



ADRP Conference Summary

2019/107 - Ammonium Nitrate exported from the People's Republic of China, Sweden and the Kingdom of Thailand.

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| Panel Member | Leora Blumberg |
| Review type | Review of Minister's decision |
| Date | 24 January 2020 |
| Participants | Justin Wickes and Jasna Halilovic (Anti-Dumping Commission) |
| Time opened | 12:00pm AEDT |
| Time closed | 1:15pm AEDT |

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (ADRP) in relation to Ammonium Nitrate exported from the People's Republic of China, Sweden and the Kingdom of Thailand.

The conference was held pursuant to s 269ZZHA of the *Customs Act 1901*.

In the course of the conference, I may have asked parties to clarify an argument, claim or specific detail contained in the party's application or submission. The conference was not a formal hearing of the review, and was not an opportunity for parties to argue their case before me.

I have only had regard to information provided at this conference as it relates to relevant information (within the meaning of section 269ZZK(6) of the *Customs Act 1901*). Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously put in an application or submission is not something that the ADRP has regard to, and is therefore not reflected in this conference summary.



Discussion

The specific information or clarification that the Review Panel sought from the Anti-Dumping Commission (ADC) in this conference related to the ADC's findings that are the subject matter of the fourth ground of review of the application for review of Glencore Coal Assets Australia Pty Ltd ("Glencore").

1. With reference to Confidential Attachment 11 (Worksheet entitled, "Import Vol by State"), the Reviewing Member ("RM") requested clarification of the countries and percentages that make up the 27 per cent and 26 per cent of the import volume into Western Australia and Queensland respectively of the "other countries" not subject to the investigation ("the other imports").

Firstly, the ADC representatives ("AR") clarified that it was 26 per cent for Western Australia and 27 per cent for Queensland, and not vice versa. The AR then clarified that in respect of Queensland, of the other imports making up the 27 per cent, the vast majority of that percentage (being [REDACTED] per cent) was made up of [REDACTED] [REDACTED] with all other countries constituting [REDACTED] per cent or less. This included import volumes into Brisbane Port and Port Alma in Gladstone, which were aggregated to provide a total import volume into Queensland.¹ The AR further clarified that approximately [REDACTED] per cent of the import volume into Queensland was into [REDACTED] [REDACTED] and since QNP [REDACTED] [REDACTED], QNP had regard to imports into [REDACTED] only in its determination of import parity pricing ("IPP").

The AR clarified that in relation to Western Australia, the relevant port is Fremantle and that other imports were mainly from [REDACTED] (being [REDACTED] per cent of 26 per cent) with other countries each constituting [REDACTED] per cent or less.

The ADC agreed to provide the relevant information derived from Confidential Attachment 11 showing a percentage share of other imports, after the conference.²

¹ The AR advised that this information was derived from Confidential Attachment 11, Worksheet entitled, "Import Vol by State".

² This information was subsequently provided, see Attachment A to this Conference Summary.



2. With regard to the three examples (4,6 and 7) referred to by Glencore in paragraph 31 of its application for review the RM requested clarification as to:
- (i) how the import parity price (IPP) calculation (with particular reference to the “landed ammonium nitrate price”) in each particular example was influenced by both the dumped and undumped imports, respectively, and
 - (ii) how the ADC took into its consideration whether the injury was caused by prices of goods that are not dumped (that is, “the other imports”) and how the ADC came to the conclusion that the dumped goods had a significant and greater impact on QNP’s prices relative to other imports into Queensland in each particular example, as contended in the ADC’s s.269ZZJ submission.

Example 4³

The AR referred to the worksheet that listed all the imports into [REDACTED] used by QNP to base their import parity pricing (“IPP”) calculation on.⁴ The AR stated that QNP used the [REDACTED] average price of [REDACTED] relevant import consignments, of which over three quarters were from the subject countries.⁵ The AR also noted that prices of the imports from other countries were well above the average CIF⁶ price of [REDACTED] per tonne, and that therefore the effect of these other imports was to increase the average IPP. The AR stated that these prices were used to derive the average CIF price which QNP included in their [REDACTED], which formed the basis of the presentation of proposed pricing to the customer.⁷ To this was added [REDACTED]
[REDACTED]
[REDACTED] to derive the “landed ammonium nitrate price” of [REDACTED] per tonne.⁸

The AR pointed out that in terms of imports from other countries not subject to the investigation, there was also [REDACTED], which [REDACTED]
[REDACTED], with the prices being

³ AR advised that this related to QNP’s negotiations discussed in Section 3.1 of Confidential Attachment 15.

