and Subsidy Manual* (the Manual) sets out a range of matters for consideration in establishing an investigation period.⁷ It is usual for the investigation period to be the 12 months ending with the most recently completed quarter, but it may be longer in certain circumstances to properly assess the causal link between dumping and injury. The investigation period may cover a longer period:

- to ensure that a full financial accounting period is included
- if there is a long lead time between order and delivery, particularly when a tender process is involved
- to ensure that the date of sale and the export of the goods occur within the investigation period.

The commission notes that there have been a number of previous cases involving ammonium nitrate, including the last completed investigation (*Anti-Dumping Commission Report No. 473*), which have all used a 12 month investigation period.

⁷ The Manual, chapter 3.2.

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The commission is unaware of any circumstance in the market impacting on the timing between order and delivery, or impacting on the date of sale and the date of export of the goods, such that an examination of a 12 month period would impair the assessment of whether dumping has caused injury in that timeframe.

To assess the dumping margins included in the application and whether there are reasonable grounds for the publication of a dumping duty notice, the commission has therefore only had regard to data and information provided by the applicants for the period 1 January 2021 to 31 December 2021.

3.3 Export price

3.3.1 Legislative framework

Export price is determined by applying the requirements in section 269TAB, taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

3.3.2 The applicants' estimate

The table below summarises the approach taken by the applicants to estimate export prices and the evidence relied upon.

Basis of estimate	Details
<u>Chile, Lithuania and Vietnam</u> The price paid by the importer - section 269TAB(1)(a).	<p>The applicants have used the Free on Board export prices of ammonium nitrate reported on a quarterly weighted average basis for tariff classification 3102.30.00 statistical code 05 from the Australian Bureau of Statistics.</p> <p>In relation to the period 1 January 2021 to 31 December 2021, the data indicates there were goods exported:</p> <ul style="list-style-type: none">• from Chile in the first quarter of 2021• from Lithuania in the first, second and third quarters of 2021• from Vietnam in the first and second quarters of 2021.

Table 7: The applicants' estimate of export prices

3.3.3 The commission's assessment

The commission examined the calculations and supporting evidence provided by the applicants for the estimation of export prices. In making this assessment, the commission has also had regard to data sourced from the ABF import database and compared the applicants' estimates with the export prices there reported.

The commission observes that the export prices are similar in many respects.

3.4 Normal value

3.4.1 Legislative framework

Normal value is determined by applying the requirements in section 269TAC, taking into account whether:

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- the purchase or sale of the goods was an arms length transaction under section 269TAA
- the goods were sold in the ordinary course of trade under section 269TAAD
- there has been an absence or low volume of sales of like goods in the country of export that would be relevant for determining a normal value under section 269TAC(1) and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under section 269TAC(1).

3.4.2 The applicants' estimate

Table 8 summarises the approach taken by the applicants to estimate normal values and the evidence relied upon.

Basis of estimate	Details
<u>Chile</u> The price paid by domestic customers - section 269TAC(1).	The applicants included three samples of actual domestic pricing information. The domestic sales values were adjusted by a confidential amount to account for the particular circumstances of the sales. The values were increased to take into account an estimated bagging cost. The Ex Works (EXW) price was adjusted to a Free on Board (FOB) level by adding estimated costs for inland transport, port storage and handling fees.
<u>Lithuania</u> A constructed normal value - section 269TAC(2)(c).	In the absence of evidence of actual domestic prices in Lithuania, the applicants constructed a normal value. The applicants had regard to published prices for natural gas costs (which represents the chief raw material input). The applicants have added estimates for likely conversion costs, other variable costs, labour, depreciation, selling costs, bagging costs and an estimate for profit. The EXW price was adjusted to a FOB level by adding estimated costs for inland transport, port storage and handling fees.
<u>Vietnam</u> The price paid by domestic customers - section 269TAC(1).	The applicants included an estimate of domestic pricing based on confidential market information. The EXW price was adjusted to a FOB level by adding estimated costs for inland transport, port storage and handling fees.

Table 8: The applicants' methodology for normal values

3.4.3 The commission's assessment

The commission considers that the applicants' methodology for normal value appears reasonable, once adjusted to examine only the 12 months ending 31 December 2021.

