



Australian Government
Australian Customs and
Border Protection Service

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**INVESTIGATION INTO THE ALLEGED DUMPING OF
QUICKLIME**

EXPORTED FROM

THAILAND

IMPORTER VISIT REPORT

CHEMEMAN AUSTRALIA PTY LTD

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED
THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND
MAY NOT REFLECT THE FINAL POSITION OF CUSTOMS AND BORDER
PROTECTION**

December 2011

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2 BACKGROUND AND PURPOSE

2.1 Background to the current investigation

On 31 October, the Australia Customs and Border Protection Service (Customs and Border Protection) initiated an investigation into the alleged dumping of quicklime from Thailand following an application by Cockburn Cement Limited (Cockburn Cement), an Australian manufacturer of quicklime.

The initiation of the investigation was publicised in *The Australian* on 31 October 2011. Australian Customs Dumping Notice No. 2011/53 provides further details of this investigation and is available at www.customs.gov.au.

Following initiation of the investigation, a search of Customs and Border Protection's import database indicated that Chememan Australia Pty Ltd (**Chememan Australia**) had imported Quicklime from Thailand during the investigation period (1 July 2010 to 30 June 2011). Chememan Australia was also identified as an importer of quicklime in the application. Customs and Border Protection wrote to Chememan Australia advising the company of the initiation of the investigation, requesting co-operation with the investigation and provided the company with a copy of the importer questionnaire to complete. Chememan Australia was also provided with a list of its imports during the investigation period, extracted from Customs and Border Protection's import database, and identified a number of transactions from the list for verification.

Chememan Australia completed the importer questionnaire, providing details regarding the company, overseas supplier information, imports and expenses. The completed importer questionnaire can be found at **confidential attachment GEN 1**.

2.2 Purpose of meeting

The purpose of the visit was to:

- confirm that Chememan Australia was an importer of quicklime and clarify the relationship between Chememan Australia and the exporter;
- verify information on imports of quicklime to assist in the determination of export prices from Thailand;
- establish whether the purchases were arms length transactions;
- establish post exportation costs incurred in importing quicklime;
- identify Chememan Australia's sales and customers and determine sales volume, selling prices and selling costs;
- recommend how export price may be determined under s. 269TAB; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

2.3 Meeting

We advised Chememan generally of the investigation process and timeframes.

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- The investigation period is 1 July 2010 to 30 June 2011.
- The injury analysis period is from 1 January 2008.
- A preliminary affirmative determination (PAD) may be made no earlier than the 60th day following the date of initiation of the investigation (30 December 2011). Provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made. Customs and Border Protection would not make such a determination until it was satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.
- A statement of essential facts will be placed on the public record by 18 February 2012 or such later date as the Minister allows. The statement of essential facts will set out the material findings of fact on which Customs and Border Protection intends to base its recommendations to the Minister. The statement of essential facts will invite interested parties to respond, within 20 days, to the issues raised. Submissions received in response to the statement of essential facts will be considered when compiling the report and recommendations to the Minister.
- Customs and Border Protection's report to the Minister is due no later than 3 April 2012, unless an extension to the statement of essential facts is approved by the Minister.

We advised Chememan Australia that we would prepare a confidential report on the visit. Chememan Australia would be given an opportunity to review the visit report for accuracy. A non-confidential version of this visit report would be prepared in consultation with the company and placed on the public record.

Company	Chememan Australia Pty Ltd
Address	11 Sparks Road, HENDERSON WA
Telephone no.	08 9437 4800
Fax no.	08 9437 4822
Date	14 December 2011
Present	
Chememan	Kamol Sowattanaskul, General Manager Chememan Australia Sittichai Thiensathaporn, Director Chememan Co Ltd
Consultant	Daniel Moulis, Moulis Legal Edmund W. Sim, Partner, Appleton Luff International Lawyers
Customs and Border Protection	John Bracic, Director Operations 1 Jason Farr, Supervisor Operations 1 Edward Macgregor, Supervisor Operations 1

Prior to the meeting we forwarded an agenda to Chememan Australia. A copy of the agenda is at **confidential attachment GEN 2**.

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Chememan Australia was co-operative during the visit and provided requested documentation as necessary.

3 THE GOODS

3.1 Goods the subject of the application

The goods the subject of the application are described as follows.

Quicklime is also known as Calcium Oxide as this is the dominant chemical composition of quicklime (CaO). Other common names to describe this product are Burnt Lime and Unslaked Lime. Quicklime is a white to grey, caustic, crystalline solid at room temperature.

