



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

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R E P O R T

**TRADE MEASURES BRANCH  
REPORT TO THE MINISTER NO. 160**

**INQUIRY INTO WHETHER  
ANTI-DUMPING MEASURES  
SHOULD BE CONTINUED**

**SODIUM HYDROGEN CARBONATE  
(SODIUM BICARBONATE)**

**EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

5 October 2010



Australian Government  
Australian Customs and  
Border Protection Service

*Customs Act 1901 – Part XV B*

**SODIUM HYDROGEN CARBONATE (SODIUM  
BICARBONATE)**

**EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**Finding in relation to continuation inquiry**

**Public notice under sections 269ZHG(1) and (4)**

The Australian Customs and Border Protection Service (Customs and Border Protection) has completed its inquiry, which was commenced on 30 April 2010, into whether the expiration of the anti-dumping measures applying to sodium hydrogen carbonate (sodium bicarbonate) exported to Australia from the People's Republic of China (China) ("the goods"), would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent. Recommendations resulting from that inquiry, reasons for the recommendations and material findings of fact and law in relation to the inquiry are contained in Trade Measures Report No 160 ("REP 160").

I, BRENDAN O'CONNOR, the Minister for Home Affairs, have considered REP 160 and have decided to accept the recommendation and reasons for the recommendation, including all the material findings and facts of law, therein that the anti-dumping measures applying to sodium bicarbonate exported to Australia from China should continue from 2 November 2010.

I have decided to take steps to secure the continuation of anti-dumping measures currently applying to sodium bicarbonate exported to Australia from China. These anti-dumping measures were due to expire on 2 November 2010.

I determine that the dumping duty notice continues in force after 2 November 2010 for a further five years unless earlier revoked.

Copies of REP 160 will be sent to all interested parties that participated in the inquiry. Additional copies may be obtained by contacting Trade Measures Office Management on telephone 02 6275 6547 or by fax on 02 6275 6888. Trade Measures reports are also available on the Customs and Border Protection internet site at [www.customs.gov.au](http://www.customs.gov.au).

Enquiries about this notice may be directed to Operations 3, Trade Measures Branch, Customs and Border Protection on telephone 02 6245 5453, facsimile 02 6275 6990, or by email to [tmops3@customs.gov.au](mailto:tmops3@customs.gov.au).

Dated this 18<sup>th</sup> day of October 2010

BRENDAN O'CONNOR  
Minister for Home Affairs

## TABLE OF CONTENTS

ABBREVIATIONS .....	5
1. SUMMARY AND RECOMMENDATIONS .....	6
1.1 Applicable law .....	6
1.2 Recommendations .....	6
1.3 Summary of findings and conclusions .....	6
1.3.1 The goods and like goods .....	6
1.3.2 Australian industry .....	7
1.3.3 Australian market .....	7
1.3.4 Imports from China .....	7
1.3.5 Economic condition of the industry .....	7
1.3.6 Likelihood of dumping and material injury recurring or continuing if measures expire .....	7
2. INTRODUCTION .....	8
2.1 The continuation inquiry .....	8
2.2 Submission in response to the statement of essential facts .....	8
2.3 History of anti-dumping measures .....	9
3. THE GOODS & LIKE GOODS .....	10
3.1 Findings .....	10
3.2 The goods .....	10
3.2.1 Tariff classification .....	10
3.3 Like goods .....	10
4. AUSTRALIAN INDUSTRY .....	12
4.1 Findings .....	12
4.2 Manufacturing process .....	12
5. AUSTRALIAN MARKET .....	13
5.1 Findings .....	13
5.2 Market structure .....	13
5.3 Market size and share .....	13
6. Imports from China .....	15
6.1 Findings .....	15
6.2 Dumping during the review period .....	15
6.3 Volume Trends .....	17
6.4 Price Trends .....	17
7. ECONOMIC CONDITION OF THE INDUSTRY .....	19
7.1 Findings .....	19
7.2 Period of analysis .....	19
7.3 Penrice's claims .....	19
7.3 Volume effects .....	20
7.3.1 Sales volume .....	20
7.3.2 Market Share .....	20
7.4 Price effects .....	21
7.4.1 Price suppression .....	21
7.4.2 Price depression .....	22
7.4.4 Price undercutting .....	23
7.5 Profits and profitability .....	24
7.6 Customs and Border Protection's assessment .....	25

PUBLIC RECORD

8. LIKELIHOOD OF DUMPING AND INJURY RECURRING OR CONTINUING IF MEASURES EXPIRE .....26

8.1 Findings .....26

8.2 Penrice’s claims .....26

8.3 Claims by other interested parties.....27

8.4 Likelihood of dumping continuing or recurring if measures expire.....27

8.5 Likelihood of material injury caused by dumping continuing or recurring 28

9. CONFIDENTIAL ATTACHMENTS .....30

Public Record

**ABBREVIATIONS**

ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901 (Cth)</i>
CEO	Chief Executive Officer of Customs and Border Protection
China	Republic of China
Customs and Border Protection	Australian Customs and Border Protection Service
the goods	the goods subject to measures
Ihjuchem	Inner Mongolia Ihjuchem Industrial Co Ltd
Minister	Minister for Home Affairs
Penrice	Penrice Soda Products Ltd
Qingdao	Qingdao Hot Chemicals Co Ltd
SEF	Statement of essential facts

## 1. SUMMARY AND RECOMMENDATIONS

This report to the Minister for Home Affairs (the Minister) provides the results of the Australian Customs and Border Protection Service (Customs and Border Protection) inquiry into whether the Minister should take steps to secure 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 Applicable law

Division 6A of Part XVB of the Act<sup>1</sup> provides for the Chief Executive Officer of Customs and Border Protection (CEO) to alert interested parties to the impending expiry of measures and provide them with an opportunity, before those measures expire, to apply for a continuation of those measures. The Division:

- sets out the consequences if no application is made;
- outlines the procedure to be followed by the CEO in dealing with an application and preparing a report for the Minister;
- empowers the Minister, after consideration of that report, either to decide that the measures will expire or to take steps to ensure the continuation of measures.

The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection ("the delegate").

It must not be recommended that the Minister take steps to secure the continuation of the anti-dumping measures unless the delegate is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

### 1.2 Recommendations

The delegate recommends that the Minister:

- a) declare that he has decided to take steps to secure the continuation of anti-dumping measures in respect of the goods exported from China; and
- b) sign the requisite notice<sup>2</sup> (**confidential attachment 1**).

### 1.3 Summary of findings and conclusions

#### 1.3.1 The goods and like goods

**The goods**— The goods subject to the measures, which are more particularly described in section 3.2 of this report, are sodium hydrogen carbonate, also referred to as sodium bicarbonate or baking soda.

<sup>1</sup> A reference in this report to a provision of legislation, unless otherwise specified, is a reference to the *Customs Act 1901 (Cth)*.

