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From: Daniel Moulis [Daniel.Moulis@moulislegal.com]
Sent: Friday, 18 November 2011 07:16
To: COOKE Lydia
Cc: REID Joanne
Subject: Chememan Co., Ltd - investigation concerning quicklime from Thailand

Dear Lydia

We are the lawyers for Chememan Co., Ltd of Thailand in this matter

We recognise that Customs is constrained in its ability to fully investigate an application before making an initiation decision. The negative "reasonable grounds" test under Section 269TC, and the limited information that may be taken into account, allow for a relatively low hurdle for initiation. Initiation does not have to be based on actual or observable facts. Reliance is placed on what Customs is told in an application, and the belief expressed by the applicant that the information it has provided is complete and correct. Certainly, initiation need not be based on *established* facts - it is the investigation itself that is intended to establish the facts. The strict application of the tests of whether there is "dumping", and of the "degree" or "causation" of injury, is left for later.

The applicant has, in this instance, contrived a most unmeritorious initiation decision. We expect that this will become immediately apparent to Customs, once it is apprised of the facts.

The applicant's bare-faced intention is to sustain its super dominant position in the Australian market. The applicant sells a different and inferior quicklime product to that produced by Chememan at extremely high and constantly increasing prices. Our client maintains that the proposition that "material injury" has been caused to the applicant is ludicrous. It defies every public announcement that the company has been making over the so-called injury period. From all reports the financial performance of the company concerned has been and continues to be at "super profit" levels.

Our client submits that the complaint against its exports is opportunistic, contrived and anti-competitive. We expect that the Australian industries that are users of quicklime - including Australia's biggest resource companies - will be astonished by the claims of the applicant, and concerned about the detrimental impacts this investigation may have on them.

You will have noted our reference to the applicant's quicklime as being a different and inferior product to Chememan's. It has come to our attention, in the course of being briefed by our client as to the circumstances of this matter, that the "likeness" of the products concerned is a very significant matter. They are not "like" each other. We will be writing to you shortly in that regard with more details, and with a request that this should be addressed at the earliest possible time in this investigation.

This communication is non-confidential and may be placed on the electronic public record.

Regards

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