Quicklime is typically made by the thermal decomposition of materials such as limestone, that contains calcium carbonate (CaCO₃; mineral calcite) in a lime kiln. This is accomplished by heating the material to above 1100 °C, a process called calcination or lime-burning, to liberate a molecule of carbon dioxide (CO₂); leaving quicklime.

Further detailed information on the goods is contained in ACDN 2011/53.

3.2 Tariff classification

Quicklime is classified to the following tariff subheading and statistical code of Schedule 3 to the *Customs Tariff Act 1995* of 2522.10.00 (statistical code 26).

3.3 'Like' goods

Chememan Australia submit that its quicklime is of a very high quality and purity. Chememan Australia claims that the superior properties of its product are due to the different raw material used and the high quality of the raw material used in the quicklime production processes. The quicklime produced by its supplier, Chememan Co Ltd (**Chememan Thailand**) is derived from limestone quarried from the company's limestone quarry in Thailand.

Chememan Australia submitted that core aspects of its manufacturer's processes and the resultant properties of the product differ considerably from those of the applicant. As a result Chememan Australia maintain that the quicklime it sells and the quicklime product produced by the applicant are not appropriately comparable as 'like' goods.

Chememan Australia submitted that its quicklime is not like to the domestically produced quicklime based on two key aspects:

- a) quality; and
- b) physical composition

a) Quality

Chememan Australia submit that the quicklime produced by Chememan Thailand is of a very high quality with respect to the concentrations of the central chemical

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compound and very low rate of impurity. Quicklime products, whilst composed of the base chemical compound calcium oxide, differ in physical characteristic and chemical concentration depending on the purity of the concentration of calcium oxide (the degree to which the quicklime is properly 'calcined') which is related to the chemical composition of the raw material used in the process of decomposition. The chemical properties of Chememan Australia's product are set out below:

Chemical	Standard concentration (per metric ton)	Recent actual concentration (per metric ton)
Calcium Oxide (CaO)	██████	██████
Magnesium Oxide [impurity] (MgO)	██████	██████
Silica dioxide [impurity] (SiO ₂)	██████	██████
Sulphur trioxide [impurity] (SO ₃)	██████	██████

Source: Chememan Australia submission on issue of 'like goods' 1 December 2011

Chememan Australia submitted that, whilst impurities are unavoidable in the production of quicklime, the concentration of impurities in the end product will be determined directly by the purity of the raw material. The company submitted that impurities in quicklime are a concern for end users given that they can have various adverse effects in relation to the machinery/processes for which the CaO in quicklime is required.

Silica for instance is recognised to be an abrasive chemical when in contact with moving machinery. As such, the more Silica that is introduced to machinery, more ongoing maintenance is required in relation to that machinery and, ultimately, the useful lifespan of the machinery is reduced. Similarly, sulphur is recognised to act as an inhibitor of certain chemical reactions and is recognised to lead directly to reductions in efficiency and outputs in certain industries such as alumina refining.

Chememan Australia submitted that end-users in various industries, and for various specific reasons, require a quicklime product with the greatest possible CaO concentration, and least possible impurities.

Chememan Australia submit that the domestically available product, which has a comparably lower tested rate of CaO concentration, but a significantly higher comparative rate of concentrated impurity, is a less efficient source of CaO in comparison to the imported goods. The company submit that the goods are only interchangeable in specific applications by customers who are either not discerning or unconcerned about the lower efficiencies and negative impact of impurities

inherent in the domestic product, or where customers have no choice but to use an inferior quicklime product due to absence of alternative source of supply. Also, they are not interchangeable where the customer wants the larger granular sizes (see 3.3(b) below).

The company submit that the latter case characterises the Australian market for quicklime prior to the introduction of its 'premium' quicklime product – that is the domestically available product was used by end-users out of necessity given the previous lack of available alternative sources of quicklime, or the availability of a comparable alternate source of CaO in the Australian market.

b) physical composition

The company also submitted that Chememan Australia's supplier, Chememan Thailand, has the capacity to offer much larger granular size by moderating the degree to which the limestone rock is broken down.

Chememan Australia submitted that different industries require different micron-sized quicklime depending on the end-use for which the powder is intended. The company submitted that this ability to tailor its product to the specific end use is feasible only because raw limestone rock is used in the processes. There is no such ability to produce granular sizes larger than the granular sizes of the raw material used. Thus in circumstances in which quicklime is produced from a raw material that is already significantly broken down or powdered – such as shell sand – the producer cannot provide larger sizes.

Chememan Australia submit that the different micron/mm sizes available from Thailand are not available from the Australian industry as its source material in the form of shell sand will not allow larger micron sizes beyond that of the shell sand itself.