<sup>2</sup> Section 269ZHG(1).

**Like goods**—Sodium bicarbonate manufactured by Penrice Soda Products Ltd (Penrice) are like goods<sup>3</sup> to the goods because they are physically similar and functionally and commercially interchangeable, as set out in section 3.3 of this report.

### 1.3.2 Australian industry

There is an Australian industry producing like goods. Penrice is the sole manufacturer of sodium bicarbonate in Australia.

### 1.3.3 Australian market

The Australian market for sodium bicarbonate is supplied by Penrice and importers. Penrice supplies the majority of the sodium bicarbonate used in the market with most of the remainder imported from China.

### 1.3.4 Imports from China

Imports from China during the period 1 April 2009 to 31 March 2010 were at dumped prices, with dumping margins between 18-47%. During this period the volume of imports increased. Due to changes in the exchange rate for the Australian to United States dollar, imports also became more price competitive.

### 1.3.5 Economic condition of the industry

Penrice has lost sales volume and market share, and experienced price undercutting, in 2009 and 2010.

### 1.3.6 Likelihood of dumping and material injury recurring or continuing if measures expire

The delegate is satisfied that the expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent because:

- during the twelve month period April 2009 to March 2010 imports from China were at dumped prices, with dumping margins between 18-47% and if measures expire it is likely that imports will continue to be dumped;
- the volume of imports from China has increased in the 2009 and 2010 period and there are indications that manufacturers in China have excess capacity;
- imports from China undercut the selling prices of the Australian industry to its major customers and the expiration of measures is likely to lead to imports becoming more price competitive, resulting in further undercutting; and
- the Australian industry suffered injury in the form of lost market share and sales volume in 2009 and 2010. While other factors may have contributed to this injury, dumping was also part of the cause. If measures expire, dumped, low priced imports from China are likely to cause material injury to the Australian industry.

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<sup>3</sup> Section 269T.

## 2. INTRODUCTION

### 2.1 The continuation inquiry

The current measures applying to sodium bicarbonate from China are due to expire on 2 November 2010.

On 6 February 2010 a notice was published inviting certain persons to apply for the continuation of the measures applying to sodium bicarbonate from China (“the measures”).

On 1 April 2010, Penrice, the sole manufacturer of sodium bicarbonate in Australia, lodged an application for the continuation of the measures. The application was made in the prescribed manner by a person entitled to make the application.<sup>4</sup>

After examining the application, the delegate was satisfied that there appeared to be reasonable grounds for asserting that the expiration of 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.<sup>5</sup> The delegate decided not to reject the application.

Notice of the initiation of this inquiry was published in *The Australian* newspaper on 30 April 2010.<sup>6</sup> Australian Customs Dumping Notice (ACDN) No. 2009/15 was also published.

On 18 August 2010, the delegate placed on the public record a statement of essential facts on which the delegate proposed to base his recommendation to the Minister concerning the continuation of anti-dumping measures. Interested parties were invited to lodge submissions in response to this statement of essential facts by no later than 8 September 2010. One submission was received and the non-confidential version of this submission is available on the public record.

Within 155 days after the initiation of the inquiry, or such later period as the Minister allows,<sup>7</sup> the CEO must give to the Minister a report in respect of the goods the subject of the application.

In formulating the final report, the CEO must have regard to the application for continuation, any submissions relating generally to the continuation of the measures to which the CEO has had regard for the purpose of formulating the statement of essential facts, the statement of essential facts, any submission made in response to the statement of essential facts that is received by Customs and Border Protection within 20 days after the statement of essential facts was placed on the public record, and any other matters that the CEO considers to be relevant to the inquiry.<sup>8</sup>

### 2.2 Submission in response to the statement of essential facts

One submission, made by Penrice, was received in response to the statement of essential facts. Penrice concurred with the findings that:

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<sup>4</sup> Section 269ZHC.

<sup>5</sup> Section 269ZHD(2).

<sup>6</sup> Section 269ZHD(4).

<sup>7</sup> Section 269ZHI.

<sup>8</sup> Section 269ZHF(3).

## PUBLIC RECORD

- imports from China had increased since 2007;
- Penrice has lost market share to imports from China; and
- the price of sodium bicarbonate from China undercut Penrice's prices.

However, Penrice disagreed with the preliminary finding that it had not suffered from price suppression or depression. It also contested the analysis of its profits and profitability since measures were imposed and the preliminary finding that Penrice has not suffered profit injury as a result of dumped imports. These aspects of the submission have been addressed in sections 7.4.3 and 7.5.1 of this report respectively.

### **2.3 History of anti-dumping measures**

On 16 March 2005, an investigation was initiated into sodium bicarbonate exported from China, following an application by Penrice.

In this investigation, as outlined in Trade Measures Report No. 98, it was found 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.

Accordingly, it was recommended to the Minister that anti-dumping measures be imposed on the goods exported from China.

The Minister accepted this recommendation and published a dumping duty notice on 2 November 2005. Notification of the Minister's decision was given in ACDN 2005/39.

On 20 July 2006, a review of measures was initiated 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 2007 after the Minister accepted the recommendations of Trade Measures Report No. 119.

On 13 April 2010, another review was initiated following the consideration of an application by Penrice. A statement of essential facts for this review was placed on the public record on 31 August 2010. A report and recommendation to the Minister will be made on or before 15 October 2010.

## 3. THE GOODS & LIKE GOODS

### 3.1 Findings

**The goods**—The goods subject to the measures, which are more particularly described in section 3.2 of this report, are sodium hydrogen carbonate, also referred to as sodium bicarbonate or baking soda.

**Like goods**—Sodium bicarbonate manufactured by Penrice are like goods<sup>9</sup> to the goods for the reasons set out in section 3.3 of this report.

### 3.2 The goods

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. For the natural alkali method, alkali is mined, purified, filtered, carbonised and dried before packing. The Solvay method is a synthetic process that includes crude bicarbonate formation, filtration, light ash finishing and refining.

#### 3.2.1 Tariff classification

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' from all sources.

### 3.3 Like goods

Penrice manufactures sodium bicarbonate at its plant in Osborne, South Australia, using the Solvay method of manufacture. The sodium bicarbonate manufactured there is marketed in three broad grades in Australia: pharmaceutical, food and general purpose/industrial (for use in stockfeed, pool products/water treatment and industrial processes). The grades are defined by chemical purity, consistency and particle size. Particle size ranges from extra fine to coarse.

Penrice sells sodium bicarbonate in a range of packing sizes from 25kg bags to 1200kg bulka bags.

In the original investigation in 2005<sup>10</sup> sodium bicarbonate manufactured in Australia were found to be like goods to sodium bicarbonate exported from China. However, it was identified that some sodium bicarbonate sourced from China was exported and sold in specialty packs. These were smaller packs with high quality packaging, often with features such as tamper evident caps and zip locks, which Penrice was unable to supply. These products are predominately used in the pool industry.