For Chile and Vietnam, the information relied upon appears to be genuine. The estimates of domestic costs (to achieve a FOB-equivalent value to compare with export prices) appear reasonable. The commission also had regard to contemporary exchange rates reported by the Reserve Bank of Australia, and these slight differences explain the increased dumping margin calculated for Chile (see below).

For Lithuania, in the absence of domestic price information, the construction methodology used by the applicants appears generally sound. However, the commission identified some instances where data reported in Australian dollars was treated as being reported in United States dollars (or vice versa), and so it adjusted the calculation to ensure a consistent approach throughout. The changes to normal values in the commission's calculation was not significant.

3.5 Dumping margins

3.5.1 Legislative framework

Dumping margins are determined in accordance with the requirements of section 269TACB. Dumping margins and dumping volumes cannot be negligible, otherwise the investigation is terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

3.5.2 The commission's assessment

The commission has calculated a dumping margin based on quarterly weighted average export prices (calculated from the ABF import database) and the quarterly average normal values estimated by the applicants (as adjusted by the commission). All of the calculations are specific to the calendar year ending 31 December 2021.

The following table summarises the dumping margins estimated.

Country	Applicants' estimate	Commission estimate
Chile	29.1%	38.5%
Lithuania	35.8%	36.6%
Vietnam	34.8%	34.8%

Table 9: Estimate of dumping margins

Assessed at the levels shown, the dumping margins are not negligible.

The volume of goods from each of the subject countries that appear to have been dumped in the 12 months ending 31 December 2021 is greater than 3% of the total Australian import volume of goods, and therefore is not negligible.

The commission's dumping margin calculations are in **Confidential Attachment 2**. The commission's analysis of volume is in **Confidential Attachment 3**.

4 REASONABLE GROUNDS – INJURY TO THE AUSTRALIAN INDUSTRY

4.1 Findings

Pursuant to section 269TC(1)(c), having regard to the matters contained in the application and to other information considered relevant, the commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury.

4.2 Legislative framework

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that material injury to an Australian industry producing like goods has been or is being caused or is threatened. This issue is considered in the following sections.

The matters that may be considered in determining whether the Australian industry has experienced material injury are set out in section 269TAE. In assessing the materiality of the claimed injury, the commission has also had regard to the *Ministerial Direction on Material Injury 2012* (the Direction).⁸

4.3 Approach to injury analysis

The analysis detailed in this section is a preliminary analysis based on information provided by CSBP, Orica and QNP in support of their application, including quarterly production, costs, sales and other financial data. Where relevant, the Commission also had regard to the ABF import database.

To assess the injury claims in the application and whether there are reasonable grounds for the publication of a dumping duty notice, the commission has only had regard to data and information provided by the applicants for the period 1 January 2021 to 31 December 2021.

The Commission's analysis is contained in **Confidential Attachments 3 and 4**.

4.3.1 Injury analysis period

The applicants claim that material injury from ammonium nitrate exported to Australia from Chile, Lithuania and Vietnam commenced in 2018 following a previous application for anti-dumping measures in respect of the People's Republic of China, Sweden and the Kingdom of Thailand.⁹

The applicants claim that exports to Australia from Chile, Lithuania and Vietnam continued in 2019 and 2020 and were the price setters in the market in 2021. The applicants claim that material injury commenced in 2018 and has incrementally increased in subsequent years.

⁸ *Ministerial Direction on Material Injury 2012*, 27 April 2012, available at www.adcommission.gov.au.

⁹ That application was the subject of *Anti-Dumping Commission Report No. 473*.

For the purpose of the following injury analysis, the Commission has analysed the applicants' injury claims from 1 January 2018 to 31 December 2021. As such, the figures show data for years ending 31 December unless indicated otherwise.

4.4 Australian industry's claims

The applicants claim that the Australian industry has experienced injury in the form of:

- price suppression
- loss of profits and reduced profitability

In addition, each of the applicants identifies other injury experienced in the following terms:

- CSBP claims a deterioration in revenues for ammonium nitrate from levels in 2018/19 and 2019/20. Additionally, CSBP claims that its return on investment deteriorated in 2020/21 from the levels achieved in 2017/18 and 2018/19.
- Orica claims a deterioration in 2020 and 2021 in relation to capital investment, revenue, return on investment and employment numbers.
- QNP claims a deterioration in 2020/21 (and the first six months of 2021/22) in relation to capital investment and achieving an adequate return on investment for reinvestment purposes.