The Chememan Group provided a submission on the 'likeness' of the quicklime imported from Thailand.

4 COMPANY BACKGROUND**4.1 Company background**

Chememan Australia Pty Ltd (**Chememan Australia**) is a privately owned proprietary company, limited by shares, registered in Australia from 21 November 2008 under the ABN 73 134 283 060. [REDACTED] % of the shares in Chememan Australia are owned by a single major shareholder, Chememan Co. Ltd, an incorporated company registered in Thailand (**Chememan Thailand**). Chememan Australia advised that it is a subsidiary company of Chememan Thailand.

An ASIC search has identified that there have been no significant formal changes in company ownership structure since registration in 2008.

Chememan Australia stated that the decision to establish a subsidiary entity of Chememan Thailand in Australia was prompted by unsolicited interest in quicklime produced in Thailand from representatives of companies from a variety of Australian resource oriented industries located on the west coast of Australia that use quicklime as a necessary component of their operations. Chememan Australia submitted that these companies expressed frustrations with the absence of supply alternatives for quicklime in Western Australia, and expressed interest in seeking sources of supply of quicklime imported from overseas, as an alternative to domestically produced quicklime which, at that time was only available from a single supplier in the Western Australia market. From these discussions, Chememan Thailand understood that there was interest in imported quicklime amongst end-users with operations of the west coast of Australia, and that a not insignificant proportion of these companies were actively canvassing possible options of imported quicklime, one of which was the product produced by Chememan Thailand.

Chememan Thailand (via Chememan Australia) commenced construction of its first, and currently only, distribution centre at Henderson, WA in December 2009. The facility was completed in May 2010. The distribution centre is constructed on rented premises at a cost of approximately \$[REDACTED].

The operation of the Henderson site was described by the company as a

[REDACTED]

[REDACTED] *[details of employees at the Henderson site]*. The on-site operations are overseen by the company's general manager, Mr Sowattanaskul, who is based in Western Australia.

4.2 Commercial operations

Chememan Australia sells [REDACTED] [REDACTED] *[identification of other products]* quicklime produced by Chememan Thailand.

Chememan Australia's Henderson facility comprises 4 silos with a combined total capacity of [REDACTED] metric tons (tonnes). Chememan Australia submitted that the total available storage capacity is divided unequally across the 4 silos on the site,

due to the practical need to store certain shipments of quicklime separately depending on micron size of the quicklime¹ and the commercial need to differentiate imported quicklime stores [redacted] [identification of other products] from Thailand in small quantities?

Chememan Australia submitted that, since it began operations, it has worked to refine the specifications of the quicklime it imports from Chememan Thailand to suit the applications of quicklime by Australian industries. The company submit that, once its product was initially refined for Australian users, demand for its quicklime has increased requiring a commensurate increase in monthly supply requirements to meet the growing demand.

The Chememan website states that Chememan's "target is to be one of the world's leaders in lime industry with 1 million ton capacity of lime products in year 2015".

Currently, Chememan Australia's operations within Australia are carried out solely through its Henderson storage facility where quicklime (and [redacted]) is delivered from the port of importation and loaded into storage silos on site. The lime products are [redacted] then transferred to the silos so that the product may be delivered in bulk by truck.

4.3 Relationship with suppliers

Chememan Australia appears to be related to its identified supplier Chememan International Pte. Ltd (**Chememan International**) and is related to its overseas producer, Chememan Thailand. Further discussion about this relationship is set out below in section 7.

4.4 Relationships with customers

The sales data provided by Chememan Australia shows sales of quicklime to [redacted] end-users over the course of the investigation period, comprising a combined total sale of [redacted] tonnes. The entities to which sales have been made by Chememan Australia during this period are predominantly companies with operations in the Gold mining industry.

Chememan Australia's customers during the investigation period were:

[CONFIDENTIAL LIST OF CUSTOMERS DELETED]

¹ Differences in quicklime micronization is discussed in more detail above in relation to the product.

² Chememan Australia advised that they import small quantities [redacted] for commercial sale. These imports however make up [redacted] % of the company's importations.

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Chememan Australia advised that all of its customers were also customers of the Australian industry in Western Australia.

Chememan Australia advised that its relationships with its customers in Australia were purely on the basis of commercial transactions, and that it has no other relationships, equity or otherwise, with its customers. Chememan Australia also advised that it does not grant rebates, or discounts to any of its customers in the Australian market.

