



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

R E P O R T

TRADE MEASURES BRANCH
STATEMENT OF ESSENTIAL FACTS NO.160

INQUIRY INTO THE CONTINUATION OF
ANTI-DUMPING MEASURES

**SODIUM HYDROGEN CARBONATE (SODIUM
BICARBONATE) EXPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA**

18 AUGUST 2010

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1. SUMMARY AND RECOMMENDATIONS

This continuation inquiry is in response to an application by Penrice Soda Products Ltd (Penrice) seeking the continuation of the anti-dumping measures applying to sodium hydrogen carbonate (sodium bicarbonate)¹ exported to Australia from the People's Republic of China (China).

This statement of essential facts sets out the facts on which the delegate of the Chief Executive Officer of the Australian Customs and Border Protection Service proposes to base his recommendation to the Minister for Home Affairs (Minister).

1.1 Proposed recommendation

The delegate proposes to recommend that the Minister take steps to secure the continuation of anti-dumping measures applying to sodium bicarbonate exported from China to Australia from the expiry date 2 November 2010. This would result in anti-dumping measures being in place for another five years.

1.2 Preliminary findings and conclusions

The delegate considers 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.

These preliminary findings and conclusions are based on the following:

- during the twelve month period April 2009 to March 2010 exports from China were at dumped prices, with dumping margins between 19 and 46% (section 6.2);
- manufacturers in China have maintained distribution links to Australia (section 6.3);
- the volume of imports from China have increased in the 2009 and 2010 period;
- imports from China undercut the selling price of the Australian industry to its major customers (section 7.4.3); and
- the Australian industry has suffered injury in the form of lost market share and sales volume in 2009 and 2010 (section 7.3).

Based on these preliminary findings and conclusions, the Australian Customs and Border Protection Service (Customs and Border Protection) proposes to recommend that the Minister take steps to secure the continuation of anti-dumping measures applying to sodium bicarbonate exported from China to Australia.

¹ A full description of the goods is at section 3.2.

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1.3 Final report

The delegate's final report and recommendation must be provided to the Minister by **2 October 2010**.

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2. INTRODUCTION

2.1 Continuation inquiry process

Dumping duty notices (that have not been revoked) automatically expire five years after the date on which they were published, unless the Minister decides to continue them².

Not later than nine months before a dumping duty notice expires, Customs and Border Protection must publicly announce that the measures are due to expire and invite certain interested parties to apply within 60 days for continuation of measures³. If no application for continuation of the measures is received by Customs and Border Protection within the period allowed, the measures expire on the specified date.

If an application for continuation of anti-dumping measures is received, and not rejected, Customs and Border Protection has up to 155 days to inquire and report to the Minister on whether continuation of the measures is justified. Within 110 days of the initiation notice, Customs and Border Protection must place on the public record a statement of essential facts on which it proposes to base its recommendation to the Minister concerning the continuation of those measures.

Before recommending the continuation of the measures, Customs and Border Protection must be 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.

Where the Minister decides to continue anti-dumping measures, the dumping duty notice will remain in force after the specified date for a further period of five years (unless the relevant notice is revoked before the end of that period).

In making recommendations in its final report to the Minister, Customs and Border Protection must have regard to:

- the application for continuation of the anti-dumping measures;
- any submission relating generally to the continuation of the measures to which the delegate has had regard for the purpose of formulating the statement of essential facts;
- this statement of essential facts; and
- any submission made in response to this statement of essential facts that is received by Customs and Border Protection within 20 days of being placed on the public record.

Customs and Border Protection may also have regard to any other matter that it considers to be relevant to the inquiry.

² Under section 269TM.

³ Under section 269ZHB.

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Following the Minister's decision, a notice will be published advising interested parties of the decision.

2.2 Notification and participation

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

On 6 February 2010 Customs and Border Protection published a notice inviting certain persons to apply to Customs and Border Protection for continuation of the anti-dumping measures applying to sodium bicarbonate from China.

On 1 April 2010, Penrice, the sole manufacturer of sodium bicarbonate in Australia, lodged an application for the continuation of measures on sodium bicarbonate exported from China.

