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Australian Government
**Australian Customs and
Border Protection Service**

TRADE MEASURES BRANCH
CONSIDERATION REPORT NO. 160

**APPLICATION FOR CONTINUATION OF
ANTI-DUMPING MEASURES**

**SODIUM HYDROGEN CARBONATE
(SODIUM BICARBONATE)**

EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA

27 April 2010

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1 Summary and recommendations

This report provides the results of our consideration of an application lodged by Penrice Soda Products Pty Ltd (Penrice) for the continuation of anti-dumping measures that apply to sodium hydrogen carbonate (sodium bicarbonate) exported to Australia from the People's Republic of China (China).

1.1 Recommendations

We recommend that the delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) decide not to reject the application.

If the delegate accepts this recommendation, to give effect to that decision, the delegate must publish the attached notice at **Appendix A** indicating that Customs and Border Protection will inquire into whether the continuation of the anti-dumping measures is justified.

1.2 Application of law to facts

Division 6A of Part XVB of the *Customs Act 1901* (the Act¹) sets out among other things, the procedures to be followed by the CEO in dealing with an application for the continuation of measures.

The Division empowers the CEO to reject or not reject an application for continuation of anti-dumping measures.

Depending on the CEO's decision, it may be necessary for the CEO to publish a notice indicating that it is proposed to inquire whether continuation of the measures is justified.

The CEO's powers have been delegated to certain officers of Customs and Border Protection.

1.3 Findings and conclusions

We have examined and considered Penrice's application for continuation of anti-dumping measures applying to sodium bicarbonate exported to Australia from China.

We are satisfied that the application lodged by Penrice complies with the requirements of s.269ZHC.

We are also satisfied, having regard to the applicant's claims and other relevant information, that there appears to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent. Our reasons for being satisfied are based on the possibility that the expiry of the measures will lead to price undercutting and that the

¹ A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

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undercutting will result in adverse volume, price and profitability, and return on investment effects.

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2 Background

On 6 February 2010, Customs and Border Protection published a notice in *The Australian* newspaper to invite certain persons to apply to the CEO of Customs and Border Protection for the continuation of anti-dumping measures on sodium bicarbonate exported from China².

On 1 April 2010, Penrice, the sole manufacturer of sodium bicarbonate in Australia, lodged an application for the continuation of the measures³.

2.1 Existing measures

On 16 March 2005, Customs and Border Protection gave public notice that it had initiated an investigation into sodium bicarbonate exported from China, following an application by Penrice.

In Trade Measures Report No. 98, Customs and Border Protection concluded that:

- exports of the goods from China were at dumped prices;
- the Australian industry producing like goods had suffered material injury as a result of those dumped goods; and
- future exports from China may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

Customs and Border Protection recommended to the Minister that anti-dumping measures be imposed on the goods exported from China.

On 2 November 2005, the Minister accepted Customs and Border Protection's recommendation and published a dumping duty notice for sodium bicarbonate exported to Australia from China. Notification of the Minister's decision was given in Australian Customs Dumping Notice No. 2005/39.

On 20 July 2006, Customs and Border Protection initiated a review of the measures on sodium bicarbonate at the request of the Minister. As a result of the review the measures were varied. Notification of the revised measures was published on 14 May 2006 after the Minister accepted the recommendations of Trade Measures Report No. 119.

The current measures are due to expire on 2 November 2010.

2.2 The goods subject to the measures

The goods subject to measures (the goods) are sodium hydrogen carbonate, which is also known as sodium bicarbonate or baking soda.

Sodium bicarbonate is a downstream product of the soda ash manufacturing process. It is manufactured using two different production methods. The first is the Natural Alkali method in which alkali is mined, purified, filtered, carbonised and dried before packing. The second method is the Solvay method, which is a

² In accordance with s.269ZHB.

³ In accordance with s.269ZHC(2).

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synthetic process that includes crude bicarbonate formation, filtration, light ash finishing and refining.

The sodium bicarbonate exported from China to Australia is manufactured by both the Natural Alkali and Solvay methods.

In the original investigation it was found that the majority of sodium bicarbonate exported from China to Australia was packaged in 25 kg bags or bags containing one tonne or more of the goods, referred to as 'regular packs'. These goods can be used in a range of applications including agriculture, food and general purpose.

A small quantity of sodium bicarbonate was exported with features including high quality packaging materials, end users' brand graphics, tamper evident caps and zip locks. These packs were general purpose/industrial grade sodium bicarbonate destined for use in swimming pools and are referred to as 'speciality packs'.