⁴ The AR referred to the Excel workbook provided by the ADC in preparation for the conference, as requested by the Review Panel, being, “Spreadsheet [REDACTED] showing calculations of IPP” [REDACTED] referred to in Section 3.1 of Confidential Attachment 15, page 14, which was information and data that was provided by QNP [REDACTED]. See also Worksheet entitled, [REDACTED]

⁵ It was noted that [REDACTED] of the relevant consignments were from the subject countries ([REDACTED]), with [REDACTED] from [REDACTED].

⁶ Cost, Insurance, and Freight (“CIF”).

⁷ The AR indicated that these [REDACTED] are set out in the summary of the contract negotiations in Confidential Attachment 15, see Figure 2 and Figure 4.

⁸ In this regard the AR referred to Confidential Attachment 15 at Figure 4.



much higher than the prices from the subject countries. The AR pointed out that that there were no imports from [REDACTED] during the period by used by QNP in its negotiations and these imports were not part of the IPP calculation.

The AR further clarified that for the “undumped” price the ADC adjusted the prices relevant to the subject countries, with the counterfactual (based on what the price would have been in the absence of dumping). The AR pointed out that the final negotiated price was [REDACTED] as set out in Confidential Attachment 15.

The RM requested clarification as to how the counterfactual compared to [REDACTED] price of \$[REDACTED]. The AR stated that the [REDACTED] referred to was a CIF price and the negotiated price included [REDACTED], to build up an import parity price at the ex works equivalent basis. According to the AR, a comparison would therefore probably be around the same level. The AR agreed to examine this comparison and revert with the actual information.⁹

The AR stated that an examination of the data used by QNP in the calculation of the IPP indicated that the major proportion of imports related to the subject countries ([REDACTED]) with other imports being substantially higher in price than the average price calculated.¹⁰ Therefore, the ADC had concluded that the imports from the subject countries had a far greater effect on the average IPP than imports from the other countries. The AR stated that this is what the ADC tried to convey in the submission and in REP 473. The AR pointed out that the analysis in Confidential Attachment 11 was based on imports during the investigation period, being the ADC’s own data whereas the QNP data used in the pricing formulations which the ADC assessed [REDACTED].

Example 6

The AR pointed out that there were three negotiations by QNP with [REDACTED], as detailed in Confidential Attachment 15¹¹ and discussed in REP 473. The AR stated

⁹ This information was subsequently provided, see Attachment B to this Conference Summary. This indicated that the [REDACTED] price at an equivalent level of trade was in fact higher than the counterfactual price.

¹⁰ The price of the imports from [REDACTED] and from [REDACTED].

¹¹ Reference was made by the AR to Section 3.3.



that the IPP calculation in this example was the same as for Example 4, derived from the imports into [REDACTED] and therefore the analysis and conclusion was the same.

The AR confirmed that in determining whether there was injury caused by the undumped imports, the ADC considered that a high percentage of the imports into [REDACTED] were from the subject countries and were the lowest prices, therefore having a far greater effect on the average IPP than imports from other countries. The AR reiterated the ADC's data is exclusive to the investigation period whereas the data for the contract negotiations was for [REDACTED].

The AR stated that the second negotiation related to lost volumes and not a reduction in pricing.¹² It was stated further that the ADC was satisfied that this volume was lost as a result of dumping based on evidence from [REDACTED], and that the IPP was therefore not relevant to this negotiation. The AR also confirmed that the third negotiation was not included in the assessment of material injury.