Customs and Border Protection examined the application for the continuation of anti-dumping measures applying to sodium bicarbonate from China and decided not to reject it. Public notification of initiation of the continuation inquiry was made on 30 April 2010 in *The Australian* newspaper. Australian Customs Dumping Notice (ACDN) No. 2010/15 was also published.

Customs and Border Protection is required to place the statement of essential facts on the public record on or before 18 August 2010. Interested parties are invited to lodge submissions in response to the statement of essential facts not later than 8 September 2010.

The final report to the Minister which outlines Customs and Border Protection's findings and recommendations is due on or before 2 October 2010.

2.3 Responding to the statement of essential facts

Interested parties may wish to make submissions in response to this statement of essential facts. However Customs and Border Protection is not obliged to have regard to any submissions received after **8 September 2010** if to do so would prevent the timely preparation of the report to the Minister.

Submissions should be sent to:

The Director
Trade Measures Operations 3
Australian Customs and Border Protection Service
5 Constitution Avenue
CANBERRA ACT 2601
AUSTRALIA

Submissions can also be faxed to (02) 6275 6990 or emailed to tmops3@customs.gov.au.

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Interested parties intending to respond to the statement of essential facts must include a non-confidential version of their submission for placement on the public record⁴. Submissions provided in confidence must be clearly marked “**IN-CONFIDENCE**”.

The public record contains non-confidential submissions already received from interested parties, this statement of essential facts, non-confidential versions of Customs and Border Protection’s visit reports and other publicly available documents such as Customs and Border Protection’s initiation report, notices and other information. These documents should be read in conjunction with this statement of essential facts. The public record may be viewed at Customs House Canberra by contacting Trade Measures Branch administration on (02) 6275 6547.

All documents on the public record are available on Customs and Border Protection’s electronic public record which may be accessed on the internet at www.customs.gov.au by following the prompts for “anti-dumping”.

2.4 History of anti-dumping measures

On 16 March 2005, Customs and Border Protection 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.

The Minister accepted Customs and Border Protection’s recommendation and published a dumping duty notice, on 2 November 2005, for sodium bicarbonate exported to Australia from China. Notification of the Minister’s decision was given in ACDN 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 2007 after the Minister accepted the recommendations of Trade Measures Report No. 119.

On 13 April 2010, Customs and Border Protection initiated another review of measures following the consideration of an application by Penrice. Customs and Border Protection is required to place the statement of essential facts for

⁴ In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

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the review on the public record on or before 31 August 2010. A report and recommendation to the Minister will then be made on or before 15 October 2010.

If the measures are not continued they will expire on 2 November 2010.

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3. GOODS SUBJECT TO THE CONTINUATION INQUIRY

3.1 Preliminary findings

Penrice produces sodium bicarbonate that has characteristics closely resembling those of sodium bicarbonate manufactured in China and exported to Australia, and sodium bicarbonate manufactured by Penrice are like goods⁵.

3.2 The goods and like 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, carbonized 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.

3.2.2 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 2005⁶ Customs and Border Protection found that sodium bicarbonate manufactured in Australia were like goods to sodium bicarbonate exported from China. However, Customs and Border Protection 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.

⁵ In terms of s.269T.

⁶ Trade Measures Report No 98.

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Customs and Border Protection found that despite the differences in packaging, the physical characteristics of the locally produced sodium bicarbonate closely resemble those of the goods imported from China. As a result, these goods were not excluded from the measures but instead Customs and Border Protection calculated a separate dumping margin and rate of duty for this product. To differentiate it from other imported sodium bicarbonate, Customs and Border Protection referred to it 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 is 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.

Customs and Border Protection notes that sodium bicarbonate imported from China only comes in one grade and is predominately used in general purpose/industrial applications.

4. AUSTRALIAN INDUSTRY

4.1 Preliminary findings

There is an Australian industry producing like goods, comprising of Penrice as the sole manufacturer in Australia.

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 Australia⁷.

Penrice states 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.

Customs and Border Protection undertook a verification visit to Penrice. The visit report⁸ details Penrice's production costs and notes that an inspection of the manufacturing facilities was undertaken.

Customs and Border Protection considers that at least one substantial processes in the manufacture of sodium bicarbonate is carried out in Australia, and that sodium bicarbonate is manufactured in Australia.