5 IMPORTS**5.1 Introduction**

Customs and Border Protection's import database indicated that Chememan Australia imported about [REDACTED] tonnes of quicklime during the investigation period from two suppliers, Chememan International Pte Ltd (**Chememan International**) and Chememan Company Limited, Thailand (**Chememan Thailand**). Chememan International has been identified as the overseas supplier in Chememan Australia's questionnaire response and Chememan Thailand has been identified as the overseas manufacturer/producer.

As part of its importer questionnaire response, Chememan Australia provided Customs and Border Protection with a revised import list since it had identified that a number of sales had in fact originated from [REDACTED]; arrived outside of the investigation period [REDACTED].

The revised import list is at **confidential attachments IMP 1**.

Of the total volume of quicklime imported over the investigation period, Chememan Australia imported a small, but not insignificant volume of quicklime from [REDACTED]. The total volume of quicklime from [REDACTED] equates to around [REDACTED]% (roughly [REDACTED] tonnes) of the total quantity of quicklime imported during the investigation period. These imports, whilst otherwise considered to be the same product as the quicklime produced in Thailand, are not subject to this investigation.

Based on the revised import list a total of [REDACTED] tonnes of quicklime was imported by Chememan Australia from Thailand.

5.2 Ordering process and price

Chememan Australia advised that the Henderson facility operates with some reserve of quicklime stored in its silo. Monthly orders are made by the General Manager of Chememan Australia who retains sole oversight for the operations at the Henderson facility, to the head office of Chememan in Thailand. Orders for quantities of quicklime are made on an as-needed basis depending on the quantity of quicklime required to fulfil the specific quantity requirements of customer orders.

Chememan Australia stated that since commencing operations in March 2010 it has never achieved the full capacity of the 4 silos at the Henderson site.

Chememan Australia advised that, because the company is a relatively new venture, with relatively meagre sales volumes, a standard pricing agreement has not been established. As such, the price per unit for quicklime is negotiated monthly between Chememan Australia and Chememan Thailand.

Chememan Australia advised that prices are negotiated between Chememan Thailand and Chememan Australia having consideration to Chememan Australia's status as a new entrant and competition pricing in the market. Chememan Australia

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attempt to provide a competitive price in the Australian market and seek to charge [REDACTED] [details of pricing policies]

Once orders are submitted from Chememan Australia to Chememan Thailand, the quicklime is produced in Thailand and shipped to Australia. Chememan Australia submit that the average timeframe for a completed import, from the date the order is submitted to Chememan Thailand to the date the quicklime is delivered and stored in the Henderson silos, is roughly [REDACTED] weeks for production of the product and [REDACTED] for exportation and delivery.

All exports of quicklime from Thailand, made pursuant to the orders submitted by Chememan Australia, are shipped from Bangkok by Chememan Thailand. All invoices for these exports, however, are consolidated and prepared through the office of Chememan International, which is located in Singapore. Invoices are then billed to Chememan Australia for payment in accordance to the standard payment terms of the invoice.

All invoices are expressed in Australian dollars and are [REDACTED]. Payment terms are standardised on all invoices prepared by Chememan International and require payment by Chememan Australia within [REDACTED] days from the estimated date of arrival of the related shipment.

5.3 Verification

Prior to the visit, we selected 12 shipments so that Chememan Australia could provide the necessary source documents in the form of shipment information and invoicing to allow Customs and Border Protection to complete an importer transaction form. The completed importer transaction form is at **confidential attachment IMP 2**.

Chememan Australia provided copies of source documents as part of its importer questionnaire response. Specifically, Chememan Australia provided us with:

- Commercial invoices
- Packing list
- Purchase order
- Bill of lading
- Customs broker and domestic freight invoices

The source documents are at **confidential attachment IMP 3**.

We subsequently calculated selling, general and administrative costs, see section 6.7 below.

For each shipment we used the source documents provided to list the quantity, invoice value, ocean freight and insurance, exchange rate, customs duty, importation

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costs, expenses and average selling prices in the importer transaction form. The ocean freight was [REDACTED]

Chememan Australia submitted that one shipment included in the cohort of shipments selected by Customs and Border Protection was a shipment of quicklime from [REDACTED] and, hence, should not be included in our analysis. Chememan Australia provided verifiable supporting evidence to support this claim and Customs and Border Protection were satisfied that shipment 1 (invoice number [REDACTED]) should be excluded from the import transaction list. Therefore, this shipment was removed from the selected shipments for the purpose of our calculations below.

At the visit we asked Chememan to provide proof of payment for the following two shipments and related post exportation costs:

- INCTAU 10-01
- INCTAU 11-06

Chememan Australia provided us with two sets of documents to prove payment of the shipment and post exportation costs. These are at **confidential attachment IMP 4**.

