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ANTI - DUMPING SPECIALISTS

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4 January 2012

Mr John Bracic
Director
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
Canberra ACT 2600

Dear Mr Bracic,

QUICKLIME FROM THAILAND - INJURY/CAUSATION

This submission, on behalf of Cockburn Cement Pty Ltd ("Cockburn"), is in response to the submission by Chememan Co Ltd ("Chememan") of 19 December 2011 asserting no injury or threat of injury from quicklime exported from Thailand.

Concerning the likeness of the quicklime exported from Thailand and the quicklime produced by Cockburn, it is beyond doubt that they are like goods according to the s269T(1) definition, ie although not alike in all respects, the quicklime exported from Thailand has characteristics closely resembling the quicklime produced by Cockburn. The differences in raw material origin, appearance, composition effectiveness, performance and after effects claimed by Chememan do not cause the essential character of the quicklime produced by Cockburn and that produced by Chememan to be different. Both are predominately calcium oxide, fall within the same tariff classification and are used for the same purpose by the same customers of each Cockburn and Chememan. The example of a broom and a vacuum cleaner put by Chememan in support of its non-likeness argument is not only trite but is of no relevance to this case - both products are quicklime (calcium oxide), with physical characteristics which closely resemble each other.

Chememan does not have access to sufficient information to support its assertion that no material injury has been caused by Chememan's exports of quicklime, ie it is a baseless assertion. The question of whether material injury has been caused by Chememan's exports is central to Customs investigation into the application for imposition of dumping duty on quicklime from Thailand and its findings will be based on facts ascertained by its investigation, not on the baseless assertions of Chememan.

It is of note that Chememan's submission does not address the paramount issue of Chememan's dumped exports from Thailand significantly undercutting Cockburn's prices in the non-alumina sector, causing it material price depression and loss of profit and profitability.

Chememan's stated perception of Cockburn's material injury case is a nonsense and will no doubt be readily dismissed by Customs who is in possession of relevant facts.

Customs' investigation is, among other things, gathering information in respect of the impact of prices of Chememan's dumped exports on Cockburn's prices to major customers in the alumina sector, and will base its findings on this factual information, not on Chememan's rhetoric.

Concerning Chememan's comments in relation to threat of injury, the main thrust of Cockburn's application is that material injury has been experienced by reason of Chememan's dumped exports since their entry into the Australian market in March 2010, and there is a likelihood that such material injury will continue in the foreseeable future. While "threat" is not specifically mentioned in the application, the likelihood, or threat, of future injury because of dumped exports from Thailand is inherent in the case for imposition of anti-dumping measures on such exports. It is of note that the section of the application dealing with "threat" is only to be completed when the case for imposition measures relies **solely** on "threat". This case does not rely solely on "threat" and hence the said section of the application was not completed.

The investigation of "threat" is also inherent in Customs' investigation of Cockburn's application, whether or not it is specifically mentioned in the application. This is so because grounds for the imposition of anti-dumping measures of goods the subject of an application and consequent investigation are satisfied by material injury being caused or **threatened** to an Australian industry by the dumping of those goods – s269TG(1) and (2) refer. Both injury caused and injury threatened have **equal weight** in the context of grounds for the imposition of dumping duty.

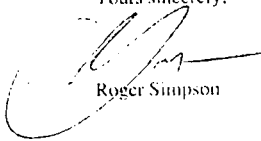
Customs' and the applicant are well aware of the particular requirements to be met in relation to determination of threat of material injury according to Article 3.7 of the WTO Anti-Dumping Agreement. We reiterate that the case for imposition of anti-dumping measures on quicklime exports from Thailand does not rely on "threat" of material injury.

We note Chememan's comment in section 9 (c) that exports to Australia have high logistic costs and Australia is not considered a high profit market. We suggest that these circumstances enhance the dumping likelihood.

We also note Chememan's primary claim of no "threat" because of the limited capacity of its distribution facility at Henderson (sec. 9 (a)), and submit that future (larger) export volumes need not go through this distribution facility, they may be delivered direct to customers.

We will further discuss Cockburn's material injury by reason of dumped quicklime from Thailand, including "threat", throughout the course of the investigation.

Yours sincerely,



Roger Simpson