⁷ Subsections 269T(2) and 269T(3).

⁸ Penrice Soda Products Ltd visit report is available on the Electronic Public Record.

5. AUSTRALIAN MARKET

5.1 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.

Customs and Border Protection examined data from its import database and considered that it was 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 Customs and Border Protection regarded Orica as non-cooperative for the purposes of the continuation inquiry.

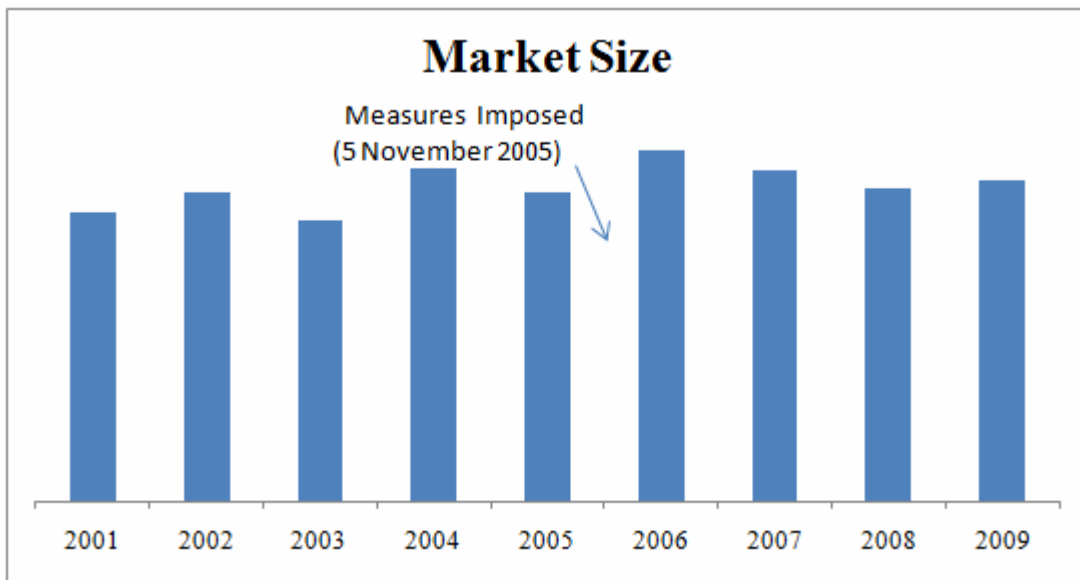
The visit reports for the three remaining importers are available on the public record.

5.2 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 using information from this continuation inquiry and the original investigation.

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Customs and Border Protection observed that 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 share. 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.

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6. IMPORTS FROM CHINA

6.1 Preliminary findings

Imports from China during the period 1 April 2009 to 31 March 2010 were at dumped prices, with dumping margins that were not insignificant. During this period the volume of imports increased and became more price competitive due to changes in the exchange rate.

6.2 Dumping during the review period

At the commencement of this inquiry, Customs and Border Protection sent an exporter questionnaire 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 Customs and Border Protection did not conduct a verification visit.

Instead, Customs and Border Protection determined the normal value, export price and dumping margins for exporters from China during the review period using information supplied by Penrice and importers⁹ and from Customs and Border Protection's import database.

Customs and Border Protection calculated variable factors for three groups of exporters as listed 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 visits¹⁰.

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 to ensure fair comparison of export prices with normal value¹¹.

⁹ 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.

¹⁰ s. 269TAB(3)

¹¹ s.269TAC(6)

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Other 'Regular' Pack Exporters

To calculate the export price Customs and Border Protection used data obtained from its import database, 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 exportation¹².

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 to ensure fair comparison of export prices with normal value¹³.

'Specialty' Pack Exporters

To calculate the export price Customs and Border Protection used data obtained from its import database, 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 exportation¹⁴.

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, Customs and Border Protection uplifted the ascertained export price of 'specialty pack' exporters by the dumping margin calculated for 'regular' pack exporters¹⁵.

Summary

The following dumping margins were calculated for exporters:

Exporter	Dumping Margin
Ihjuchem	19%
All other 'regular' pack exporters	46%
'Specialty' pack exporters	46%

Further information regarding the calculation of the variable factors is in Trade Measures statement of essential facts report no. 161.

