

Canberra

6/2 Brindabella Circuit
Brindabella Business Park
Canberra International Airport
ACT 2609 Australia
+61 2 6163 1000

Brisbane

Level 4, Kings Row Two
235 Coronation Drive
Milton, Brisbane
QLD 4064 Australia
+61 7 3367 6900

Melbourne

Level 39
385 Bourke Street
Melbourne
VIC 3000 Australia
+61 3 8459 2276



commercial + international

12 July 2022

Mr Cameron Kennedy
Case Manager/Assistant Director
Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

By email

Dear Mr Kennedy

Enaex S.A. Investigation 605 – alleged dumping of ammonium nitrate from Chile and other countries

We are instructed by Enaex S.A. to make this submission as an “interested party” with respect to the matters under consideration in Investigation 605.

Enaex S.A. is a manufacturer of ammonium nitrate (“the goods”), being the subject of the application lodged by three members of the Australian industry (“the Application”). Enaex S.A. has been identified in the Application as the exporter of the goods from Chile.¹

Following initiation of the Investigation, Enaex S.A. reviewed its own sales records with respect to the investigation period, being 1 April 2021 to 31 March 2022. Enaex S.A. confirms that it did not export the goods to Australia during the investigation period.

Further, Enaex S.A. refers to the letter from the Government of Chile to the Commission dated 14 June 2022 (“the Government Letter”). The Government Letter helpfully contains statistics pertaining to all Chilean exports of the goods to Australia between 1 April 2017 to May 2022. These statistics confirm Enaex S.A.’s own knowledge, which is that:

- Enaex S.A. did export the goods from Chile to Australia during that period, and was the sole exporter of the goods from Chile; and

¹ EPR605-001, page 39.

- there were no exports of the goods from Chile during the investigation period.

Accordingly, Enaex S.A. believes that the Commission is now in possession of clear evidence that there were no exports of the goods from Chile to Australia over the entirety of the investigation period. As such, Enaex S.A. respectfully submits that the Commission should terminate the investigation in relation to all exporters from Chile, on the basis that there have been no exports of the goods by any of the Chilean exporters during the investigation period. That is, there cannot have been any dumping of the goods from Chile, and no volume of dumping can be found. Naturally, therefore, injury to the Australian industry caused by exports from Chile was non-existent.

Further, should the investigation continue without being terminated at this time, we would expect the Commission to form the view that the Minister cannot be satisfied that the conditions as set out under Sections 269TG(1) and (2) of the *Customs Act 1901* ("the Act") can be met for the purposes of imposing dumping duties with respect to exports from Chile.

Lastly, we confirm that Enaex S.A. is unable to provide a response to the Exporter Questionnaire for this investigation, because the questions cannot be applied to Enaex S.A. due to the lack of subject exports, and that it is not required by the Commission to do so.

Yours sincerely



Charles Zhan
Partner

+61 2 6163 1000
charles.zhan@moulislegal.com