For the two selected shipments, payment terms were [REDACTED] days from estimated time of arrival. [REDACTED]

[REDACTED]

[details of commercial arrangements with a customer]

We found that for both shipments, [REDACTED]

[REDACTED] [details of intercompany arrangements] Payments for post importation charges were made in total sums, reflecting the total of groups of invoices received for separate shipments. In each instance each total sum paid accurately reflected the combined value of the separate invoices for which payment was made.

We calculated selling, general and administrative expenses from 2010-11 income statement provided by Chememan Australia at the meeting using the ratio of total expenses to invoiced sales value. See section 6.7 below for our calculation of selling, general and administrative expenses.

We were able to reconcile the shipment number, quantity, value, price and delivery terms for the selected shipments with the data in the revised import list.

5.4 Importation costs

We calculated the average post free on board expenses for the remaining 11 selected shipments, which are summarised in the following table (expressed in Australian dollars per tonne). Our working is at **confidential appendix 1**. Sales and profit is discussed in section 6.

Cost item	Weighted average cost per unit (tonne)
Ocean freight	██████
Insurance	██████
Australian importation costs (excluding GST)	██████
Selling, general and administrative expenses (based on average selling price)	██████
Total weighted average post free on board (FOB) expenses	██████

5.5 Who is the importer

We noted that Chememan Australia:

- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading; and
- organises delivery of the goods to the Henderson facility.

We consider Chememan Australia was the beneficial owner of the goods at the time of importation and is therefore the importer.

5.6 Who is the exporter?

Customs and Border Protection will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.

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Where there is no principal in the country of export Customs and Border Protection will normally consider the exporter to be the person who gave up responsibility for the goods as described above.

As discussed above, Chememan Thailand has been identified as the manufacturer of the quicklime imported into Australia by Chememan Australia, at facilities owned and operated by Chememan Thailand located in the country of export, Thailand. However, when we reviewed the source documentation provided in relation to the selected shipments of quicklime it was identified that the sale and shipment of goods from the country of export to Australia was conducted by Chememan International. In summary, upon review of this documentation, we identified that:

- Chememan International is identified as the supplier in the commercial invoices;
- Chememan International is identified as the supplier in the bills of lading;
- Chememan International [REDACTED]; and
- Chememan Australia pays Chememan International.

Nevertheless, it is our view that Chememan Thailand should be considered the exporter of the goods as they are located in the country of export and we understand that they knowingly place the goods in the hands of Chememan International for shipment to Australia as identified in the ordering process outlined in section 5.2 above.

This view is subject to further enquiries with Chememan Thailand and Chememan International.

6 AUSTRALIAN MARKET AND SALES**6.1 General**

Chememan Australia provided us with a table of its analysis of the Australian lime industry. The table identifies the total commercial capacity in the market and the total Australian demand. The figures within the table are based on the figures released by the National Lime Association and Chememan Australia's own market intelligence. The table can be found at **confidential attachment GEN 4**.

Chememan Australia claimed that supply exceeds demand on the eastern side of Australia and certain lime producers had to shut down some of their kilns to balance out demand and supply in the east. But in the west, capacity/supply is a threat to end users as demand is growing and Cockburn Cement is running at full or near-full capacity.

As above, Chememan Australia claimed that it had been approached by various customers seeking an alternative supplier due to there only being a single supplier in the Western Australian lime market.

6.2 Australian sales

Chememan Australia has generally been selling quicklime to customers for use on a trial basis. Chememan Australia advised that [REDACTED]. Quicklime accounts for [REDACTED] % of Chememan Australia's sales.

Chememan Australia advised that it is looking to adopt a niche market position in the Australian lime market. The company's objective was to introduce supply of a premium imported product that it regards as of superior quality to the domestically produced product, for the more discerning lime-using customers in the Western Australia region.

Chememan Australia submitted that Chememan Australia's operations were established with the intention of providing a relatively small-scale alternative of supply of a premium quicklime product. The company regards itself as occupying a 'niche' position in relation to the Australian market of quicklime production and supply as a whole, in supplying a product that it regards to be of significantly superior quality – both in terms of chemical composition and physical characteristics - in comparison to the domestically produced quicklime product currently available.

In addition to commercial sales for end-use application, Chememan Australia has also sold quantities of quicklime in [REDACTED], non recurrent, transactions to an entity during the investigation period for the purposes of testing and analysis. The sales data reflects that this entity acquired a total [REDACTED] tonnes of quicklime from Chememan Australia during the investigation period. [REDACTED]

[REDACTED] *[details of customer and Chememan's business with customer]*

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Chememan Australia submitted that it is actively seeking to increase its presence in the Australian market and stimulate new business through direct marketing to entities identified as end-users of quicklime with operations in Western Australia. We asked Chememan Australia if it had secured any new customers after the period of investigation. Chememan Australia said that [REDACTED] had obtained samples of the product for testing after the investigation period, see below.