4.5 Volume effects

The commission has estimated the size of the Australian market and the shares held by different suppliers of ammonium nitrate. The commission has relied on the applicants' estimates of volumes produced by the other Australian industry members (i.e. Dyno Nobel Asia Pacific Pty Ltd and Yara Pilbara Nitrates Pty Ltd). The commission has also relied on the data reported in the ABF import database, adjusted to account for over- or under-reported volumes (e.g. where a declaration referred to kilograms rather than tonnes).

On the basis of this analysis, the commission estimates that the total market for ammonium nitrate in the year ending 31 December 2021 was 2.5 million tonnes. The market has been generally stable, but increased in 2021.

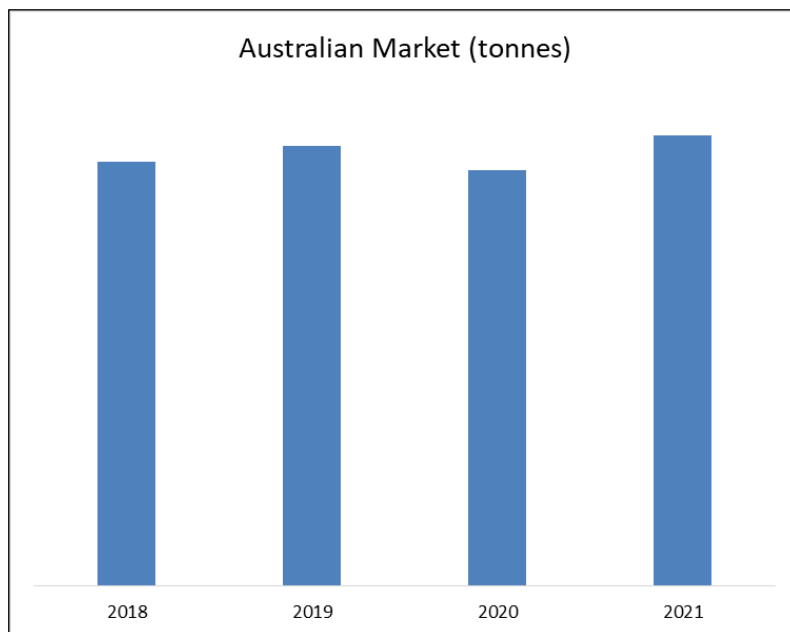


Figure 2 - Australian market size

4.5.1 Sales volume

Figure 3 shows the Australian industry's sales volume of ammonium nitrate in the Australian market in the four years to 31 December 2021. Sales increased in 2021.

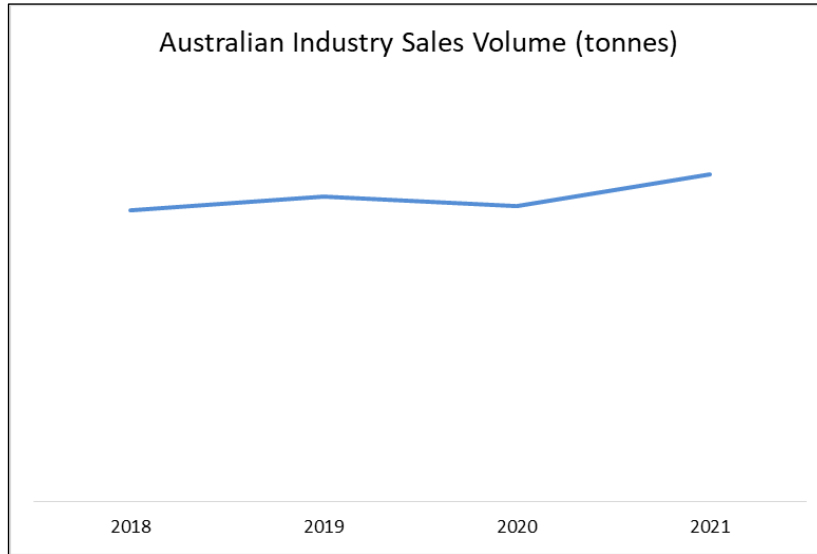


Figure 3 - Australian industry sales volume

4.5.2 Market share

The commission used the same data to estimate the share of the market held by the Australian industry and by suppliers of ammonium nitrate from other sources.