Despite the differences in packaging, it was found that the physical characteristics of the locally produced sodium bicarbonate closely resemble those of the 'specialty packs' imported from China. As a result, these goods were not excluded from the measures but instead a separate dumping margin and rate of duty was calculated for

<sup>9</sup> Section 269T.

<sup>10</sup> Trade Measures Report No 98.

## PUBLIC RECORD

this product. To differentiate it from other imported sodium bicarbonate, it was referred to as 'specialty' packs and all other sodium bicarbonate as 'regular' packs.

Based on information provided by Penrice and importers, Customs and Border Protection remains satisfied that sodium bicarbonate manufactured by Penrice are like goods to the sodium bicarbonate imported from China because they are:

- physically similar: the goods are produced in a similar grade, purity, appearance and standard;
- commercially interchangeable: the goods directly compete with Australian produced goods; and
- functionally interchangeable: the goods are used to perform the same function and have the same end-use.

The sodium bicarbonate imported from China only comes in one grade and is predominately used in general purpose/industrial applications.

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## 4. AUSTRALIAN INDUSTRY

### 4.1 Findings

There is an Australian industry producing like goods.<sup>11</sup>

### 4.2 Manufacturing process

For goods to be taken as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- for the goods to be partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.<sup>12</sup>

Penrice stated that it is the sole manufacturer of sodium bicarbonate in Australia. No other interested party has claimed to be an Australian producer of sodium bicarbonate.

A verification visit to Penrice was undertaken. The report<sup>13</sup> relating to this visit details Penrice's production costs and notes that an inspection of the manufacturing facilities was undertaken.

On the basis of the verification visit and the inspection of Penrice's manufacturing facilities the delegate is satisfied that at least one substantial process in the manufacture of sodium bicarbonate is carried out in Australia, and that sodium bicarbonate is manufactured in Australia.

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<sup>11</sup> Subsection 269T(4).

<sup>12</sup> Subsections 269T(2) and 269T(3).

<sup>13</sup> Penrice Soda Products Ltd visit report is available on the Electronic Public Record.

## 5. AUSTRALIAN MARKET

### 5.1 Findings

The Australian market for sodium bicarbonate is supplied by Penrice and importers. Penrice supplies the majority of the sodium bicarbonate used in the market with most of the remainder coming from China. Only a small amount is imported from other countries.

### 5.2 Market structure

The Australian market for sodium bicarbonate is supplied by Penrice and imports, predominately from China. Importers are generally distributors or re-packagers.

Penrice sells sodium bicarbonate directly to large end users and distributors in the market. The large distributors then sell sodium bicarbonate to smaller customers.

While Penrice will sell directly to small customers in some circumstances, these sales attract a price premium. As a result, most importers find it commercially unviable to purchase sodium bicarbonate directly from Penrice.

Data from Customs and Border Protection's import database was examined and it was considered appropriate to visit the four importers who accounted for over 50% of imports in the period April 2009 to March 2010. These importers were:

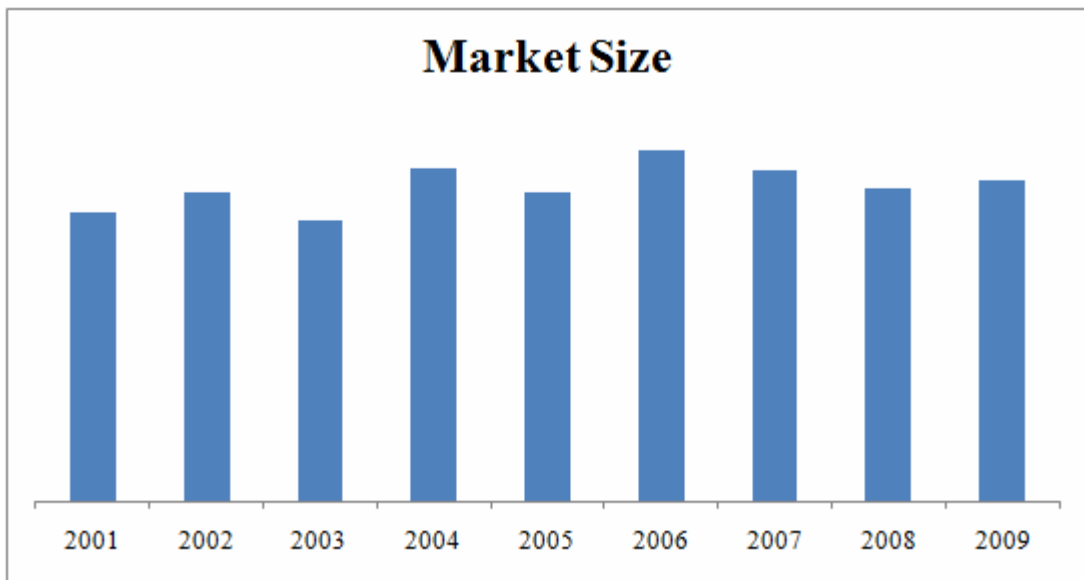
- Canbrae Pty Ltd T/A World Search;
- Focus Products Pty Ltd;
- Orica Australia Pty Ltd (Orica); and
- Redox Pty Ltd.

Orica declined to complete an importer questionnaire and did not supply any information for the purpose of the continuation inquiry.

### 5.3 Market size and share

During the continuation inquiry, Customs and Border Protection verified sales data submitted by Penrice and also collected and verified import and sales data from several importers. The balance of data used to calculate the size of the Australian sodium bicarbonate market was sourced from Customs and Border Protection's import database.

The size of the Australian market for sodium bicarbonate over the past decade is charted in calendar years using information from this continuation inquiry and the original investigation (**confidential attachment 2**). Measures were originally imposed on 5 November 2005.



The size of the market has decreased since 2006 although a slight increase can be seen in 2009.

In the period 2006 to 2009 Penrice has held at least 75% of the Australian market. Imports from China account for most of the remaining sodium bicarbonate used in Australia with less than 3% of the market being supplied by imports from other countries.

## 6. IMPORTS FROM CHINA

### 6.1 Findings

Imports from China during the period 1 April 2009 to 31 March 2010 were at dumped prices, with dumping margins between 18-47%. During this period the volume of imports increased. Due to changes in the exchange rate for the Australian to United States dollar, imports also became more price competitive.

### 6.2 Dumping during the review period

At the commencement of this inquiry, an exporter questionnaire was sent to all known exporters of the goods from China requesting domestic sales, costs and export information relating to the period April 2009 to March 2010 (the "review period"). Only one exporter cooperated, being Qingdao Hot Chemicals Co Ltd (Qingdao), a company that did not manufacture sodium bicarbonate but rather repackaged and exported it in specialty packs. As Qingdao was not a manufacturer, a verification visit was not conducted.

The normal value, export price and dumping margins were determined for exporters from China during the review period using information supplied by Penrice and importers<sup>14</sup>, and information from Customs and Border Protection's import database.

