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28 August 2012

Ms Joanne Reid
Director , International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
Canberra ACT 2600

Dear Ms Reid,

RESUMED INVESTIGATION - QUICKLIME FROM THAILAND

Submissions to this investigation of 21 August 2012 by representatives of Chememan Co Ltd and Alcoa of Australia Ltd and the Government of Thailand do not identify any statutory provisions which absolutely prevent Customs' determination of the dumping status of the imports of quicklime from Thailand which caused material depression of Cockburn's selling prices between March and June 2010, with consequent material loss of revenue and profit. That is, as found by the TMRO, it is open for Customs to determine whether the imports of quicklime from Thailand which caused the said material injury to Cockburn were dumped.

In the circumstances of this case, it would be totally inappropriate to not ascertain whether material injury suffered by Cockburn as a consequence of price undercutting by the exports from Thailand between March and June 2010 was caused by the dumping of those exports. These circumstances are outlined hereunder:

- The case made by the application for dumping duty was based on material injury suffered by Cockburn in the form of price depression, lost revenue and profit as a consequence of price undercutting by dumped exports from Thailand during March to June 2010;
- Customs initiated this investigation on the basis of the case made in Cockburn's application providing reasonable grounds for the publication of a dumping duty notice in respect of exports of quicklime from Thailand;
- Having initiated the investigation on the said basis and nominated July 2010 to June 2011 as the investigation period (IP), Customs must have been of the view that the material injury suffered by Cockburn during the IP as a consequence of price undercutting and resultant price depression during the 4 months immediately preceding the IP could be attributed to dumping found during the IP. **If not, it was a huge error by Customs to nominate an investigation period which did not include March to June 2010;**
- Customs negative preliminary finding per SEF 179 was not based on a finding that events causing the material injury suffered by Cockburn during the IP occurred prior

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to the IP. It was based on findings that the depression of Cockburn's selling prices during March to June 2010 was not caused by imports from Thailand because prices of the imports from Thailand did not undercut Cockburn's prices and that Cockburn's prices were not suppressed by imports from Thailand;

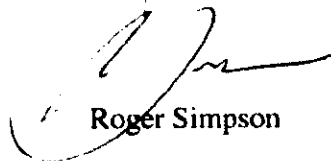
- The said Customs' preliminary finding of no price undercutting or price suppression by imports from Thailand was reversed for the termination decision per TER 179, when Customs realised the error in its price undercutting and suppression analysis of not taking into account quality differences;
- It was just a few days prior to the publication of TER 179 that Customs decided that it could not attribute the material injury suffered by Cockburn during the IP to the dumping found during the IP because the events which caused that material injury occurred prior to the IP.
- It is paramount that the events which caused the material injury found by Customs to have been suffered by Cockburn during the IP (substantial profit reduction) occurred in the **4 MONTHS IMMEDIATELY PRECEDING THE IP** and the **DUMPING MARGIN APPLICABLE TO THE SUBJECT IMPORTS DURING THE IP WAS ENORMOUS**. There is absolutely no reason to believe that this enormous dumping margin during the IP would have been negligible in the 4 months immediately preceding the IP.
- It is also paramount that had Cockburn not reduced its prices in March to June 2010 sales in response to significant price undercutting by imports from Thailand, it would have followed that Cockburn would have suffered material injury in the form of lost sales and production volume during the IP (and after). The aggregate annual volume involved in sales to ■ customers at reduced prices during March to June 2010 was ■ tonnes and the sales were contract sales involving terms of ■. Because Cockburn chose to reduce its prices in March to June 2010 sales to preserve its sales and production volume rather than hold its prices and lose sales and production volume to dumped imports, the price and profit injury experienced because of those price reductions is considered not attributable to the dumped imports, whereas had it not reduced its prices, the consequent volume injury would have been attributable to the dumped imports.

To not use the opportunity of this resumed investigation to correct Customs' error in not nominating an IP which includes March to June 2010 by amending the IP, if necessary, or to simply ascertain the export prices and normal values of the imports from Thailand which were the sole cause of Cockburn's price depression between March and June 2010, when it is open for it to do so, will be an absolute travesty of justice.

Concerning Moulis Legal's comments per its submission of 21 August 2012 in relation to Chememan's imports and their share of the Australian market, we bring it to your attention that, contrary to Moulis' assertion and according to ABS import statistics, imports of quicklime from Thailand in commercial quantities commenced in February 2010. The volume of these imports and their share of the Australian market are irrelevant in that the material injury found to have been experienced by Cockburn is the price and profit effect of these imports, not their volume effect. Similarly Moulis Legal's assertions that Cockburn has "near monopoly" status and "huge profit" levels have no bearing on the question of whether price undercutting by dumped exports from Thailand caused Cockburn to depress its prices and suffer material reductions of revenue and profit as a consequence.

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Yours sincerely,



Roger Simpson