Further details on the Australian market in respect to the Chememan Australia's claim of no causation or material injury can be found in section 8 (Causation and Material Injury) of this report.

6.3 Price and distribution arrangements

Chememan Australia sells the quicklime [REDACTED] freight from Chememan Australia's facility in Henderson. The quicklime is generally delivered in bulk on pneumatic trucks.

The Henderson site acts as the central distribution point for all quicklime sold by Chememan Australia. Quicklime is transported from the silo to haulage trucks which are sub-contracted by Chememan Australia for distribution directly to the sites nominated by end-user purchasers. Alternatively, quicklime can also be collected directly from the Henderson site in circumstances in which the buyer has the operational capacity to do so.

Chememan Australia advised that [REDACTED] supply agreements once its customers have undertaken trials of its product.

Chememan Australia advised that its quicklime with CaO content of [REDACTED]% or more attracted a premium in the market. Chememan Australia attempt to provide a competitive price in the market and seek to charge [REDACTED]. Chememan Australia identify the appropriate price based on discussions with various customers and its knowledge of the market generally.

Chememan Australia advised that it does not provide price lists but negotiates the price on a case by case basis.

6.4 Rebates and discounts

Chememan Australia confirmed that it does not provide discounts or rebates to its customers.

6.5 Sales verification (accuracy)

As part of its questionnaire response, Chememan Australia provided us with a line by line sales list of its sales of quicklime for the period from July 2010 to June 2011. At the visit, it was identified that some of the sales were in fact picked up at site and we identified that the commercial invoices detailed the goods and freight costs separately. Therefore we requested a revised sale list that included separate freight

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costs and accurate delivery terms. Chememan Australia subsequently provided a revised sales list with this information, see **confidential attachment SALES 1**.

At the visit we sought source documents for the following six randomly selected invoice numbers and customers:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Chememan Australia provided us with commercial invoices and freight invoices (where applicable) for the selected sales. Copies of these documents are at **confidential attachment SALES 2**. The invoice numbers, date, amount and customers reconciled with the selected sales information in the sales list. The values in the freight invoices reconciled with the freight amounts identified in the commercial invoices

Based on the source documents provided we are satisfied that the values in the revised sales list are accurate

Proof of Payment

We requested proof of payment for the goods and freight (where applicable) for invoice numbers 4, 17 and 71. We were provided with receipt vouchers to prove payment of the invoices and HSBC payment transit documents to prove payment of the freight costs identified in invoices 17 and 71. These documents are included in the source documents at **confidential attachment SALES 2**. The documents confirmed that payment had been made for the amounts identified in the Chememan Australia invoice.

However, as outlined above, we identified in respect to imports that payment was [REDACTED] overall that payment was made for all sales listed in the sales list based on the documentation provided.

6.6 Upwards verification (completeness)

We were provided with Chememan Australia's audited Financial Report for the year ended 30 June 2011. This is at **confidential attachment SALES 3**.

Total revenue from sales is identified as \$ [REDACTED] in the Financial Report. We calculated total sales as \$ [REDACTED] based on the revised sales list provided.

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The variance of approximately [REDACTED] % of total sales is consistent with Chememan Australia's volume of sales [REDACTED] and is consistent with Chememan Australia's claim that quicklime accounts for approximately [REDACTED] % of Chememan Australia's sales.

The figures for all sales by Chememan Australia are correctly identified in the table provided by Chememan [REDACTED], see confidential attachment SALES 4.

The total freight amount in the revised sales list of \$ [REDACTED], plus the freight costs for the sale of [REDACTED], reconciled with the Cost of Freight Income of \$ [REDACTED] outlined on page 23 of Chememan Australia's Financial Report.

We are satisfied that the revised sales list is complete.

6.7 Selling, general and administrative expenses (SG&A)

We calculated SG&A based on Chememan Australia's audited Financial Report for the year ended 30 June 2011. We added the depreciation and amortisation, employee benefits expenses and other expenses in the statement of comprehensive income (which reflected the total expenses in Chememan Australia's profit and loss statement) and calculated this as a percentage of revenue for 2011.

We calculated actual SG&A as [REDACTED] %. Our working is at confidential appendix 1.