The variable factors for three groups of exporters have been calculated as set out below.

#### Inner Mongolia Ihjuchem Industrial Co., Ltd (Ihjuchem)

The export price for Ihjuchem was calculated using the sales price of all exports made on free on board (FOB) terms as listed in Customs and Border Protection's import database and from information gathered at importer visits<sup>15</sup>.

In its application, Penrice identified Ihjuchem as a manufacturer that uses the natural alkali method of production and provided a constructed cost model for the normal value using this production method. The normal value for Ihjuchem was calculated using the constructed cost model for the natural alkali production method with adjustments made for packing, inland freight, port charge and value added tax, to ensure fair comparison of export prices with normal value<sup>16</sup> (**confidential attachment 3**).

#### Other 'Regular' Pack Exporters

Data obtained from Customs and Border Protection's import database was used to calculate the export price, excluding any part of the price that represented a charge

<sup>14</sup> During the inquiry Customs and Border Protection visited Redox Pty Ltd, Focus Products Pty Ltd and World Seach. The visit reports for these companies are available on the public record.

<sup>15</sup> s. 269TAB(3)

<sup>16</sup> s.269TAC(6)

## PUBLIC RECORD

in respect of the transport of the goods after exportation and any other matter arising after exportation<sup>17</sup>.

Consistent with the 2007 review, all other exporters are considered to use the Solvay method of production. The normal value for these exporters was calculated using the constructed cost model for the Solvay method of production as provided by Penrice with adjustments made for packing, inland freight, port charge and value added tax, to ensure fair comparison of export prices with normal value<sup>18</sup> (**confidential attachment 3**).

### 'Specialty' Pack Exporters

Data obtained from Customs and Border Protection's import database was used to calculate the export price, excluding any part of the price that represented a charge in respect of the transport of the goods after exportation and any other matter arising after exportation<sup>19</sup>.

The cooperating exporter Qingdao did not make any sales of specialty packs on the domestic market in the review period and, as mentioned previously, is not the manufacturer of the goods. Therefore, its costs or selling prices could not be used for normal value purposes.

To establish normal values, the export price of 'specialty pack' exporters was uplifted by the dumping margin calculated for 'regular' pack exporters<sup>20</sup> (**confidential attachment 3**).

### Summary

The following dumping margins were calculated:

Exporter	Dumping Margin
Ihjuchem	18%
All other 'regular' pack exporters	47%
'Specialty' pack exporters	47%

The dumping duty rates are different to those published in the SEF due to the correction of a minor calculation error.

The size of the dumping margins found indicate that during the review period the measures in place were ineffective in preventing dumping. These measures are currently under review. The Statement of Essential Facts for the review (SEF 161) recommended that the variable factors be revised to reflect the dumping margins during the review period.

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<sup>17</sup> s. 269TAB(3)

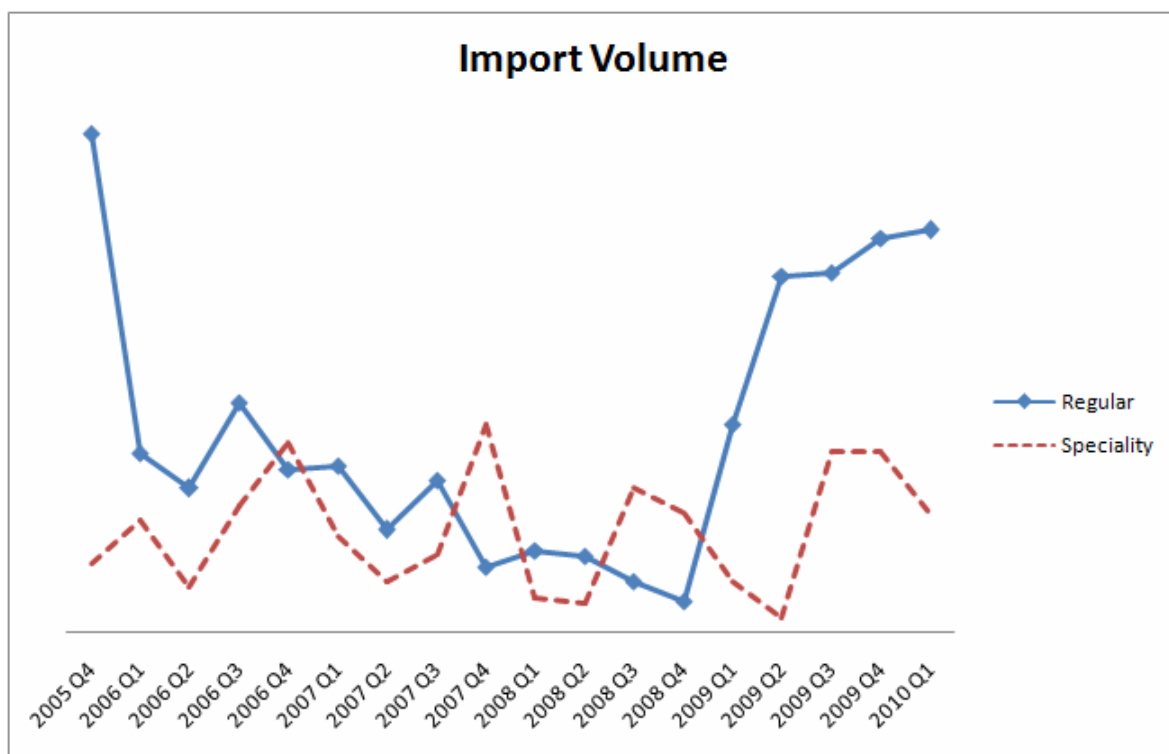
<sup>18</sup> s.269TAC(6)

<sup>19</sup> s. 269TAB(3)

<sup>20</sup> s. 269TAC(6)

### 6.3 Volume Trends

Since measures were imposed exporters in China have continued to supply the Australian market with imports of sodium bicarbonate and have maintained distribution links. Using information from Customs and Border Protection's import database the volume of imports since the original investigation has been charted below:



As shown by this chart, imports of 'regular' pack sodium bicarbonate dropped significantly after measures were initially imposed. After the initial drop in imports, the volume of sodium bicarbonate that was imported from China gradually decreased until the end of 2008. At the start of 2009 the volume of imports of sodium bicarbonate increased significantly and continued to increase into 2010 (**confidential attachment 4**).

### 6.4 Price Trends

The export prices of 'regular' pack sodium bicarbonate from China since the measures were imposed were assessed, as listed in Customs and Border Protection's import database. In order to ensure an accurate comparison between sales, all 'regular' pack sodium bicarbonate sold on Cost, Insurance and Freight (CIF) terms were examined (**confidential attachment 5**).

Due to changes in the United States to Australian dollar exchange rate the price of the goods in Australian dollars decreased in 2009, making them more price competitive in the Australian market. However, the price of the goods in the currency of invoice remained relatively constant.