Example 7

The AR pointed out this example refers to QNP's spot sales during the investigation period, which are also detailed in Confidential Attachment 15.¹³ The AR stated that the methodology was basically the same as in respect of the IPP calculation in Example 4, but was for a different period, being the investigation period ("IP"). The AR stated that QNP's average price for spot sales over the IP was [REDACTED] per tonne which QNP stated was an import equivalent price at [REDACTED]. The AR stated that the ADC tested QNP's claims by examining ABF import data and found that the weighted average CIF price of imports into [REDACTED] during the IP was \$[REDACTED] per tonne¹⁴ and included imports from [REDACTED]¹⁵ [REDACTED].

The AR clarified that the weighted average price for imports from the subject countries only ([REDACTED]) was much lower than the average for all imports, being approximately [REDACTED] per tonne. It was also pointed out that the import volumes from the subject countries was significant, constituting 72 per cent,¹⁶ leading to the

¹² Reference was made to a volume of [REDACTED] that was lost to [REDACTED] which imported from [REDACTED].

¹³ Reference was made to Section 3.7 of Confidential Attachment 15.

¹⁴ Reference was made to Confidential Attachment 16, QNP Spot Counterfactual Worksheet.

¹⁵ The AR advised that the imports from [REDACTED] were verified to have originated from [REDACTED], so were considered as being from [REDACTED].

¹⁶ The AR pointed out that the other 28 per cent was in respect of imports [REDACTED].



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same conclusion as above, that the imports from the subject countries had a far greater effect on the average IPP than imports from other countries.

3. The RM asked that the ADC provide the information discussed for each of the examples, including the reasoning and the steps taken to come to the conclusion, with the additional data used in the relevant parts of the spreadsheet.¹⁷

¹⁷ This information was subsequently provided, in Attachment A to this Conference Summary.

2019/107 Ammonium Nitrate: Conference relating to Glencore's fourth ground of review**Discussion Points and ADC Notes**

1. With reference to Confidential Attachment 11 (Worksheet entitled, "Import Vol by State"), please provide clarification of the countries and percentages that make up the 27 per cent and 26 per cent of the import volume into Western Australia and Queensland respectively of the "other countries" not subject to the investigation ("the other imports").

- First, to clarify, the relevant percentages for "the other imports" are 27 per cent for Queensland and 26 per cent for Western Australia. These figures can be found in Confidential Attachment 11, worksheet "Import vol by state" at cells E31 and E32.
- In relation to Queensland, there are two ports—Brisbane and Port Alma (located between Rockhampton and Gladstone)—relevant to the importation of ammonium nitrate. Import volumes from other countries into Brisbane and Port Alma comprise:

[Confidential table deleted]

- In relation to Western Australia, the relevant port is Fremantle. Import volumes from other countries into Fremantle port comprise:

[Confidential table deleted]

- The percentages in the tables above have been derived from the import volumes in the table in Confidential Attachment 11, worksheet "Import vol by state" at cells A6 to K27.

2. With regard to the three examples (4,6 and 7) referred to by Glencore in paragraph 31 of its application for review:

- Clarification of how the import parity price (IPP) calculation (with particular reference to the "landed ammonium nitrate price") in each particular example was influenced by both the dumped and undumped imports, respectively.
- Clarification as to how the ADC took into its consideration whether the injury was caused by prices of goods that are not dumped (that is, "the other imports") and how the ADC came to the conclusion that the dumped goods had a significant and greater impact on QNP's prices relative to other imports into Queensland in each particular example, as contended in the ADC's s.269ZZJ submission.

Example 4

- This example refers to QNP's negotiations with [REDACTED], which are detailed in Confidential Attachment 15 to REP 473.¹
- QNP has used [REDACTED] in deriving an IPP. This data is shown in an Excel spreadsheet provided by QNP: [REDACTED], worksheet "[REDACTED]". The prices used by QNP are shown in column P and the average of those prices is [REDACTED] per tonne at cell P112.²

¹ Confidential Attachment 15 at 3.1, pp.13-16.