¹² s. 269TAB(3)

¹³ s.269TAC(6)

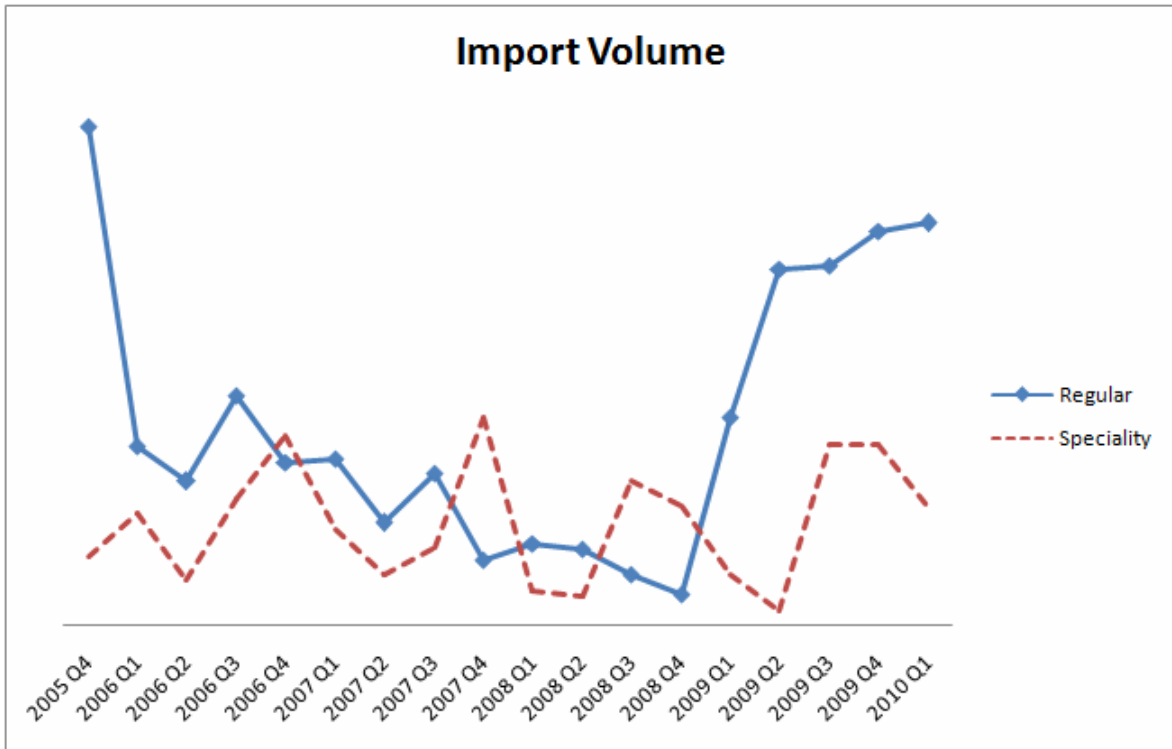
¹⁴ s. 269TAB(3)

¹⁵ s. 269TAC(6)

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6.3 Volume Trends

Using information from Customs and Border Protection's import database the volume of imports since the original investigation has been charted below:



This chart shows that 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.

Customs and Border Protection has also found that the volume of imports of 'specialty' pack sodium bicarbonate have remained relatively constant since measures were imposed.

6.4 Price Trends

Customs and Border Protection assessed the export prices of 'regular' pack sodium bicarbonate from China since the measures were imposed 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.

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

Customs and Border Protection has examined the export price of 'specialty' pack sodium bicarbonate and has found that the price of these goods were

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significantly higher than 'regular' pack sodium bicarbonate, 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 Preliminary 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 Customs and Border Protection examined 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. Customs and Border Protection gathered and assessed additional data 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 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.

Customs and Border Protection visited Penrice in May 2010 and verified the data it had provided in its application. On 30 July 2010, Penrice provided revised data for the first quarter of 2010 using its year end accounts¹⁶. In addition, data for the second quarter of 2010, also based on the year end accounts, was provided.

¹⁶ 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.