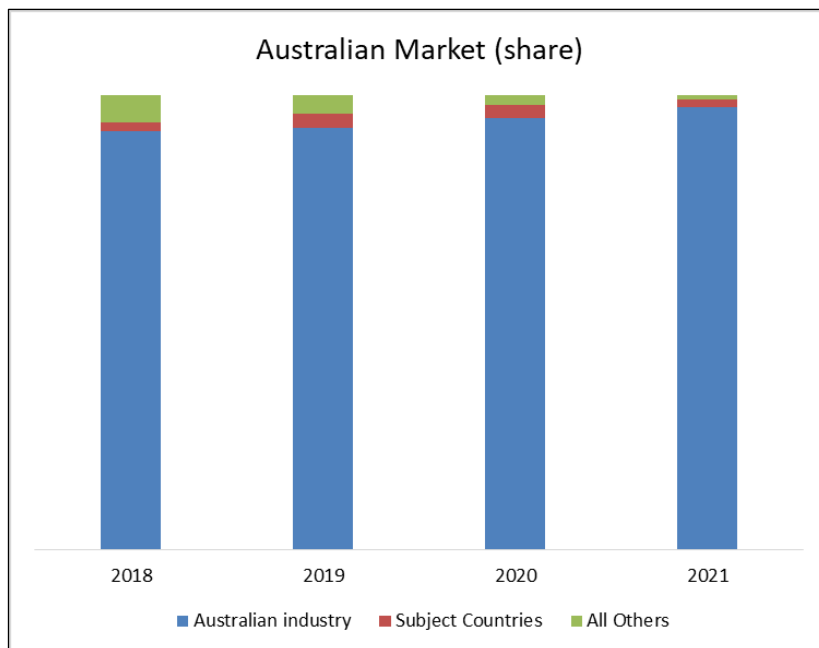


Figure 4 - Australian market share

The Australian industry has consistently held the largest share of the market, and this share has increased in each of the last three years of the period examined.

4.6 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented.

The commission has compared the applicants' reported cost to make and sell (CTMS) and their collective revenue on a per tonne basis over the four years to 31 December 2021.

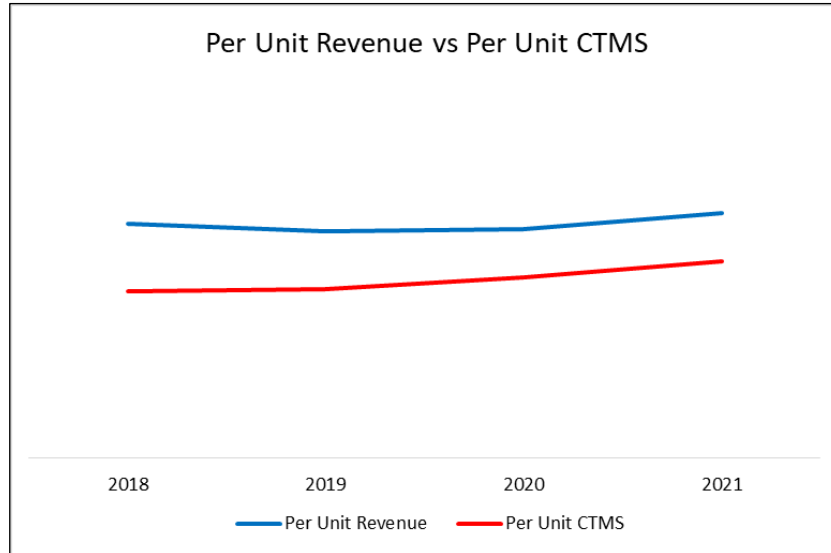


Figure 5 - Australian industry unit prices, unit costs for domestic sales

The commission notes that there is a correlation between costs and prices, although the gap between the two slightly increased in 2021. The commission observes that the cost of production has increased over time, largely due to increasing raw material costs (which represent approximately 60% of the cost to make). Prices over the same period have increased, but have not increased at the same rate as costs. The commission considers this may be evidence of price suppression.

