



**Australian Government**  
**Anti-Dumping Review Panel**

*Customs Act 1901*

Notice under section 269ZZI

**Ammonium Nitrate exported from the People's Republic of China, Sweden and the Kingdom of Thailand**

The Anti-Dumping Review Panel (ADRP) has received applications seeking review of a decision by the Minister to publish a dumping duty notice in respect of Ammonium Nitrate exported from the People's Republic of China, Sweden and the Kingdom of Thailand (the Reviewable Decision).

The applications were made by:

- Glencore Coal Assets Australia Pty Ltd ("Glencore")
- Downer EDI Mining – Blasting Services Pty Ltd ("DBS")
- Yara AB ("Yara")

The Minister's decision was published on the Anti-Dumping Commission (ADC) website on 3 June 2019 (ADN 2019/57).

The ADRP is satisfied that the following grounds are reasonable grounds for the reviewable decision not being the correct or preferable decision:

**Glencore**

1. By confining its attention to 7 contracts, the ADC failed to consider whether dumped imports caused material injury to the Australian industry as a whole, contrary to the requirements of s.269TG(1) and (2) of the Customs Act 1901 ("the Act").
2. The ADC misconstrued "price" in s.269TAE(l)(f) by considering only the price paid in 7 contracts and not considering whether that price represented the price in any market for ammonium nitrate in Australia.
3. The ADC failed adequately to consider whether, in respect of the 7 contracts it analysed, injury was caused by factors other than dumping, contrary to s.269TAE(2A).
4. The ADC failed adequately to consider whether, in respect of the 7 contracts it analysed, the injury identified was caused by the volume and prices of goods that are not dumped, contrary to s.269TAE(2A)(a).
5. The conclusion that the contract price, in the absence of dumping, would have been the import prices adjusted for the dumping margin, was not based on facts but was based merely on allegations, conjecture or remote possibilities, contrary to s.269TAE(2AA).

6. The correct and preferable decision, having regard to the material before the ADC, was that the Minister could not be satisfied that there was material injury to the Australian industry as a result of dumped imports.
7. The ADC erred in finding that it cannot "carve out" certain states from the dumping duty notice and the Minister should have exempted exports to NSW or the Pilbara from the dumping notice based on evidence of no material injury in those markets.

## **DBS**

1. It is not correct or preferable to find that material injury "has been" or "is being" caused to the Australian industry in that:
  - a. 'Material' injury was not caused by dumping, and if there was any injury, it can only have been immaterial, insubstantial and insignificant;
  - b. Mandatory injury factors were not considered over the injury investigation period;
  - c. Incorrect and inappropriate application of "but for" test.
2. It is not correct or preferable to find that the exports from Sweden should be cumulated with other exports.

## **Yara**

1. Yara's exports have not caused injury to the Australian industry.
2. The effect of Yara's exports should not be cumulated with exports from China and Thailand.
3. The price effects and volume effects have not been correctly determined.
4. The injury is not material.
5. The injury is not greater than that likely to occur in the normal ebb and flow of business.

The goods to which these applications relate are:

*Ammonium nitrate, prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10kg.*

The ADRP proposes to conduct a review of the decision.

### Submissions

Interested parties have **30 days** from the date this notice is published to provide the ADRP with a submission.

If your submission contains confidential information, you must provide a public version that can be published on the ADRP website. Failure to do so will result in your submission not being considered.

You may either email your submission to [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au) or mail the submission to

–

Anti-Dumping Review Panel Secretariat  
GPO Box 2013  
Canberra City ACT 2601

Persons wishing to make further inquiries about this review should telephone (02) 6276 1781. Copies of the applications for review, which set out the grounds for seeking review in full, and other documents are available on the public record of the review at [www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au).

The reports of the original investigation are available on the ADC website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Leora Blumberg  
Panel Member  
Anti-Dumping Review Panel  
20 September 2019