The export price of 'specialty' pack sodium bicarbonate was also examined and the price of these goods was significantly higher than 'regular' pack sodium bicarbonate,

PUBLIC RECORD

confirming the position of the original investigation and subsequent review that these goods compete in a different market segment.

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## 7. ECONOMIC CONDITION OF THE INDUSTRY

### 7.1 Findings

Penrice has lost sales volume and market share, and experienced price undercutting, in 2009 and 2010.

### 7.2 Period of analysis

To assess the economic condition of the industry an assessment was made of Penrice's costs, sales and other financial data since measures were imposed on 5 November 2005, as charted in this section of the report. Data relating to export volumes from China was also examined for the same period of time. Additional data was gathered and assessed for the review period, April 2009 to March 2010, from Penrice and importers, such as line by line sales listings and importation costs.

### 7.3 Penrice's claims

In its application for the continuation of measures on the goods from China, Penrice claimed that:

- exports from China have continued since measures were imposed and the volume of imports has increased to double that found in the original investigation period. Penrice argues that it has lost market share and sales volumes to these imports;
- in 2009 and the first quarter of 2010 some imports of sodium bicarbonate from China, particularly those from the port of Tianjin (suggesting that they were manufactured in Inner Mongolia where the lower cost natural alkali method of production is used) were at prices that undercut the Australian industry;
- these imports jeopardise projected returns on recent capital investment into Penrice's sodium bicarbonate production facilities and the expiration of measures could lead to the postponement of another planned expansion; and
- should measures expire Penrice expects it will lose more market share and experience further price undercutting.

Penrice was visited in May 2010 and the data it had provided in its application was verified. On 30 July 2010, Penrice provided revised data for the first quarter of 2010 using its year end accounts<sup>21</sup>. In addition, data for the second quarter of 2010, also based on the year end accounts, was provided.

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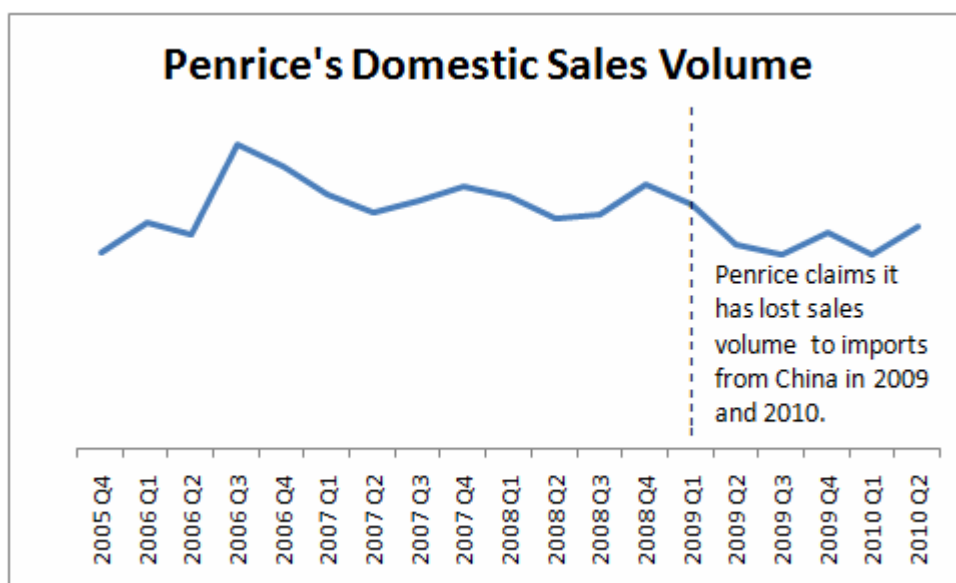
<sup>21</sup> Penrice's financial year is July to June. The revised information has resulted in a small change to the costs and revenue data as provided in the 'Condition of the Industry' section of the Penrice industry visit report available on the public record.

## 7.3 Volume effects

### 7.3.1 Sales volume

The assessment of sales volume is based on information obtained from Penrice and taken from Customs and Border Protection's import database since measures were imposed.

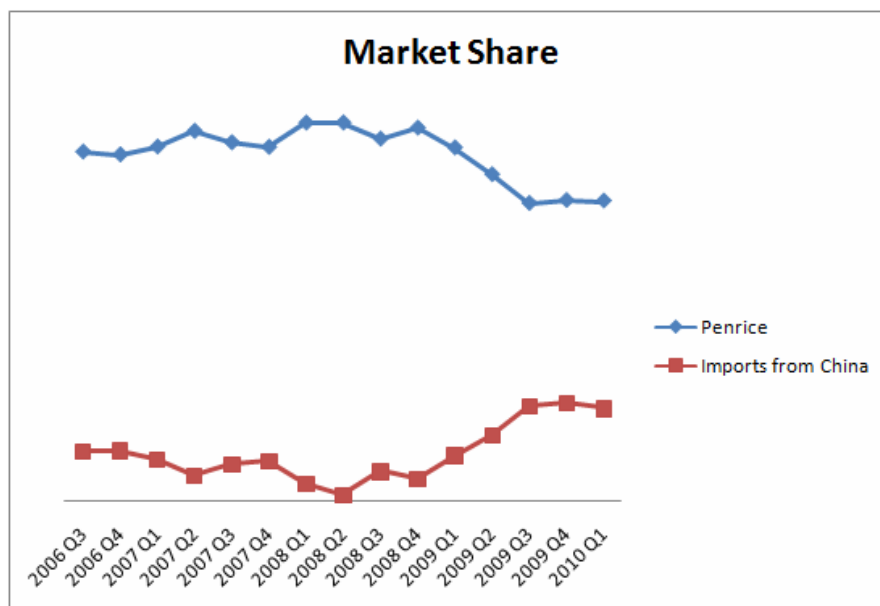
The volume of sodium bicarbonate Penrice sold in the Australian domestic market since measures were imposed in November 2005 is charted below:



Penrice's domestic sales volume peaked in 2006. In 2007 and 2008 the sales volume fluctuated but generally trended downwards (**confidential attachment 6**). This is consistent with a decline in the overall sodium bicarbonate market (as shown in section 5.2). Penrice claims that in 2009 and 2010 it lost sales to imports from China. The chart above shows that in this period Penrice's sales volumes were lower than in previous years.

### 7.3.2 Market Share

Penrice's market share (as a percentage of the total market) and the market share of imports from China over the same period of time are charted below.



This chart shows that imports from China gained market share as Penrice lost market share. During this period imports from sources other than China were negligible. Therefore, Penrice has lost market share and sales volume to imports from China (**confidential attachment 6**).