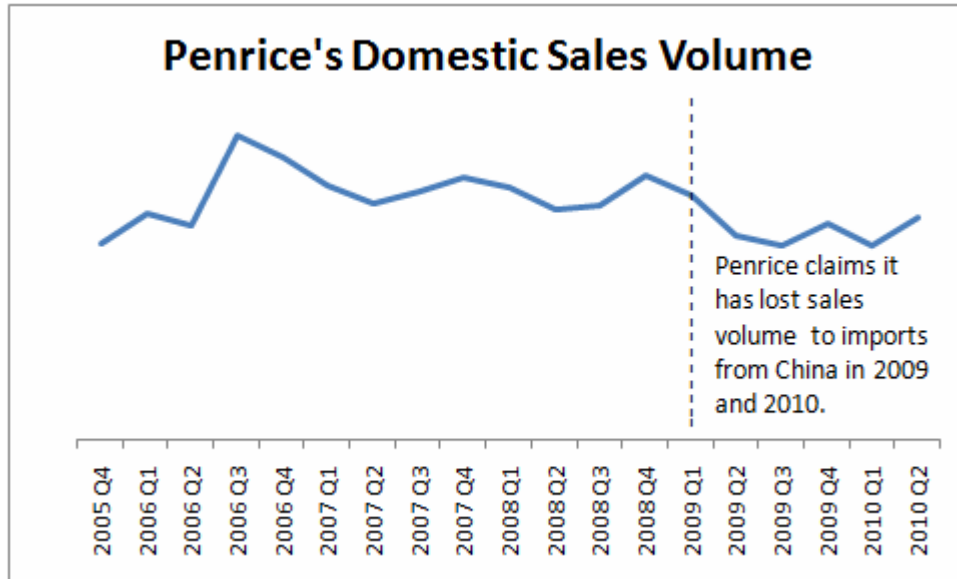
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7.3 Volume effects

7.3.1 Sales volume

Customs and Border Protection analysed sales volume information gathered from Penrice and taken from Customs and Border Protection's import database since measures were imposed.

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

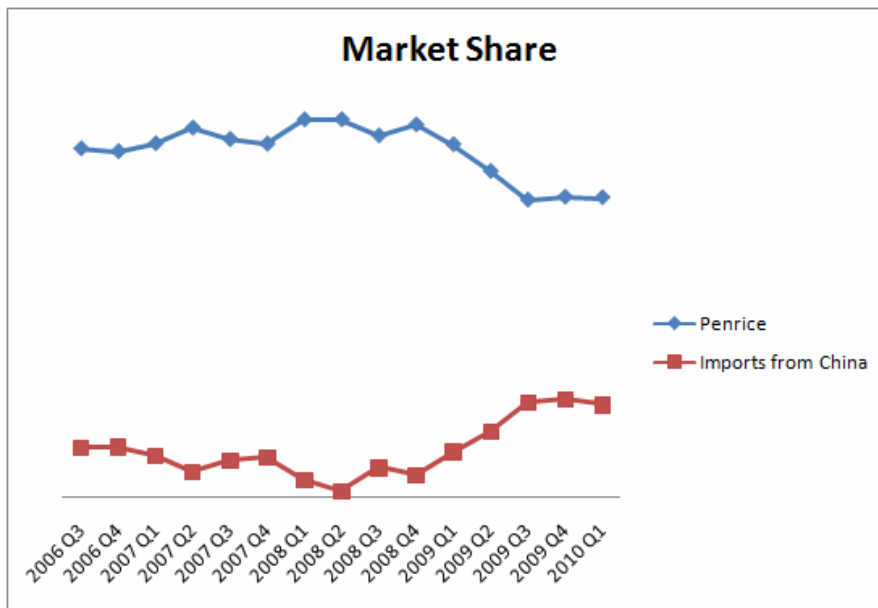


This chart shows that Penrice's domestic sales volume spiked in 2006. In 2007 and 2008 the sales volume fluctuated but generally trended downwards. This is consistent with decline in the overall sodium bicarbonate market (as shown in section 5.2). Penrice claims that in 2009 and 2010 it lost sales to 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.

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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.

