



**AUSTRALIAN
CUSTOMS SERVICE**

Australian Customs Dumping Notice
No. 2000/25

CUSTOMS ACT 1901 - PART XVB

**INITIATION OF AN INVESTIGATION INTO THE
ALLEGED DUMPING OF CERTAIN SOLID AMMONIUM NITRATE
FROM THE RUSSIAN FEDERATION**

The Australian Customs Service has initiated an investigation into an application lodged by Terry O'Neill and Associates Pty Ltd on behalf of the Australian industry for a dumping duty notice in respect of certain solid ammonium nitrate (AN) exported to Australia from the Russian Federation.

The application

The application alleges that the goods have been exported to Australia at prices less than the normal values and that the dumping has caused material injury to the Australian industry through:

- lost sales;
- price depression;
- price suppression;
- price undercutting;
- impact on profitability; and
- reduced plant operating rates.

The public version of the application, available to interested parties on request, contains the basis of the alleged dumping.

A notice under subsection 269TC(4) of the *Customs Act 1901* advising initiation of this investigation was published in *The Australian Financial Review* on 11 May 2000. Interested parties are invited to provide written submissions in response to that notice.

The goods

The goods under investigation are solid ammonium nitrate, whether prilled, granular or in other solid form, with or without additives or coatings, in packages exceeding 10kg. The goods are classified within 3102.30.00, statistical key 5, in schedule 3 to the *Customs Tariff Act 1995*. The rate of duty is 'free'.

Investigation process

The investigation period is from 1 January 1999 to 31 March 2000. Customs will examine exports to Australia of the goods under consideration during that period to determine whether dumping has occurred. Customs will also examine details of the Australian market since 1 July 1998 for injury analysis.

In reaching its findings Customs must consider whether:

- the export price of the goods that have already been exported to Australia is less than the normal value of those goods; and
- the export price of the goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- because of that, material injury to the Australian industry producing like goods has been caused and is likely to continue.

The applicants alleged that the Russian Federation is a non-market economy (NME) and provided normal value information in accordance with s. 269TAC(4) - using costs to make and sell AN in a surrogate country (Poland).

Customs, in consultation with the Dept of Foreign Affairs and Trade, has examined the issue and determined that, for the purposes of s. 269TAC(4), the Russian Federation can no longer be regarded as a NME country. Although some vestiges of the command economy prevail in some sectors and regions, widespread price liberalisation and privatisation has occurred. Accordingly, the Russian Federation is considered to have an *economy in transition* from a centrally-planned to market economy.

Customs, in accordance with ss. 269TAC(5D) to (5J), may use alternative methods for calculating normal values in an economy in transition when the country no longer has a centrally planned economy, and either of the following two circumstances exist:

- it is established that the domestic selling price of like goods is subject to a *price control situation*; or
- a *raw material input* to the manufacture of the exported goods, which accounts for more than 10% of the costs of production, is supplied by a wholly owned government enterprise.

To test if a price control situation applies, or if a significant raw material input is supplied by a wholly owned government enterprise, Customs will provide a questionnaire including a section titled 'Questions for Exporter/Manufacturers in Economies in Transition' to producers of AN in the Russian Federation. The section for all Exporters/producers in the Russian Federation is required to be completed within 21 days from initiation.

After the 21 days for response has lapsed, Customs will determine if the provisions of ss. 269TAC(5D) to (5J) are applicable and if normal values will be ascertained using information in the country of export, or alternative methods. This may include the use of normal values determined in a surrogate country. In this context, Customs may contact other AN producers to seek their cooperation in determining normal values for the purposes of this investigation.

Lodgement of submissions

Exporters/Manufacturers of solid AN in the Russian Federation are required to provide the Part A of the questionnaire titled 'Questions for Exporter/Manufacturers in Economies in Transition' to Customs by 1 June 2000.

The Russian Federation manufacturer, which is known to have exported the goods to Australia during the investigation period, has been given until 20 June 2000 for completion and lodgement of the remainder of the questionnaire ie Part B to J.

Other interested parties are advised to lodge submissions no later than the close of business 20 June 2000.

Questionnaires and submissions are to be addressed to:

Director
Operations 3
Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601
AUSTRALIA

Parties responding by 20 June 2000 will have an opportunity to lodge a supplementary submission in response to matters raised by other parties. The due date for any supplementary submission is 5 July 2000.

All interested parties wishing to participate in the investigation must ensure that submissions are lodged in accordance with the dates provided above. The legislation confers upon Customs the power to disregard submissions received after specified periods if there is insufficient time remaining for their proper consideration.

Confidential submissions

Submissions lodged in confidence must be clearly marked "confidential". In addition, two non-confidential copies of the submission must be provided.

Section 269ZJ of the *Customs Act 1901* requires that if a person claims information is confidential, or claims that publication of the information would adversely affect their business, that person:

- must provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information, or
- must satisfy the CEO of Customs that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

The attention of interested parties is also drawn to the World Trade Organization Anti-Dumping Agreement, Article 6.5.2, which states:

If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

This provision is reflected in s. 269ZJ of the Customs Act.

Non confidential submissions held on public file

Non-confidential submissions, and a copy of relevant correspondence between Customs and other persons, will be made available to interested parties through the public record. The public record may be examined at:

Trade Measures Branch
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

To access the public record or to obtain copies from the public file, contact Mr Phil Hilyard on telephone number +61 2 6275 6057.

Provisional measures

The dates specified in this notice for lodging submissions must be observed to enable Customs to report to the minister within the legislative timeframe. A preliminary affirmative determination may be made not less than 60 days from the date of initiation. Provisional measures may be imposed after the preliminary determination has been made.

Statement of essential facts

A statement of essential facts will be placed on the public record by 29 August 2000 (or by such later date as the minister may allow in accordance with s. 269ZHI of the Act). The statement will set out the material findings of fact on which Customs intends to base its recommendation to the minister. That statement will invite interested parties to respond, within 20 days, to the issues raised therein.

Report to the minister

Submissions received in response to the statement will be taken into account in compiling the report and recommendation to the minister. The report is due within 45 days after the statement of essential facts is issued (ie 13 October 2000).

Customs contact

Enquiries about this investigation should be directed to Geoff Gleeson who may be contacted as follows:

telephone	+61 2 6275 6134
facsimile	+61 2 6275 6990
e-mail	geoffrey.gleeson@customs.gov.au

Customs dumping notices are available on the internet at <http://www.customs.gov.au/notices/index.htm>



(Paul O'Connor)
National Manager, Trade Measures
FOR CHIEF EXECUTIVE OFFICER
CANBERRA, ACT

11 May 2000