4.7 Profit and profitability

The Commission has compared the Australian industry's total profit and profitability (measured as a percentage of revenue) over the four years to 31 December 2021.

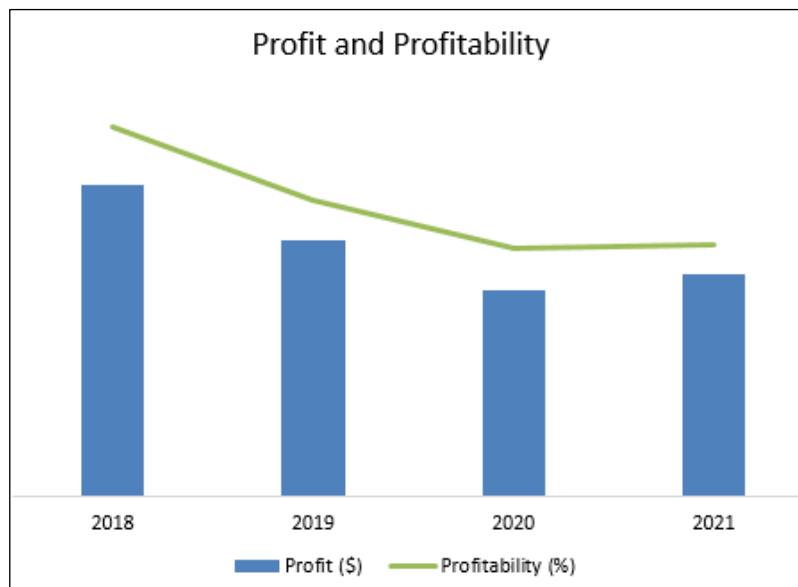


Figure 6 - Australian industry's profit and profitability for ammonium nitrate

The commission considers that the Australian industry's profit has declined over the last several years, before increasing slightly in 2021. Noting the evidence of price suppression discussed in chapter 4.6, the commission considers there are reasonable grounds for concluding that the profit result in 2021 was lower than it otherwise could have been.

4.8 Other injury factors

With respect to the applicants' claims of other forms of injury, the data does tend to indicate that:

- CSBP's return on investment in 2020/21 is slightly lower than the levels achieved in 2017/18 and 2018/19.
- Orica's return on investment and capacity utilisation have declined.

In both instances, this is at least partially a result of the relatively lower profits achieved.

4.9 Threat of material injury

The applicants completed section C-2 of the application form relating to threat of material injury.

The applicants point to the long term nature of contracts in the industry (up to five years), which means that injury continues to be experienced as a result of contracts negotiated prior to, and throughout, the investigation period examined in *Anti-Dumping Commission Report No. 473* (1 April 2017 to 31 March 2018). The applicants claim that the ongoing availability of dumped imports from Chile, Lithuania and Vietnam will therefore heavily influence contract negotiations in 2022 and beyond.

The applicants claim that the availability of dumped exports of ammonium nitrate from Chile, Lithuania and Vietnam presents a foreseeable and imminent threat of ongoing injury to the Australian industry. The applicants claim that the availability of the goods from the subject countries continues to impact tender negotiations (and spot price negotiations) and have (or would have) a depressive and / or suppressive effect on prices.

The Commission will examine the claims of the threat of material injury throughout the course of the investigation.

4.10 The commission's assessment

Based on the above analysis, the commission considers that there appear to be reasonable grounds to find that the Australian industry has experienced injury in the form of price suppression, reduced profit and reduced profitability. Individual members of the Australian industry have had mixed results in relation to other injury factors (such as return on investment).

5 REASONABLE GROUNDS – CAUSATION FACTORS

5.1 Findings

Having regard to the matters contained in the application the commission considers that there are reasonable grounds to support the applicants' claim that the Australian industry has experienced material injury caused by dumping.

5.2 Legislative framework

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that the material injury experienced by the Australian industry was caused by dumping.

Matters that may be considered in determining whether the Australian industry has experienced material injury caused by dumped goods are set out in section 269TAE(1).