7.4 Price effects

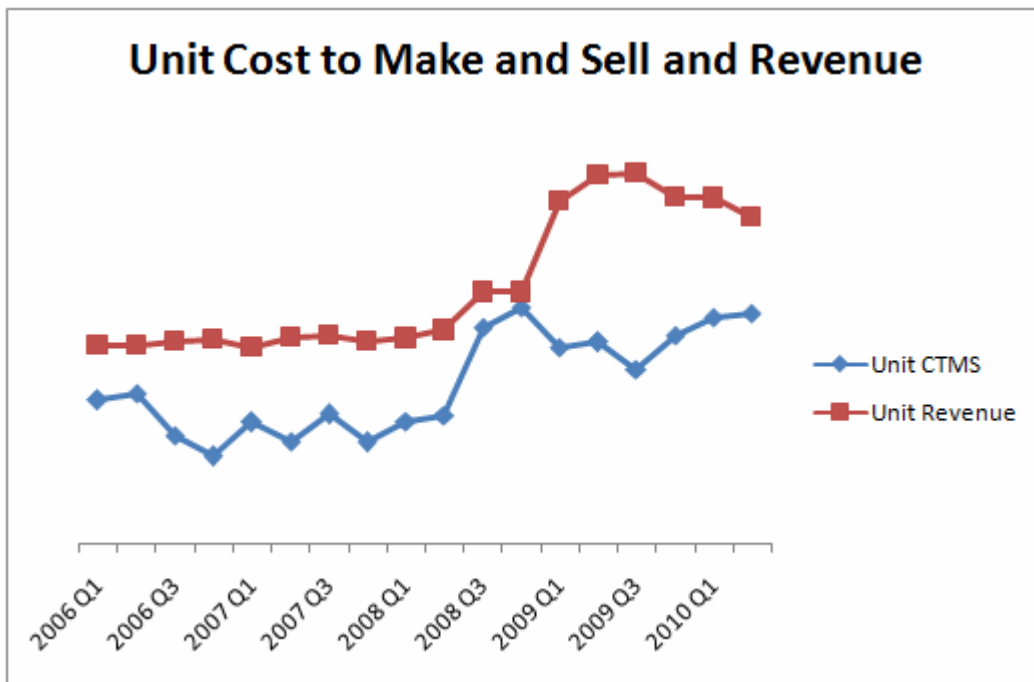
Price effects may be in the form of:

- 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.

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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. 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. Penrice also provided a reasonable (confidential) explanation to support the increased distribution costs.

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 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 Customs and Border Protection cannot be satisfied that the price decline in the fourth quarter of 2009 and in 2010 is 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, Customs and Border Protection cannot conclude that the price decline in 2009 is an indication of price depression as opposed to fluctuations in the normal ebb and flow of business.

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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 Customs and Border Protection cannot be satisfied that price depression has occurred.

7.4.3 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 undercut the price of the Australian industry.

