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20 June 2022

The Director  
Investigations  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

Email: [investigations@adcommission.gov.au](mailto:investigations@adcommission.gov.au)

## **Re: Investigation No. 605 – Ammonium nitrate exported to Australia from Chile, Lithuania and Vietnam**

We refer to Consideration Report No. 605 (the "**Report**") concerning ammonium nitrate exported to Australia from Chile, Lithuania and the Socialist Republic of Vietnam ("Vietnam") and published on 8 June 2022.

### **Request**

The Applicants request the Commissioner to re-examine the selected twelve-month investigation period for Investigation No. 605 due to the unique circumstances of the proliferation of tenders (approximately 95 per cent of industry sales) and confirm that the dumping margins should be assessed over a longer period than a standard twelve-month period.

### **Report**

It is noted at Section 3.2.1 of the Report that the Commissioner has considered the request of the Australian industry to have a longer investigation period than the usual twelve-month period. The following statement contained in the Report is also noted that "*The Commissioner established the investigation period upon initiation of an investigation*".

The Report references the policy as confirmed in the *Dumping and Subsidy Manual* ("the manual"), namely:

*The investigation period may cover a longer period:*

- *to ensure that 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 Commissioner acknowledged that there were previous investigations involving ammonium nitrate including the recent investigation (Anti-Dumping Commission Report No. 473) which used twelve month investigation periods.

The Report then states the Commission's view that it 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."* Having satisfied itself as to the apparent absence of a circumstance, the Commission has stated in respect of "dumping margins" included in the application, that it has *"only had regard to data and information provided by the applicants for the period 1 January 2021 to 31 December 2021"*.

The Commissioner has then nominated a twelve-month investigation period that covers the period 1 April 2021 to 31 March 2022.

### **Applicant's Position**

The applicants' disagree with the Commissioner's reasoning on the selection of a twelve-month investigation period on the basis that it does not take into account the dumping that occurred immediately prior to the selected investigation period and has caused injury during the investigation period. The continuation of injury in the period subsequent to dumping was confirmed by the Commission in ADRP Review No. 107 ("ADRP Review 107").

Of particular concern in the current investigation is the likely exclusion of exports from Chile that have had a significant supply position in each of 2020 and 2021 (10 and 11 per cent of total import volumes respectively) that has influenced industry profit and profitability in 2020 and 2021 and subsequent periods (as was confirmed in profits foregone in the post investigation twelve month period in ADRP Review 107).

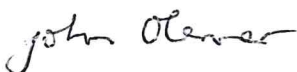
Where it has been established that tenders account for approximately 95 per cent of sales in an industry and that the injury foregone to an industry extends beyond the investigation period (and into the post investigation period) it is indeed necessary to examine a longer investigation period for the dumping (consistent with the injury investigation and post-investigation periods) that is at least a two-year period.

It can be recalled in ADRP Review No. 107 (Ammonium nitrate exported from China, Sweden and Thailand) that the ADRP Member requested the Commission during its reinvestigation to examine the twelve-month period post the actual investigation period to confirm the profit foregone that could be attributed to the dumped exports<sup>1</sup>. This was fundamental to ensure that the true impact of the dumping was taken into account.

The affirmation that the material injury continued beyond the initial twelve-month investigation period confirms that dumped exports that are the subject of tender negotiations that typically extend beyond a twelve-month period (usually between 3 and 5 years duration), should similarly have the dumping component of the investigation period extended beyond a short twelve-month timeframe.

The Applicants welcome the opportunity to discuss this matter with the Commission's representatives further at a suitable time. Please do not hesitate to contact me on (07) 3342 1921 to discuss this matter further.

Yours sincerely



John O'Connor  
Director

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<sup>1</sup> ADRP Report No. 107, Paragraphs 415- 419.