² [REDACTED]

- QNP referred to imports [REDACTED] when determining the IPP, [REDACTED]
[REDACTED]
[REDACTED]
- Of the [REDACTED] import prices used in the average, [REDACTED] relate to imports from the subject countries [REDACTED]
[REDACTED]
[REDACTED] The ADC notes that both of these prices are well above the average of [REDACTED], therefore the effect of imports from other countries was only to increase the IPP.
- The average price of [REDACTED] per tonne is at CIF (Cost, Insurance and Freight) terms. To derive the “landed ammonium nitrate price” of [REDACTED] per tonne, QNP added [REDACTED]
[REDACTED]
[REDACTED]. This is shown in *Confidential Attachment 15* at Figure 4.³

Example 6

- This example refers to QNP’s negotiations with [REDACTED]
[REDACTED], which are also detailed in *Confidential Attachment 15*.⁴
- There are three separate negotiations conducted with QNP,⁵ which are referred to in *Confidential Attachment 17* as [REDACTED].
- [REDACTED] FY2017: The calculation of the IPP is the same as for [REDACTED] (Example 4 above), [REDACTED].
- [REDACTED] April to June 2018: Relates to lost volumes [REDACTED] in 2018, not a reduction in pricing, therefore the IPP is not relevant. The ADC was satisfied that this volume was lost as a result of dumping based on evidence from [REDACTED]
[REDACTED] that this volume was supplied by [REDACTED] with ammonium nitrate sourced from [REDACTED].
- [REDACTED] July to Dec 2019: The ADC was not satisfied that this volume was lost as a result of dumping and therefore this was not included in the ADC’s assessment of material injury.

Example 7

- This example refers to QNP’s spot sales in the investigation period, which are also detailed in *Confidential Attachment 15*.⁶

³ [REDACTED]
[REDACTED]
[REDACTED]

⁴ *Confidential Attachment 15* at 3.3, pp.18-20.

⁵ Discussed in REP 473 at pp.74-75.

⁶ *Confidential Attachment 15* at 3.7, pp.21-22.

- QNP's average price for spot sales over the investigation period was [REDACTED] per tonne.⁷ QNP stated that this was an import equivalent price [REDACTED].
- The ADC tested QNP's claims by examining ABF import data for the investigation period and this analysis is shown in *Confidential Attachment 16* to REP 473, worksheet "QNP – spot – counterfactual". This analysis shows that the weighted average CIF price for imports into [REDACTED] was [REDACTED] per tonne⁸ and that 72 per cent of the imports were from subject countries.⁹
- The remaining 28 per cent of imports were from [REDACTED].¹⁰ Exports from [REDACTED] are already [REDACTED] and were not the lowest priced goods imported into [REDACTED].¹¹

[Confidential table deleted]

⁷ REP 473, *Confidential Attachment 16*, worksheet "QNP – spot sales" at cell C135.

⁸ *Confidential Attachment 16*, worksheet "QNP – spot – counterfactual", cell H20 divided by cell H31.

⁹ *Confidential Attachment 16*, worksheet "QNP – spot – counterfactual", the sum of cells H27, H28 and H30 divided by cell H31. Note the ADC verified that goods declared as originating from [REDACTED] (row 28) were in fact exported from [REDACTED].

¹⁰ *Confidential Attachment 16*, worksheet "QNP – spot – counterfactual", cell H29 divided by cell H31.

¹¹ Source: *Confidential Attachment 16*, worksheet "QNP – spot – counterfactual", column K, rows 16 to 19, divided by the respective rows in column K, rows 27 to 30 to derive the CIF price for each country.



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Example 4

The RM requested clarification as to how the counterfactual compared to [REDACTED] price of \$[REDACTED]. The AR stated that the [REDACTED] referred to was a CIF price and the negotiated price included [REDACTED], to build up an import parity price at the ex works equivalent basis. According to the AR, a comparison would therefore probably be around the same level. The AR agreed to examine this comparison and revert with the actual information.

ADC response:

The counterfactual price (i.e. the price in the absence of dumping) in respect of example 4 is \$[REDACTED] per tonne.

To derive a price for the exports from [REDACTED] (\$[REDACTED] per tonne at CIF) at an equivalent level of trade (being ex-works Australia), relevant importation and transport costs were added to the CIF price. These costs are recorded in the spreadsheet '[REDACTED]' in Confidential Attachment 16 to REP 473. These costs include [REDACTED] in order to ensure proper comparison to the counterfactual price. [REDACTED] price at an equivalent level of trade to the counterfactual price is \$[REDACTED] per tonne, i.e. it is higher than the counterfactual price.