5.3 Assessment of evidence of causes of injury

5.3.1 Applicants' claims

Orica and QNP have provided the commission with five examples of price negotiations with customers for supply of ammonium nitrate. These examples are drawn from 2019 to 2021, and in each case the evidence suggests some degree of price negotiation by reference to offers for imported ammonium nitrate. In some instances the volumes were lost, allegedly to the imported ammonium nitrate from Chile, Lithuania and Vietnam, at dumped prices.

The applicants claim that this evidence demonstrates that:

- Price competition from importers of ammonium nitrate from Chile, Lithuania and Vietnam has limited the Australian industry's ability to recover increasing costs incurred in the production of ammonium nitrate.
- This had a material impact on profit outcomes for the Australian industry.
- The emergence of exports from Chile, Lithuania and Vietnam has highlighted the incentive for importers to seek out new sources of supply of ammonium nitrate at dumped prices from countries not subject to measures.
- Competitors and customers use the availability of dumped imports to achieve lower prices in contract negotiations. The Australian industry must respond to these lower prices in order to avoid the loss of sales volume and market share, but must do so at the expense of profit.
- This has the effect of locking in lower prices for the Australian industry for the duration of the contract. Similarly, this also inhibits the ability of the Australian industry to recover cost increases from the market.
- Some contracts include provisions which adjust the price payable by reference to other contemporary prices available in the market. The applicants claim that the presence of the dumped goods therefore has an injurious impact on contract prices already agreed.

The examples cited by the Australian industry of lost sales relate to approximately 215,000 tonnes. In other examples, a reduction in prices was necessary to maintain volumes.

Based on the above, the applicants claim that the Australian industry's selling prices would have been higher but for the presence of the dumped goods in the market, which would have led to increased profit and profitability.

5.3.2 Cumulation of injury

Section 269TAE(2C) sets out the requirements for assessing the cumulative material injury effects of exports of goods to Australia from different countries. Where exports are from more than one country and are simultaneously the subject of an investigation, the Minister may cumulatively assess the effects of such imports if:

- the margin of dumping established for each exporter is not negligible
- the volume of dumped imports from each country is not negligible and
- a cumulative assessment is appropriate in light of the conditions of competition between the imported goods, and between all of the imported goods and the like domestic goods.

The Commission considers that there are reasonable grounds to conclude that:

- the dumping margin for exporters from the subject countries is not negligible
- the overall volume of dumped imports is not negligible and
- the conditions of competition between the imported goods, and between all of the imported goods and the like domestic goods, are essentially the same.

Accordingly, for the purposes of this report the commission considers that the requirements of section 269TAE(2C) have been satisfied and that it is appropriate to examine the cumulative effect of the exports from the subject countries to determine whether the Australian industry has experienced injury caused by dumped goods.

5.3.3 Commission's assessment

The commission has examined the market intelligence provided by the applicants, the evidence of price negotiations and lost sales volumes and its claims of injury experienced. The commission notes that the injury experienced by the Australian industry is price suppression, a loss of profits and reduced profitability. This is likely a result of several factors, including rising gas costs and existing contract terms constraining the ability of the Australian industry to recover those higher costs.

However, the Direction provides that injury from dumping need not be the sole cause of injury to the industry, where injury caused by dumping is material in degree.¹⁰ On the information presented by the applicants, the presence of the dumped goods in the market have influenced contract negotiations and the prices payable under existing contracts. But for the dumped goods, the commission considers there are reasonable grounds for expecting that the Australian industry could have achieved higher prices. All other things being equal, this ought to have resulted in higher profits and profitability.

As a result, the commission is satisfied that there appear to be reasonable grounds for finding that ammonium nitrate has been exported from Chile, Lithuania and Vietnam at dumped prices, and that the dumping has caused material injury to the Australian industry producing like goods. Accordingly, the commission is satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

¹⁰ Anti-Dumping Notice No. 2012/24.

6 ATTACHMENTS

<u>Attachment</u>	<u>Title</u>
Attachment 1	Anti-Dumping Notice No. 2022/050
Confidential Attachment 2	Analysis of Dumping Margins
Confidential Attachment 3	ABF Import Data Analysis
Confidential Attachment 4	Analysis of Economic Condition of Australian Industry