2.3 Tariff classification of the goods

The GUC are classified to tariff subheading 2836.30.00, statistical code 27 in Schedule 3 of the *Customs Tariff Act 1995*. The rate of duty is 'free' from all sources.

2.4 Australian industry producing like goods

Penrice is the sole manufacturer of sodium bicarbonate in Australia at its production facility in Osborne, South Australia, using the Solvay method of manufacture. Penrice advised that since the original investigation it has expanded its sodium bicarbonate production facilities by one third. In addition to selling sodium bicarbonate in the Australian market, Penrice exports the product to a wide range of countries.

2.5 Australian market

Penrice estimates that the size of the Australian market is approximately 33-36,000 tonnes per annum. Sodium bicarbonate is marketed as three broad grades in Australia - pharmaceutical, food and general purpose/industrial.

The Australian market is supplied by Penrice and imports. Penrice considers that China accounts for approximately 99% of imported sodium bicarbonate, with very small amounts from other countries. The original investigation found that the majority of imports from China were for general purpose/industrial use.

Using information supplied by Penrice and Customs and Border Protection's import database we observed that the Australian market contracted each year between 2006 and 2008 but started increased again in 2009 (**confidential attachment 1**).

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3 Compliance with section 269ZHC

We are satisfied that the application lodged by Penrice complies with the requirements of s.269ZHC.

3.1 Legislative framework

Section 269ZHC(1) specifies that an application under s 269ZHB must:

- (a) be in writing;
- (b) be in an approved form;
- (c) contain such information as the form requires; and
- (d) be signed in the manner indicated in the form.

Sections 269ZHC(2) and (3) cover procedural matters in relation to lodgement of the application.

3.2 Our assessment

The application lodged by Penrice was in writing, in the approved form, contained such information as the form required and was signed in the manner indicated in the form.

The applicant also provided non-confidential versions of the application for distribution to interested parties. The non-confidential version of the application adequately reflects the reasons for seeking continuation of the anti-dumping measures.

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4 Consideration of reasonable grounds

We are satisfied, having regard to the applicant's claims and other relevant information, that there appear to be reasonable grounds for asserting that the expiration of anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

4.1 Legislative framework

Section 269ZHD(2)(b) requires consideration of whether there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

For the purposes of considering s.269ZHD(2)(b), we have examined and assessed the applicants claims according to whether it is reasonable to assert that exports of the goods might: 1) continue; 2) be at dumped prices; and 3) lead to a continuation of, or recurrence of material injury?

4.2 Is it reasonable to assert that exports of the goods might continue?

4.2.1 Applicant's claims

Penrice states that since the original investigation Chinese exporters have continued to supply the Australian market with sodium bicarbonate and maintained distribution links.

Using ABS import data Penrice considers that:

- import volumes initially stabilised after measures were imposed;
- in 2008 the import volumes decreased to pre-2004 levels; and
- in 2009 imports dramatically increased.

Penrice states that in 2009 imports of sodium bicarbonate from China increased to almost double the volume of the original 2005 investigation period. The increased volume of imports are claimed to have continued into 2010 and resulted in Chinese imports securing a historically high market share proportion.

Penrice also states that as China:

- is the world's largest producer of soda ash, the main ingredient of sodium bicarbonate; and
- has several large sodium bicarbonate producers;

there is capacity for exports from China to increase should measures expire. Furthermore, Penrice understand that Chinese manufacturers depend on exports to maintain a high capacity utilisation level.

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4.2.2 Our assessment

Customs and Border Protection's import database shows imports of sodium bicarbonate from China have continued since measures were imposed demonstrating that exporters have maintained distribution links in Australia. The data also shows that import volumes of sodium bicarbonate from China declined in 2008 and increased again in 2009. We observed that the increased sales volume and market share of Chinese imports in 2009 were at the expense of Penrice's volume and market share (**confidential attachment 2**).

We also note that China has a substantial sodium bicarbonate industry. While Penrice has provided no evidence to demonstrate that these producers have excess capacity or seek exports to fill this capacity, recent import trends indicate that exports from China have been increasing.

Accordingly, we consider that there appears to be reasonable grounds for asserting that exports from China will continue after the expiration of the anti-dumping measures.