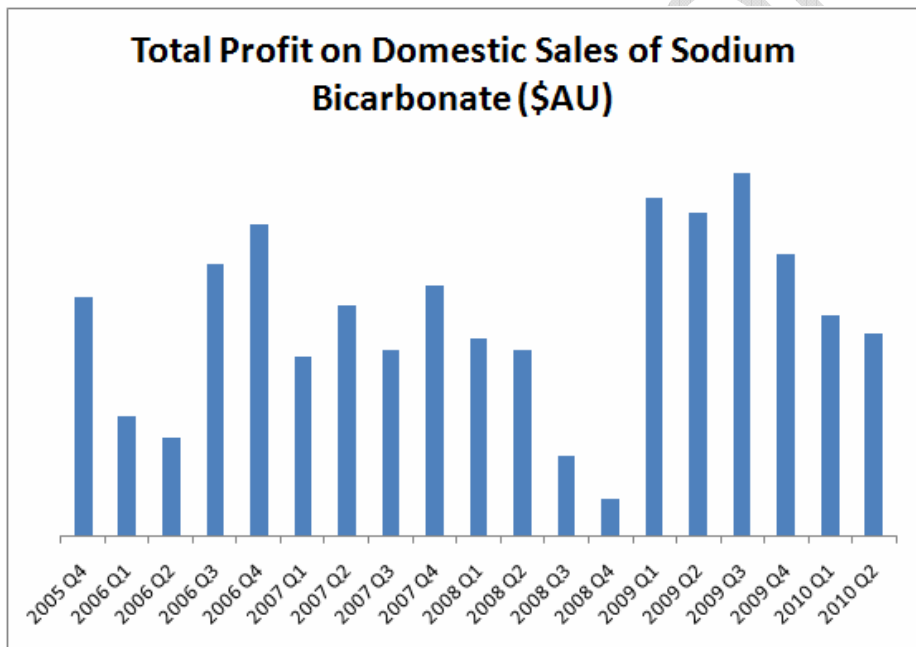
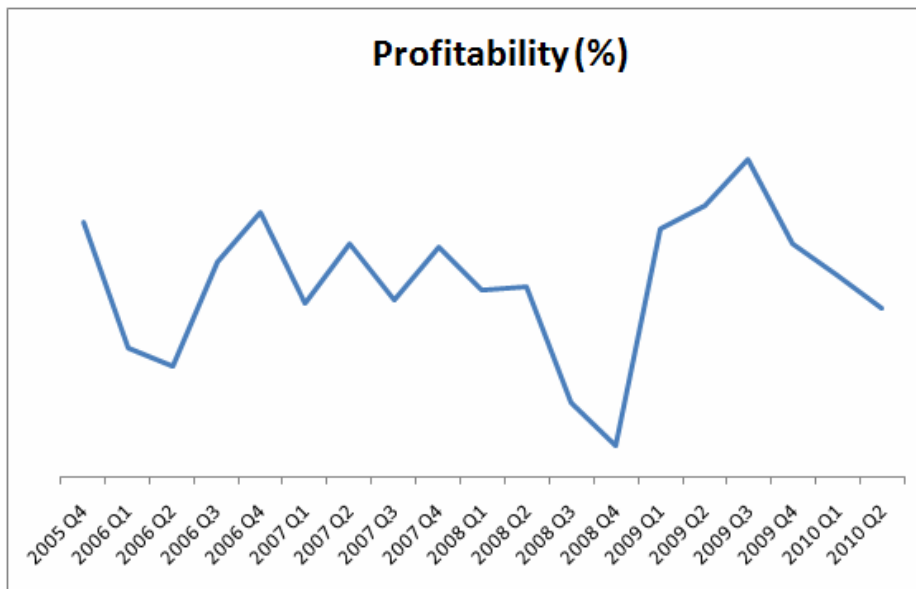
In the course of the inquiry, Customs and Border Protection also gathered data relating to other importers/distributors that did not purchase sodium bicarbonate directly from Penrice. Customs and Border Protection found that the selling price from these companies to end users and other customers did not undercut Penrice's prices during the review period. This comparison was done at the Ex Works level.

Nevertheless, due to the size of the two importers/distributors that purchased product from both Penrice and exporters, Customs and Border Protection found that the price undercutting during the review period of April 2009 to March 2010 was not insignificant.

7.5 Profits and profitability

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

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The first chart shows that 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 in the second chart.

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, Customs and Border Protection cannot be satisfied that injury has occurred as opposed to changes in the normal ebb and flow of business.

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7.6 Customs and Border Protection's assessment

Customs and Border Protection has examined Penrice's performance since measures were imposed in November 2005 and 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 OR INJURY RECURRING OR CONTINUING

8.1 Preliminary findings

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.

8.2 Continuation test

Customs and Border Protection must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless 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 measures are intended to prevent.

8.3 Likelihood of dumping continuing or recurring

8.3.1 Applicant's Claims

In its application for the continuation of measures Penrice claimed that:

- 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;
- large portion of sodium bicarbonate exported from China between October 2009 and February 2010 was at dumped prices; and
- Chinese manufacturers depend on export markets to maintain high utilisation rates;

8.3.2 Imports of 'Regular' Pack Sodium Bicarbonate from China

As outlined in previous sections of the report 'regular' pack sodium bicarbonate was:

- sold at dumped prices during the review period of March 2009 to April 2010 (section 6.2);
- exported in increasing volumes in 2009 and 2010 (section 6.3); and
- sold to major importers/distributors at a price that undercut the Australian industry's prices (section 7.4.3).

