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L A W Y E R S
International Trade • Customs • Commercial Law

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Our Ref: RB:3001

Your Ref:

PUBLIC FILE VERSION

17 October 2013

BY EMAIL: policy@adcommission.gov.au

Director, Policy
Anti-Dumping Commission
Customs House
5 Constitution Ave
CANBERRA ACT 2601

Dear Sir/Madam

Re: Quicklime exported from Thailand – Resumed Investigation (ADN 2013/13)
Submission of Western Australian End User

We act on behalf of **[CONFIDENTIAL TEXT DELETED – INFORMATION WHICH WOULD IDENTIFY PERSON MAKING THIS SUBMISSION]** which owns and operates the **[CONFIDENTIAL TEXT DELETED – INFORMATION WHICH WOULD IDENTIFY PERSON MAKING THIS SUBMISSION]** in Western Australia.

This letter is in response to notification of the resumed dumping investigation regarding Quicklime exported from Thailand following the complaint made by Cockburn Cement Pty Ltd.

We are instructed as follows:

1. Our client is extremely concerned about the fact that this is the second resumed investigation into alleged dumping following two appeals by the complainant. This case has been effectively going since its initiation on 31 October 2011. This is totally unsatisfactory for parties that regularly purchase significant quantities of Quicklime in Australia, such as our client.

2. A key finding in the original Termination Report (TER 179) was that the majority of Chememan Thailand's prices during the investigation period were above the original price offered by Cockburn (8.9). This was our client's experience in 2011 when contracts

were being negotiated. The conclusion (10.4.3) of Customs that any dumping found to have occurred caused negligible injury is correct.

3. In paragraph 66 of its Report, the Anti-Dumping Review Panel confirms that:

    - Cockburn increased its volume of sales and secured prices via long-term contracts post 30 June 2011 in the alumina sector (being 70% of its market);
    - The imported product sells at higher prices;
    - The volume of imported product is small (1-2%) and has decreased since 30 June 2011; and
    - Most of the imported product has been used for testing purposes.

4. These findings completely validate the decision by Australian Customs to terminate the investigation. There can be no case made that any dumping has caused material injury.

5. The Anti-Dumping Panel has referred to the following in support of the decision to revoke the second termination of this investigation:

    - A high dumping margin of 48% was found; and
    - Cockburn may have experienced a reduction in profits where it accounted for 50% of the domestic Quicklime market.

6. These factors cannot of themselves lead to the conclusion that material injury has been caused by dumping. In this regard, given the negligible quantity of imports from Thailand during the investigation period:

    - The dumping margin is irrelevant;
    - Any lost profits cannot be attributed to dumping.

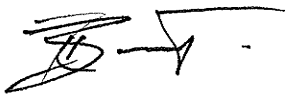
7. Further, on the question of lost profits, Australian Customs dealt with this issue decisively in Section 8 of SEF 179A and such findings were consistent with the Ministerial Direction on Material Injury (27 April 2012) in examining the effects, if any, on the industry as a whole.

8. We concur with the proposition raised by other interested parties that this investigation is well outside the 18 month time limit prescribed in Article 5.10 of the WTO Anti-Dumping Agreement.

9. We note the submission dated 16 October 2013 filed by Chememan's representatives. The observations on page 6 of that submission refer to Chememan's exports comprising less than 0.05% of the Australian market in the relevant period. How a dumping complaint can be sustained in such circumstances is truly inconceivable and Cockburn's attempts to revive this case can only be interpreted as predatory conduct.

10. In the circumstances, it is incumbent upon the Anti-Dumping Commission to terminate this resumed investigation forthwith.

Yours faithfully
GROSS & BECROFT



Dr. Ross Becroft
Principal