4.3 Is it reasonable to assert that exports of the goods might be at dumped prices?

4.3.1 Applicant's claims

Penrice considers that it is likely that Chinese exporters will resume exporting to Australia at dumped prices should anti-dumping measures be allowed to expire.

Penrice noted that in the original investigation Chinese exporters were found to have dumping margins of between 3-42.6% (although these rates were revised in a subsequent review). Penrice calculated a current dumping margin using the export prices from ABS import data and a normal value based on constructed Chinese domestic selling price.

Penrice constructed selling prices for sodium bicarbonate that was produced both by the Solvay and the Natural Alkali production methods. Penrice used information from commentaries such as the CMAI Global Soda Ash Service and, where no independent information was available, its own costs. Penrice then added a ten percent profit margin to these cost calculations to allow for reasonable return on investment.

Penrice considers that sodium bicarbonate manufactured by the Natural Alkali process in Inner Mongolia and exported via the Chinese port of Tianjin is the major source of injury to the Australian industry. Using the Natural Alkali cost model for normal value and ABS import data for export prices, Penrice calculated that the majority of sodium bicarbonate imports from Tianjin port had dumping margins of up to thirty percent.

Penrice considers that the current measures have created a floor price for the exported goods that does not reflect cost increases and if measures are removed prices may drop even lower. Penrice states that prices of Chinese imports into New Zealand, where no dumping measures are in place, were significantly lower than import prices into Australia during the same period. Penrice provided New Zealand import data to support this argument and concluded from this that in the absence of measures Chinese exporters may

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once again commence exporting sodium bicarbonate into Australia at dumped prices.

Market Situation

Penrice asserts that the price of soda ash and sodium bicarbonate are artificially low in the Chinese domestic market and are not reflective of a competitive market. Penrice considers that certain sodium bicarbonate and soda ash producers have received, or may be eligible to receive, subsidies from the government. Penrice argues that this subsidisation has resulted in domestic prices in China being unsuitable for the purpose of establishing a normal value.

4.3.2 Our assessment

Penrice provided the import data and cost model to support its dumping margin calculations. We consider that the cost model provided by Penrice may not reflect the actual cost of production in China as the model relies heavily on Penrice's Australian costs and some information that is quite dated. However, as the best information currently available to Customs and Border Protection we have used the cost model to assess Penrice's claims.

We compared export prices for imports from Customs and Border Protection's import database to the normal values provided by the applicant. We found that almost ninety percent of imports (by volume) were dumped based on the information provided. We then adjusted Penrice's normal value to include no profit margin and still found dumping margins for over sixty percent of shipments as shown in **confidential attachment 3**.

We then compared the export price to New Zealand as provided by the applicant and the export price to Australia as recorded in Customs and Border Protection's import database for 2009. This showed that the price to New Zealand was below the price to Australia in all but two months. This indicates that the current measures may have created a 'floor price' for imports and if measures expire it might lead to the resumption of dumping. The comparison between the Australian and New Zealand prices is at **confidential attachment 4**.

We consider that there is insufficient evidence in this application to investigate claims of a market situation.

4.4 Is it reasonable to assert that exports of the goods might lead to a continuation of, or recurrence of material injury?

4.4.1 Applicant's claims

Penrice considers that it is already facing price undercutting from Chinese imports of sodium bicarbonate and expects this to increase in the future. Penrice argues that it has encountered prices in the market of approximately AUD\$300-320/MT for Chinese imports and provided market intelligence quotes to support this. Given the export prices of Chinese sodium bicarbonate in the absence of measures to New Zealand, Penrice considers that if measures expire the price may drop causing further price undercutting.

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Penrice also argues that increased imports from China have already secured a larger portion of the market than previously, resulting in lost market share and that the expiration of measures will result in further loss of market share.

Finally, Penrice argues that the cessation of measures will result in reduced return on investment. Penrice upgraded its facilities to increase capacity by 33% in the 2008/2009 financial year, which coincided with the increase in Chinese imports. Penrice has plans for a further expansion but stated this will only go ahead if imports are fairly priced.

4.4.2 Our assessment

We have assessed the market intelligence, New Zealand import data and sales data provided by Penrice and consider that there are reasonable grounds to conclude that, if the anti-dumping measures expire, future exports of sodium bicarbonate from China at dumped prices may cause material injury to the Australian industry.

We consider that the imports of sodium bicarbonate from China may occur at prices that undercut the Australian industry's prices, and the Australian industry may lose sales volumes and market share as a result.

