



Investigation No 605

Ammonium nitrate

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

File note

The purpose of this file note is to inform interested parties that the Anti-Dumping Commission (the commission) considers that the investigation¹ should be terminated in respect of exports of ammonium nitrate (the goods) to Australia from Chile. As such, the commission intends to recommend to the Commissioner of the commission (the Commissioner) that he terminate the investigation in relation to Chile. This file note also confirms that the investigation period is that specified in Anti-Dumping Notice (ADN) 2022/050 (the initiation notice).

Background

The Commissioner initiated the investigation on 8 June 2022 after consideration of *Consideration Report No 605* (the consideration report).² The commission examined the period 1 January 2021 to 31 December 2021 in order to assess the applicants'³ estimation of dumping margins provided in the application. The commission recommended in the consideration report that exports to Australia during the period 1 April 2021 to 31 March 2022 be examined to determine whether the goods are dumped.⁴

In the initiation notice, the Commissioner gave public notice under section 269TC(4) of the *Customs Act 1901* (the Act)⁵ of his decision to not reject the application. In the initiation notice, the Commissioner specified an investigation period of 1 April 2021 to 31 March 2022.⁶

Proposed termination in relation to Chile

The commission has examined data from the Australian Border Force import database. The commission has determined that there have been no exports of the goods to Australia from Chile during the investigation period. This is also supported by submissions from the Government of Chile and a manufacturer of the goods from

¹ The investigation is to determine whether a dumping duty notice should be published in respect of ammonium nitrate exported to Australia from Chile, Lithuania and the Socialist Republic of Vietnam (Vietnam).

² Electronic Public Record (EPR) 605, no 002.

³ The applicants are CSBP Limited, Orica Australia Pty Ltd and Queenslate Nitrates Pty Ltd.

⁴ EPR 605, no 002, chapter 1.

⁵ All legislative references in this notice are to the *Customs Act 1901* unless otherwise specified.

⁶ EPR 605, no 003.

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Chile, Enaex S.A.⁷, which state that exports from Chile ceased after February 2021 (prior to the investigation period).⁸

Section 269TDA specifies when the Commissioner must terminate an investigation or parts of an investigation. The commission considers there are 3 possible grounds for termination of the investigation as it relates to Chile. These grounds are considered below.

Negligible dumping margins

The commission considers that the conditions to terminate under section 269TDA(1)(b)(i) have been met. The commission has found that there has been no dumping by any exporter of the goods from Chile during the investigation period. Accordingly, the commission considers it is appropriate to terminate the investigation as it relates to all exporters of the goods from Chile. This has the effect of also terminating the investigation in relation to Chile.

Negligible volumes of dumping

The commission further considers that the conditions to terminate under section 269TDA(3) have been met. The commission has found that the total volume of dumped goods exported to Australia from Chile is negligible under section 269TDA(4) because:

- the volume of the goods exported to Australia from Chile during the investigation period is zero, and
- section 269TDA(5) is not enlivened in relation to those first-mentioned goods.

The reasons for this are set out below.

Section 269TDA(5) states that:

For the purposes of [section 269TDA(4)], this subsection applies in relation to goods the subject of the application that have been, or may be, exported to Australia over a reasonable examination period from the particular country of export and dumped if:

- (a) the volume of such goods that have been, or may be, so exported from that country and dumped, when expressed as a percentage of the total Australian import volume, is less than 3%; and
- (b) the volume of goods the subject of the application that have been, or may be, exported to Australia over that period from another country of export and dumped, when expressed as a percentage of the total Australian import volume, is also less than 3%; and
- (c) the total volume of goods the subject of the application that have been, or may be, exported to Australia over that period from the country to which paragraph (a) applies, and from all countries to which paragraph (b) applies, and dumped, when expressed as a percentage of the total Australian import volume, is more than 7%.

⁷ The applicants identified "Enaex Chile S.A." as the only exporter of the goods from Chile at section B-1 of the application, EPR 605, no 001..

⁸ EPR 605, nos 004 & 007.

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The commission considers that section 269TDA(5) is not enlivened in this case. As there are no exports of the goods to Australia from Chile (0%), even if the conditions of section 269TDA(5)(b) are met (both Lithuania and Vietnam are below 3%), it is not possible for the conditions of section 269TDA(5)(c) to be met (a combined total for all 3 countries above 7%). Accordingly, the commission considers it is appropriate to terminate the investigation as it relates to Chile.

Negligible injury

The commission also considers that the conditions to terminate under section 269TDA(13) have been met. The commission has found that there have been no exports of the goods to Australia from Chile during the investigation period. The commission therefore considers that there is no injury caused by dumped exports of the goods to Australia from Chile during the investigation period. For completeness, the conditions for a cumulative assessment of injury under section 269TDA(14B) that includes Chile cannot be met because there is no dumping by any exporter of the goods from Chile (section 269TDA(14B)(c)). As such, section 269TDA(13A) is not enlivened. Accordingly, the commission considers it is appropriate to terminate the investigation as it relates to Chile.

Length of investigation period

Submissions

The commission received 3 submissions in relation to the investigation period within the 37 day due date to provide submissions to the initiation notice. In a submission dated 22 June 2022, the applicants submitted that consideration of dumping should extend beyond a 12 month timeframe.⁹ The applicants claim that they have experienced injury from dumped exports of the goods from Chile outside of the investigation period.

In a submission dated 23 June 2022, AECI Australia Pty Ltd stated that it considers that the Commissioner is prevented from varying the length of the investigation period.¹⁰ In a submission dated 15 July 2022, Rio Tinto Limited also stated that the Commissioner is prohibited from varying the investigation period which has been defined in the initiation notice.

Commission's conclusion – investigation period

The investigation period in relation to an application for a dumping duty notice is the period specified by the Commissioner in a notice under section 269TC(4).¹¹ The Commissioner specified the investigation period in the initiation notice to be 1 April 2021 to 31 March 2022. Section 269TC(5A) states that the Commissioner cannot vary the length of the investigation period. Accordingly, the commission does not consider that the investigation period can be varied in this investigation.

⁹ EPR 605, no 005, p 2.

¹⁰ EPR 605, no 006.

¹¹ Section 269T(1).