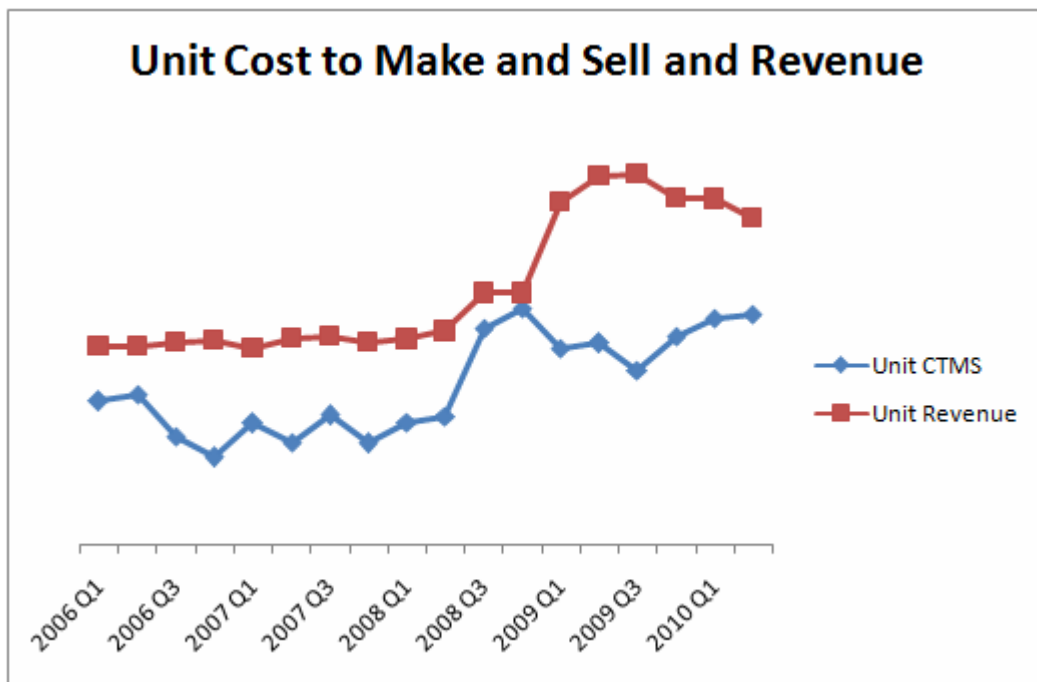
## 7.4 Price effects

Price effects may be in the form of:

- price suppression, which occurs when price increases for a company's product, which otherwise would have occurred, have been prevented; and/or
- price depression, which occurs when a company, for some reason, lowers its prices; and/or
- price undercutting, which occurs when imported product is sold at a price below that of the Australian product in comparable sales.

### 7.4.1 Price suppression

Movements in Penrice's unit prices and costs since measures were imposed are illustrated in the following chart. Please note, for confidentiality purposes, the axis on this chart does not start at zero.



Penrice's unit cost to make and sell sodium bicarbonate increased in 2008. This was caused by an increase in distribution, finance and other costs per unit (**confidential attachment 7**). Penrice provided data to support its claim that increased finance and other costs were caused by the restructuring of finance due to the investment for expansion as outlined in Penrice's 2008 Annual Report. Penrice also provided a reasonable (confidential) explanation to support the increased distribution costs (**confidential attachment 8**).

Penrice listed price increases on its website in June 2008, December 2008 and November 2009. The December 2008 increase was the most significant of these price rises. Penrice announced that as of 1 January 2009, or as contract terms permitted, prices would rise by a minimum of \$125/MT. The listed price rise for general purpose sodium bicarbonate was \$165/MT or approximately 40% of the previous listed price.

Penrice claims that it has particularly suffered injury in the form of price suppression in the last quarter of 2009 and in 2010 as a result of the increase in imports from China and a drop in the price of these goods. The graph above shows that Penrice's selling price did decline slightly and costs increased slightly during this period. However, prior to this Penrice experienced a period in which the sales price increased while costs decreased. Based on these trends, in the statement of essential facts Customs and Border Protection was not satisfied that the price decline in the fourth quarter of 2009 and in 2010 was price suppression as opposed to the normal ebb and flow of business.

#### 7.4.2 Price depression

Price movements in Penrice's weighted average prices for sodium bicarbonate are illustrated in the chart above. Penrice's selling price increased significantly in 2008 and has declined slightly at the end of 2009. As mentioned in section 7.4.1 above, in the statement of essential facts Customs and Border Protection could not conclude that the price decline in 2009 was an indication of price depression as opposed to fluctuations in the normal ebb and flow of business.

Penrice's price for general purpose grade sodium bicarbonate, the grade that primarily competes with the imported product, declined slightly during 2009 and 2010. However, due to the minor nature of the decrease, in the statement of essential facts, Customs and Border Protection was not satisfied that price depression had occurred.

#### 7.4.3 Submission in response to the statement of essential facts

Penrice submitted that it had in fact suffered price depression and suppression as a result of dumped imports from China. Penrice claims that it was required to reduce its selling price in late 2009 by 5% to compete against the dumped imported sodium bicarbonate and that this price continued to drop in 2010 with another 5% drop in prices in the second quarter of 2010.

Penrice further claims that the trends evident in the above chart can be clearly differentiated between the 2006-2007 period and the 2009-2010 period, and that the 2009-2010 period shows a trend of price deterioration as opposed to price fluctuation.

After considering this submission Customs and Border Protection remains of the view that the price decrease in the later half of 2009 and in 2010, following the large price increase in December 2008, cannot be conclusively established as price depression or suppression.

Furthermore, an assessment of Penrice's price movements for the period of January 2009 to March 2010 shows that during this period there were price declines evident in some grades that do not compete directly with the imported product (**confidential attachment 9**). This suggests that other factors contributed to the price changes. Therefore, Customs and Border Protection cannot be satisfied that price suppression or depression has occurred in this period.

#### 7.4.4 Price undercutting

A price undercutting analysis was carried out to assess whether imported sodium bicarbonate is sold at a price below that of the Australian industry.

There were two importers/distributors identified that purchased sodium bicarbonate directly from Penrice and from exporters in China. These were the only companies that purchased goods regularly from both sources.