We also consider that the price undercutting may lead to the depression and suppression of the Australian industry's prices for sodium bicarbonate.

As a consequence of the adverse volume and price effects, the Australian industry may experience reduced profits and profitability, and reduced returns on investment.

4.5 Conclusion on "reasonable grounds"

We consider that in this case there appear to be reasonable grounds for asserting that the expiration of anti-dumping measure to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Accordingly we recommend that you as delegate of the CEO decide not to reject the application.

In accordance with s 269ZHD(4) you will need to publish notice indicating that it is proposed to inquire into whether continuation of the measures is justified.

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5 List of Attachments

| | |
|----------------------------------|---|
| Appendix A | Public notice under s. 269ZHD(4) |
| Confidential Attachment 1 | Australian Market Size |
| Confidential Attachment 2 | Australian Market Share and Sales Volumes |
| Confidential Attachment 3 | Analysis of Import Data and Dumping Margins |
| Confidential Attachment 4 | Australian and New Zealand Import Prices |

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Appendix A

Customs Act 1901 – Part XV B

Sodium hydrogen carbonate (sodium bicarbonate)

exported from the People's Republic of China

Initiation of continuation inquiry

Notice under s. 269ZHD(4)

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) will inquire into whether the continuation of anti-dumping measures in respect of sodium hydrogen carbonate (sodium bicarbonate), exported from the People's Republic of China (China) is justified. The inquiry will commence on 30 April 2010.

The goods subject to anti-dumping measures, in the form of a dumping duty notice, are sodium hydrogen carbonate, also referred to as sodium bicarbonate or baking soda, which can be manufactured via the natural alkali method or the Solvay method.

The goods are classified under tariff subheading 2836.30.00, statistical code 27 in Schedule 3 to the *Customs Tariff Act 1995*. The rate of Customs duty on sodium bicarbonate is 'free' for exports from China.

The current anti-dumping measures were initially imposed by public notice on 2 November 2005 following the then Minister for Customs and Border Protection's (the Minister) consideration of Trade Measures Report No. 98. The measures are in the form of anti-dumping duties on all exporters from China.

On 20 July 2006, Customs and Border Protection initiated a review of the measures on sodium bicarbonate at the request of the Minister. Revised measures were published on 14 May 2006 after the Minister accepted the recommendations of Trade Measures Report No. 119. Interested parties are invited to lodge written submissions concerning the continuation of the measures not later than **9 June 2010** with:

The Director
Operations 3
Customs and Border Protection
Trade Measures Branch
Customs House
5 Constitution Avenue
Canberra ACT 2601

or by email tmops3@customs.gov.au , or by facsimile number 02 6275 6990.

Confidential submissions must be clearly marked "in-confidence" and be accompanied by two non-confidential versions suitable for placement on the public record. All non-confidential submissions will be placed on the public record for this inquiry together with a copy of all relevant correspondence between Customs and Border Protection and other persons.

A statement of the essential facts (SEF) on which the CEO proposes to base a recommendation to the Minister for Home Affairs (the Minister) will be placed on the public record by 18 August 2010, or such longer period as the Minister allows under s. 269ZHI of the *Customs Act 1901* (the Act). Interested parties are invited to lodge submissions in response to the SEF within 20 days of that statement being placed on the public record. Submissions to the SEF should also be lodged with Customs and Border Protection at the above mail, fax or email addresses.

A report and recommendation to the Minister will be made on or before 2 October 2010 (or such longer period as the Minister allows under s. 269ZHI of the Act).

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Unless the Minister, after considering that report, decides to take steps to secure the continuation of the anti-dumping measures, they will expire on 2 November 2010. Therefore, on and from 3 November 2010, the anti-dumping measures would no longer apply.

Particulars of the reasons for the decision to initiate this inquiry are shown in Consideration Report No. 160 (CON 160) held on the public record. Interested parties wishing to examine the public record may do so on the internet at adpr.customs.gov.au/Customs or at Customs House, 5 Constitution Avenue, Canberra ACT during business hours by contacting Trade Measures office management on telephone number 02 6275 6547. CON 160 and all Australian Customs Dumping Notices are also available on the Customs and Border Protection website at www.customs.gov.au.

Enquiries about this notice may be directed to the case team on telephone number 02 6245 5453 or email tmops3@customs.gov.au.

Geoffrey Maxwell Gleeson
Delegate of the Chief Executive Officer

27 April 2010

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