Given the limited sales, both in terms of total number of transactions and total volume of inventory sold, the actual SG&A costs on a percentage of sales basis were very high.

Therefore, Chememan Australia also provided us with a table based on full capacity utilisation of the silos of [REDACTED] tonnes (confidential attachment SALES 4). We identified that the SG&A outlined in the theoretical sales table was inconsistent with the SG&A identified in the Financial Report. We consider the total SG&A expenses identified in the Financial Report may be used in any theoretical calculation.

Based on the projected figures and the SG&A amount identified in the Financial Report, we calculated the theoretical SG&A based on full utilisation of the Henderson facility as [REDACTED] %.

6.8 Profitability of sales and selling price

We calculated profitability for the imports identified in the importer transaction form based on the actual and theoretical SG&A figures. However, we consider that only the actual SG&A figures may be relied on for the purpose of calculating profit on sales for Chememan Australia.

We calculated actual profitability by comparing the actual SG&A figure, inland importation costs, and exports price with the average net selling price for each

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customer Ex Works (from the Chememan Australia's facility in Henderson). Our analysis found [REDACTED]%. Our working is at confidential appendix 1.

The negative profitability is due to the low volume throughput for Chememan Australia and the high SG&A costs as a proportion of those sales.

We also calculated the profitability of the 11 selected shipments using the theoretical SG&A costs. Our analysis found [REDACTED]

The following table shows the weighted average net selling price (Ex Works) and total volume by customer for the period July 2010 to June 2011:

Customer Name	Total Quantity (tonnes)	Weighted Average Ex Works Unit Price (per tonne)
[CONFIDENTIAL TEXT DELETED]		

We calculated the weighted average net price (Ex Works) for all customers as \$ [REDACTED], see confidential appendix 1.

6.9 Forward orders

Chememan Australia identified in its questionnaire response that it did not have any forward orders and it confirmed this at our visit.

Chememan Australia advised that it had inquiries from [REDACTED] prospective customers since the end of the investigation period and advised that these were:

[CONFIDENTIAL LIST OF PROSPECTIVE CUSTOMERS DELETED]

The [REDACTED] had been sent samples for trials but were undecided about future supply from Chememan. The [REDACTED] advised that it could not order the trial from Chememan until it expanded its silo facilities.

7 ARMS LENGTH

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the legislation requires that the relevant sales are arms length transactions.

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller;
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Furthermore, where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter (whether before or after exportation) for a particular price; and
- the Minister is satisfied that the importer, whether directly or through an associate or associates, sells those goods in Australia (whether in the condition in which they were imported or otherwise) at a loss;

The Minister may treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.

We did not find any evidence to suggest that there is any consideration payable between Chememan Australia and Chememan Thailand other than price and we confirmed during our verification that the price invoiced to Chememan Australia, was the price paid by Chememan Australia.

However, as above, our analysis shows that the selected sales between Chememan Australia and Chememan Thailand were made at loss. The weighted average of unprofitably for the selected sales based on the weighted average net selling price per tonne for the selected sales was [REDACTED] %.

[REDACTED] *[Customs and Border Protection comment on Financial Report]*

As above, we identified that the unprofitably of sales was generally due to high selling, general and administrative costs.

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Chememan Australia submitted that it plans to continue to increase its status in the Australian market and establish further commercial relationships with other customers that will assist in increasing the profitability of its operations.

However,

[REDACTED]

[Customs and Border Protection comment on utilisation of Chememan Australia facility] no forward orders or ongoing contracts were identified during our visit. Furthermore, Chememan Australia did not indicate timing or a clear strategy to achieve full utilisation of the silos available at the Henderson facility.

We consider that the sales that have been made at a loss by Chememan Australia represent that Chememan Australia will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price. Therefore, we are of the view that sales between Chememan Australia and Chememan Thailand have not been made at arms length.

[REDACTED]

[details of intercompany arrangements]

Therefore, we are of the view that the price between Chememan Australia and Chememan Thailand is influenced by their relationship.

In light of these conclusions that indicate that sales between Chememan Australia and Chememan Thailand are not made at arms length, we recommend that the export price is calculated under section 269TAB(1)(b), subject to further enquiries with the exporter.

8 CAUSATION AND MATERIAL INJURY

Chememan Australia submits that its own analysis of the Australian market for quicklime, derived from data obtained from the National Lime Association of Australia, indicates that there is demand for a total annual volume of 2.1 million tonnes of quicklime. Chememan Australia, with reference to its own analysis, claim that recent data indicates that roughly there is a total annual commercial production of around 1.57million tonnes of quicklime – or roughly 75% of the total demand.