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8.3.3 Capacity of Manufacturers in China

While Customs and Border Protection has been unable to determine the capacity of the sodium bicarbonate industry in China, Customs and Border Protection has found numerous references 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 Association¹⁷ 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 in India.

Due to the interrelated manufacturing process between soda ash and sodium bicarbonate and as 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.

8.3.4 Anti-Dumping Measures by Other Countries

Customs and Border Protection examined semi-annual returns to the World Trade Organisation and conducted internet based research 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.

8.3.5 Customs and Border Protection's Assessment and Preliminary Finding

In the period of April 2009 to March 2010, the goods from China have been exported at dumped prices. Exporters in China have maintained distribution links and since 2009 have increased the overall volume of goods sold into Australia. Chinese soda ash manufacturers experienced overcapacity in 2009 and 2010, which coincided with the increase in sodium bicarbonate imports to Australia and the decrease in the price of those imports.

Given the current level of dumping found, and the indications of over capacity in the industry in China, Customs and Border Protection considers at this stage 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.

¹⁷ China National Chemical Information Centre, *CSAI Appeals for Controlling Soda Ash Capacity*, 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.

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8.4 Likelihood of injury continuing or recurring

8.4.1 Applicant's Claims

In its application, Penrice claimed that:

- from 2009 imports from China have increased resulting in lost sales volume and market share;
- in the same period the price of imports from China have declined resulting in price undercutting;
- 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; and

At Customs and Border Protection's visit to Penrice, the company claimed that, while it was robust and had recorded a profit for the 2008/2009 financial year, the company was still in a negative cash flow position following the capital expenditure for the expansion and upgrade. Therefore, it considered that it was particularly susceptible to dumped imports.

8.4.2 Claims by Other Interested Parties

Other interested parties have claimed that¹⁸:

- 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.

¹⁸ As per importer visit report available on the public record.

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8.4.3 Customs and Border Protection's Assessment and Preliminary Finding

This section analyses whether material injury caused by dumping will continue or recur if anti-dumping measures expire.

Injury Caused by Dumping

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 reduced their purchase volumes from Penrice during the review period and increased their purchases from Chinese manufacturers. Customs and Border Protection is therefore of the view that there is a link between the low price dumped imports and Penrice's lost sales volume and market share.

Customs and Border Protection assessed Penrice's argument that should measures expire, the price of imports from China will drop further. Based on the information provided by Penrice it would appear that the price of imports from 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 prices to Australia to fall in the absence of anti-dumping measures.

Due to the level of dumping and the price undercutting of Chinese imports during the review period, Customs and Border Protection has concluded that imports from China have contributed to the injury Penrice has suffered in the form of reduced sales volume and lost market share.

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 investigation¹⁹, 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.

Customs and Border Protection also assessed claims from other interested parties. 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. Customs and Border Protection found in section 7.4.3 that sales of imported sodium bicarbonate by these importers did not undercut the Australian industry.

¹⁹ Trade Measures Report No. 98, pg 15

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Customs and Border Protection also considers that in some cases importers have a geographical advantage over Penrice. 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.

Customs and Border Protection examined claims 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.

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, Customs and Border Protection 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, Customs and Border Protection assessed claims 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. In terms of Penrice's profit results it is difficult to conclude that the expansion was detrimental to the industry.

Customs and Border Protection considers that injury 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, Customs and Border Protection is of the view that this injury would not have been as great.

Conclusion

Customs and Border Protection has found that Penrice has suffered injury in the form of lost sales volume and market share during the review period of April 2009 to March 2010. Customs and Border Protection is of the view that while other factors may have contributed to this injury, dumping was also part of the cause.

The delegate considers 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 19-46% (section 6.2);
- manufacturers in China have maintained distribution links (section 6.3);
- the volume of imports from China have increased in the 2009 and 2010 period;

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- imports from China undercut the selling price of the Australian industry to its major customers (section 7.4.3); and
- the Australian industry has suffered injury in the form of lost market share and sales volume in 2009 and 2010 (section 7.3);

Therefore, Customs and Border Protection intends to recommend that the Minister take steps to secure the continuation of the anti-dumping measures on sodium bicarbonate.

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