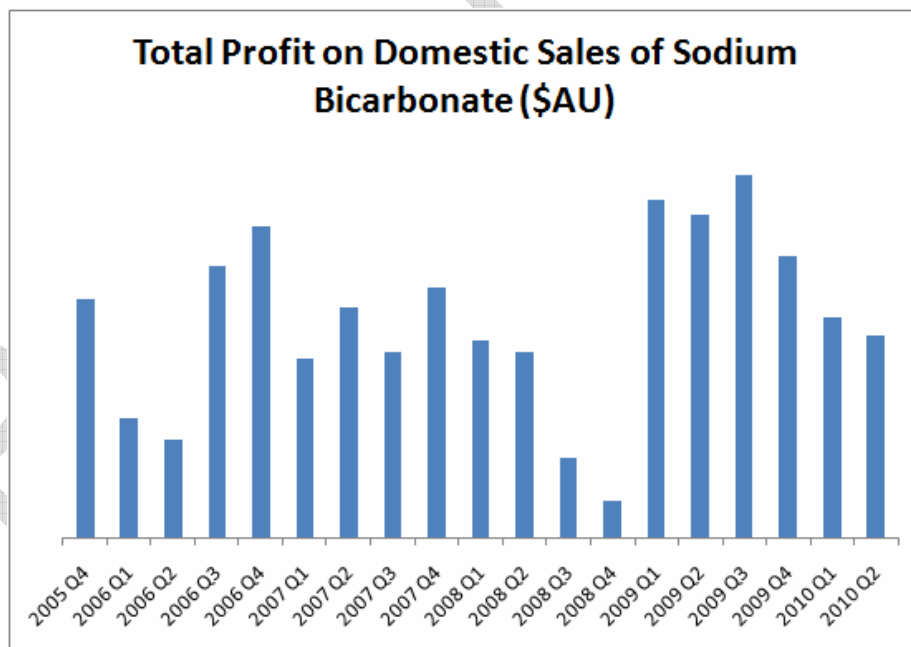
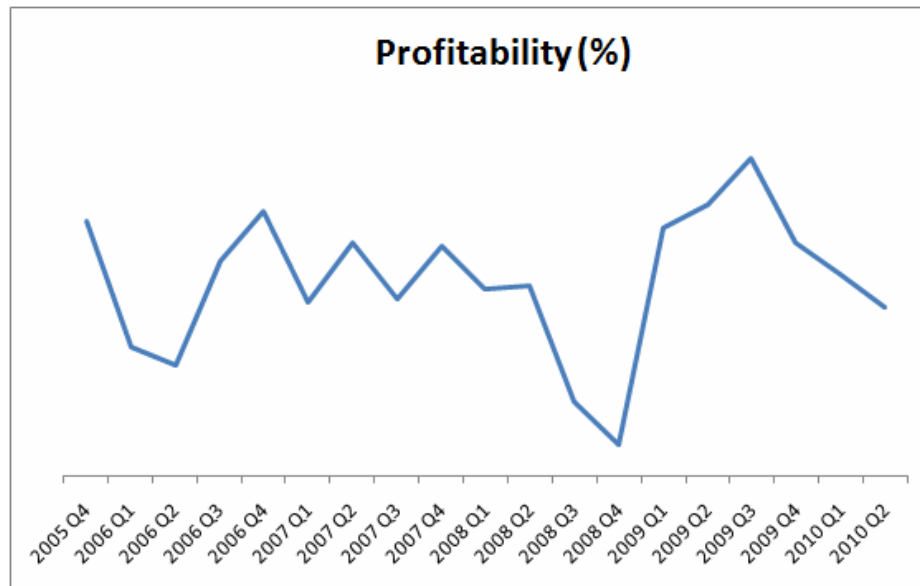
The price undercutting analysis was conducted by comparing Penrice's Free into Store (FIS) price to these customers with the Delivered Duty Paid (DDP) price from exporters in China to these customers using weighted average prices on a month by month basis over the review period. This analysis showed that the price of goods from exporters consistently undercut the price of the Australian industry (**confidential attachment 10**).

In the course of the inquiry, data was also gathered relating to other importers/distributors that did not purchase sodium bicarbonate directly from Penrice. The selling prices from these companies to end users and other customers did not undercut Penrice's prices during the review period (**confidential attachment 10**).

Nevertheless, due to the size of the two importers/distributors that purchased product from both Penrice and exporters, price undercutting during the review period of April 2009 to March 2010 was significant.

### 7.5 Profits and profitability

Movements in Penrice's total domestic profits and unit profitability (profit measured as a percentage of revenue) are illustrated in the following charts:



Penrice's unit profitability declined in 2008 but subsequently increased in 2009 to its highest levels since measures were imposed. However, in the fourth quarter of 2009 and the first quarter of 2010 profitability once again declined to levels similar to 2007.

A similar trend can be observed with Penrice's total profit on domestic sales (**confidential attachment 11**).

Penrice's profits and profitability have decreased in the fourth quarter of 2009 and in 2010 but due to the fluctuations Penrice has experienced in its profits and profitability since measures were imposed, in the statement of essential facts Customs and Border Protection could not be satisfied that injury has occurred as opposed to changes in the normal ebb and flow of business.

#### 7.5.1 Submission in response to the statement of essential facts

Penrice submitted that it has suffered profit injury as a result of dumped imports. The company argued that the price suppression Penrice has experienced and the lost sales volume resulted in a profit in the 2009-2010 financial year that was 20% lower than it should have been otherwise.

As stated in section 7.4.3 Customs and Border Protection is unable to conclude that Penrice has suffered price suppression or depression. Furthermore, analysis indicates that Penrice's profit and profitability are returning to a normal level after a period of first low profit and then a period of high profit. As a result, Customs and Border Protection cannot conclude that Penrice's profit should have been 20% higher than what it was, as claimed by Penrice. Accordingly, Customs and Border Protection is not satisfied that Penrice has suffered profit and profitability injury during the 2009-2010 financial year.

#### 7.6 Customs and Border Protection's assessment

Penrice's performance since measures were imposed in November 2005 has been examined and it has been found that:

- Penrice has lost sales volume and market share to imports from China;
- the price of imports from China to two large importers/distributors undercut the prices of the Australian industry to a significant extent;
- the price of imported material sold by other importers who did not purchase sodium bicarbonate from Penrice did not undercut industry's selling price; and
- Penrice's profit and profitability has fluctuated but the company has not suffered injury in this regard.

## **8. LIKELIHOOD OF DUMPING AND INJURY RECURRING OR CONTINUING IF MEASURES EXPIRE**

### **8.1 Findings**

The delegate is satisfied that the expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent because:

- during the twelve month period of April 2009 to March 2010 imports from China were at dumped prices, with dumping margins between 18-47% and if measures expire it is likely that imports will continue to be dumped;
- the volume of imports from China has increased in the 2009 and 2010 period and there are indications that manufacturers in China have excess capacity;
- imports from China undercut the selling prices of the Australian industry to its major customers and the expiration of measures is likely to lead to imports becoming more price competitive, resulting in further undercutting; and
- the Australian industry has suffered injury in the form of lost market share and sales volume in 2009 and 2010. While other factors may have contributed to this injury, dumping was also part of the cause. If measures expire dumped, low priced imports from China are likely to cause material injury to the Australian industry.