Chememan Australia submitted that the quicklime that is imported from Thailand for commercial sale in the Australian market by Chememan Australia represents only [REDACTED] % of the total demand for quicklime. It questions how such a small percentage of sales could be causing injury to the Australian industry. Further, the company submits that the total storage capacity of its Henderson facility is merely [REDACTED] tonnes, which, even if purely storing quicklime to the point of full capacity, would still represent a fraction of the total market for quicklime in Australia and a similarly meagre proportion of the total volume of domestically produced quicklime.

These submissions are associated with Chememan Australia's representations of its business model as establishing and developing a niche position within the Australian market for quicklime. The company's objective was to introduce supply of a premium imported product, which it regards as of superior quality to the domestically produced product.

Chememan Australia considers that the applicant has enjoyed, and continues to enjoy, a position of dominance in the Western Australian market for quicklime given it remains the single supplier of domestically produced quicklime. Further, the applicant's natural monopoly within the market is secured by the geography of the region, and the high cost of transportation in comparison to the relatively low commercial value of quicklime per unit, which prevents the entrance of domestic competition into the market.

As mentioned earlier, Chememan Australia submit that its interest in establishing operations in Western Australia was stimulated by unsolicited interest from domestic end-users who expressed frustration with the market power held by the applicant and the absence of alternate sources of supply and natural competition with respect to price.

Chememan Australia submit that the application reflects a premature 'knee-jerk' reaction by the applicant caused by the emergence of an imported alternate source of supply – which reflects the only possible source of competition given the nature of the market – and the prospect of fair and reasonable price competition this could bring. On this basis, the company questions the veracity of the applicant's claims of injury and the intimations that the alleged injury is related to imports, whether dumped or not.

Chememan Australia advised that it intends to provide a formal submission on injury and causation, which has now been received by Customs and Border Protection.

9 UNSUPPRESSED SELLING PRICE

Unsuppressed selling price and non-injurious price issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice.

Customs and Border Protection generally derives the non-injurious price by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price.

Customs and Border Protection's preferred approach to establishing unsuppressed selling prices observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the unsuppressed selling price, Customs and Border Protection then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export free on board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

At the time of the visit Chememan Australia did not have any comments on the calculation of an unsuppressed selling price.

10 GENERAL COMMENTS

We granted Chememan Thailand an extension until 21 December 2011 to lodge its exporter questionnaire.

11 RECOMMENDATIONS

Based on the information available, the quicklime exported by Chememan Thailand to Chememan Australia:

- have been exported to Australia otherwise than by the importer;
- appear to have been purchased by the importer from the exporter; however,
- the purchases of the goods by the importer were *not* arms length transactions; but
- the goods were subsequently sold by the importer to a person who is not an associate of the importer.

Subject to further inquiries with the exporter, we are of the view that the export price should be established under section 269TAB(1)(b) using the sales price less deductions.

Using the import information provided we calculated the weighted average export price under section 269TAB(1)(b) as \$ [REDACTED] per tonne (arms length sales price less deductions). We consider that sales by Chememan Australia to its customers were made at arms length and therefore we have based this calculation on Chememan Australia's weighted average sales price to its Australian customers.

We note that the export price calculated under 269TAB(1)(b), using the proposed theoretical selling, general and administration expenses for full utilisation of the Henderson facility is \$ [REDACTED] per tonne. The export price under section 269TAB(1)(a), being the price paid or payable for the goods by the importer, is \$ [REDACTED] per tonne.

Export price calculations are at **confidential appendix 1**.

John Bracic,

Director, Operations 1

Jason Farr,

Supervisor, Operations 1

Edward Macgregor,

Supervisor, Operations 1

12 ATTACHMENTS AND APPENDICES

Confidential attachment GEN 1	Completed importer questionnaire
Confidential attachment GEN 2	Agenda
Confidential attachment GEN 3	Schedule of product specifications – Chememan Quicklime
Confidential attachment GEN 4	Table on the Australian lime industry (supply/demand)
Confidential attachment IMP 1	Revised import list
Confidential attachment IMP 2	Importer transaction form
Confidential attachment IMP 3	Source documents for selected shipments
Confidential attachment IMP 4	Proof of payment for imports
Confidential attachment SALES 1	Revised sales list
Confidential attachment SALES 2	Chememan Australia invoices, freight invoices (source documents for sales) and proof of payment documents
Confidential attachment SALES 3	Chememan Australia Financial Report for the year ended 30 June 2011 (audited)
Confidential attachment SALES 4	Chememan Australia sales projection table
Confidential appendix 1	Working - Cost to Import and Sell (IMP)