### **8.2 Penrice's claims**

In its application for the continuation of measures on the goods from China and during a verification visit by Customs and Border Protection, Penrice claimed that:

- Chinese manufacturers depend on export markets to maintain high utilisation rates;
- Chinese manufacturers have maintained distribution links with the Australian market;
- there has been an increase in the volume of sodium bicarbonate exported from China in 2009 and 2010 and that a large portion of these imports were at dumped price;
- from 2009 imports from China have increased resulting in lost sales volume and market share and that these imports undercut the Australian industry's selling prices;
- Penrice has recently undertaken a substantial expansion of its sodium bicarbonate manufacturing facility and that dumped imports threaten the return on investment on this facility;
- dumped imports threaten another planned expansion of Penrice's sodium bicarbonate facility; and
- the price of imports into New Zealand where no measures are in place are lower than into Australia suggesting that if measures are removed the price of imports into Australia will drop further.

### 8.3 Claims by other interested parties

Other interested parties have claimed that<sup>22</sup>:

- Penrice will not sell product directly to smaller customers at a competitive rate;
- Penrice's public reports and announcements indicate that the company is profitable and is robust;
- after the measures were originally imposed, Penrice was unable to supply the market due to maintenance issues;
- any injury being suffered by Penrice was the result of the cost of the expansion rather than the competition from Chinese imports; and
- the geographical location of Penrice in South Australia makes it less competitive in some parts of Australia, such as Queensland, than imports from China.

### 8.4 Likelihood of dumping continuing or recurring if measures expire

Imported sodium bicarbonate from China was found to be sold at dumped prices during the period March 2009 to April 2010. Imports of sodium bicarbonate were also found to have increased in volume during this same period of time.

While the capacity of the sodium bicarbonate industry in China could not be determined, numerous references have been found to over capacity in China's soda ash industry. The production of soda ash and sodium bicarbonate are interrelated in both the Solvay and natural alkali methods of production.

According to the China Soda Ash Industry Association<sup>23</sup> and CMAI Global the soda ash industry in China:

- is experiencing a significant problem with over capacity;
- experienced increased overcapacity in 2009 due to the global financial crisis; and
- is expected to have more overcapacity in 2010 as export volumes fall due to more competition and the implementation of anti-dumping measures on soda ash from China by India.

Due to the interrelated manufacturing process between soda ash and sodium bicarbonate, and because sodium bicarbonate is a higher value product, it is reasonable to assume that manufacturers are likely to attempt to alleviate some of the excess soda ash capacity by diverting more production to sodium bicarbonate.

Semi-annual returns to the World Trade Organisation were examined and internet based research was conducted to see if China is the subject of any sodium bicarbonate anti-dumping investigations conducted by other jurisdictions. No record has been found that other countries have anti-dumping measures in place for sodium bicarbonate from China.

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<sup>22</sup> As per importer visit report available on the public record.

<sup>23</sup> China National Chemical Information Centre, *CSAI Appeals for Controlling Soda Ash Capacity*, [www.chemconsulting.com.cn/info\\_detail01.asp?id=7738](http://www.chemconsulting.com.cn/info_detail01.asp?id=7738); CMAI Global, *CMAI Completes 2010 World Soda Ash Analysis*, [www.cmaiglobal.com/WorldAnalysis/pdf/WSAAPressRelease.pdf](http://www.cmaiglobal.com/WorldAnalysis/pdf/WSAAPressRelease.pdf).

Given the current level of dumping found, and the indications of over capacity in the industry in China, the delegate is satisfied that the expiration of anti-dumping measures on sodium bicarbonate from China is likely to lead to a continuation of the goods being exported at dumped prices.

## **8.5 Likelihood of material injury caused by dumping continuing or recurring**

### *Injury Caused by Dumping*

Due to the level of dumping and price undercutting of Chinese imports during the review period, imports from China have caused injury to Penrice in the form of reduced sales volumes and lost market share.

Chinese exporters undercut Australian industry's prices during the review period to the two importers/distributors that purchased both from Penrice and exporters in China. The goods sold by these exporters were at dumped prices and that dumping would have contributed to the price competitiveness of the Chinese sodium bicarbonate. The importers/distributors have reduced their purchase volumes from Penrice during the review period and increased their purchases from Chinese manufacturers. This indicates a link between the low price dumped imports and Penrice's lost sales volume and market share. Other factors that may also have contributed to this are discussed below.

Penrice's argument is that if measures expire the price of imports from China will drop further. Based on the information provided by Penrice the price of exports to China to New Zealand, where no anti-dumping measures are in place, is lower than to Australia. While there are many factors that could contribute to this differential, it suggests a potential for export prices to Australia to fall in the absence of anti-dumping measures.

### *Other Factors*

Other factors may also have contributed to injury suffered by Penrice. The substantial price rise in Penrice's product at the start of 2009 coincided with a decline in sales volume. In the original investigation<sup>24</sup>, all interested parties, including Penrice, advised that the general purpose sodium bicarbonate market was competitive with a high degree of price sensitivity and transparency. The significant price rise (40% for general purpose sodium bicarbonate) in a market that is price sensitive may have contributed to lost sales volumes.

Claims from other interested parties were also assessed. Some importers claimed that Penrice will not sell product to them at a competitive rate and as a result they were required to source material elsewhere. As outlined in section 7.4.3, sales of imported sodium bicarbonate by these importers did not undercut the Australian industry.

The argument that in some cases importers have a geographical advantage over Penrice was also considered. Penrice is required to transport its products from South Australia to the destination markets around Australia while importers can locate themselves in prime market locations, thereby reducing inland transportation costs.

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<sup>24</sup> Trade Measures Report No. 98, pg 15

## PUBLIC RECORD

Claims were examined that Penrice would be unable to supply the market. Penrice has increased its capacity significantly since the original investigation and has sufficient capacity to supply the market. However, it must be noted that the Australian industry is not required to have the capacity to be able to supply the entire market in order for measures to be in place.

Claims by interested parties that Penrice is profitable and has not been injured by imports were also considered. Penrice's public statements, such as Annual Reports and investor presentations, state that the company is robust and making record profits. Nevertheless, it has been found that Penrice has suffered injury during the review period in the form of lost sales volume and market share and that dumping was a contributing factor to this injury.

Finally, claims were examined that any injury Penrice may have suffered was the result of the costs of the expansion. As detailed in section 7, Penrice's profit and profitability were not materially affected following the expansion, despite cost increases, because prices were also increased. Based on Penrice's profit results the expansion was not detrimental to the industry.

Injury that Penrice has suffered during the review period may have in part been caused by factors other than dumping, such as price pressures and geographical disadvantage. However, had imports not been sold into the market at dumped prices, this injury would not have been as great.

## 9. CONFIDENTIAL ATTACHMENTS

Confidential attachment 1	Section 269ZHG(1) notice
Confidential attachment 2	Australian market size and share
Confidential attachment 3	Variable factors and dumping margin
Confidential attachment 4	Volume trends
Confidential attachment 5	Price trends
Confidential attachment 6	Volume and market share
Confidential attachment 7	Cost to make and sell
Confidential attachment 8	Penrice sales data
Confidential attachment 9	Price depression and suppression
Confidential attachment 10	Price undercutting
Confidential attachment 11	Profit and profitability