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SELECT COMMITTEE ON AGRICULTURAL AND RELATED
INDUSTRIES

Reference: Pricing and supply arrangements in chemical and fertiliser markets

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**SENATE SELECT COMMITTEE ON
AGRICULTURAL AND RELATED INDUSTRIES**

Monday, 10 August 2009

Members: Senator Heffernan (*Chair*), Senator O'Brien (*Deputy Chair*), Senators Fisher, Milne, Nash and Sterle

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Forshaw, Furner, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Minchin, Moore, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Stephens, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Fisher, Heffernan and O'Brien

Terms of reference for the inquiry:

To inquire into and report on:

The pricing and supply arrangements in the Australian and global chemical and fertiliser markets, the implications for Australian farmers of world chemical and fertiliser supply and pricing arrangements, monopolistic and cartel behaviour and related matters.

WITNESSES

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Committee met at 11.32 am**BRINKWORTH, Mr Gary, General Manager, Australian Fertilisers, Incitec Pivot Limited****WHITESIDE, Mr James, General Manager, Supply Chain and Trading, Incitec Pivot Limited**

CHAIR (Senator Heffernan)—Welcome. I declare open this public hearing of the Senate Select Committee on Agriculture and Related Industries. The committee is hearing evidence on the committee's inquiry into the pricing and supply arrangements in the Australian and global fertiliser market. This is a public hearing and a Hansard transcript of proceedings is being made. Before the committee starts to take evidence, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee. The committee prefers to hear all evidence in public but under the Senate's resolutions, no witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice that they intend to give evidence in camera. If a witness objects to answering a question, the witness should state the ground on which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, be made at any other time. Would you like to make an opening statement?

Mr Brinkworth—Since November 2008 I have been General Manager, Australian Fertilisers, with Incitec Pivot Ltd. I am responsible for the sales of fertiliser to over 200 or our distributor customers in Australia as well as direct to farmers in Tasmania. With me is James Whiteside, who is the General Manager, Supply Chain and Trading. You may recall that James appeared on behalf of Incitec Pivot at the Senate committee hearing on 23 July last year.

The Senate committee has been inquiring into the Australian fertiliser industry since February 2008. Incitec Pivot has strongly supported the inquiry and this is our second appearance before the committee. We have submitted a large amount of written material to the committee and responded to all the questions asked of us. We feel that the inquiry has brought about great transparency by providing Australian farmers with an opportunity to better understand the global market and the challenges impacting the industry. We look forward today to assisting the committee in any outstanding matters.

Before proceeding to questions I would like to make a few key points. First, the inquiry has raised some very serious allegations against Incitec Pivot and the way we do business. We believe these claims were based on hearsay and rumour. We have provided detailed responses based on objective information to refute these claims. We believe that the passage of time has illustrated very clearly the way in which the Australian fertiliser industry, which represents less than two per cent of the world's fertiliser consumption, participates in a global market. It has demonstrated that Incitec Pivot is one of many industry participants. In particular, low barriers to entry and access to global supply have led to new participants entering the market providing greater choice for farmers and keeping Australian prices in line with global prices.

The second and most important point we have learnt from this inquiry is that we can improve our contact and communications with customers and farmers. We have heard the message loud and clear that our customers and farmers do not like surprises and that the unprecedented swings in fertiliser prices over the last two years caught them by surprise and caused them difficulty. We were also surprised by the significant rise and subsequent sharp decline in global fertiliser prices. However, we appreciate that this is little consolation to our customers and farmers.

So what have we been doing about these issues? We previously told the committee that we had introduced new ways of doing business to address concerns about fertiliser price uncertainty. This included providing pricing options to give greater price certainty in a rising market, as well as deferred payment options. Since then we have continued to listen to what our customers are telling us. We have increased and improved our communications through an ongoing program, which includes face-to-face presentations to farmers and seasonal agronomic publications. I have personally met with many of our customers and farmers and I have presented at a number of industry conferences and events. As a result of my ongoing discussions with customers, it is very clear to me that the events of the past 12 to 18 months, coupled with the inquiry, have created a much greater understanding and appreciation of what drives fertiliser prices in Australia. Farmers have also become more aware of global prices, nutrient options and import alternatives.

Incitec Pivot is very proudly an Australian company with some 1,000 employees in Australia. Many are located across our rural communities. We have a substantial ongoing investment in people, distribution assets and logistics, all for the purpose of better serving our customers and Australian farmers. As James said in his opening address to the committee last year, our long-term success as a business is reliant on the sustainability of Australian farmers, who depend on fertiliser to maintain productivity.

The committee's inquiry has highlighted the importance of relationships in the industry and that communication is the cornerstone of any successful relationship. We recognise that we need to continually improve our on-communications with customers and farmers and offer quality nutrient solutions in order to retain their business. We look forward to meeting this challenge and the opportunities ahead.

CHAIR—Obviously, I am of the very strong view that there needs to be a cultural change in the relationship, which I have talked to you about in private, and I will speak publicly about it today. Farmers, traditionally, over 50 years had a relationship with people like AFL—Australian Fertilisers Limited; not football—in which it was like the local newsagent or your local GP. It was a matter of trust. One of the things you took for granted was that your local fertiliser bloke was a good bloke. They have of course now changed their mind on all of that. It has become patently obvious since the ACCC agreed with a few mergers. There is a question of market power; I think, Mr Brinkworth it would be fair to say that at the last count you have in excess of 70 per cent of the wholesale sales in eastern Australia.

Mr Brinkworth—Our wholesale business represents just under 60 per cent, and then there is somewhere between five and 10 per cent, I think, James, that would be supplied through our trading business.

CHAIR—Yes, so say 70 per cent of the market and 100 per cent of the manufacture. So this is a bit of a problem. Obviously this committee is of the view that competition will do you a favour

as well as doing the farmers a favour. Obviously there is a huge phosphate deposit west of your Mount Isa deposit there; if they can build that railway line across to Tennant Creek, they will hook that up and at least there will be competition in the market. By the way, congratulations and thanks for coming along; I am sure that farmers will be pleased for you to create a new relationship, because I can assure you—I am a farmer and declare an interest—that we felt betrayed not only by Incitec Pivot but by the system that was used in us not having market intelligence on the rising and falling market and, obviously, some of the issues that arose. In the period from 2000 to mid-2008, you would agree that fertiliser prices rose 100 per cent?

Mr Brinkworth—I have heard those numbers. It was a substantial increase.

CHAIR—So in anticipation—which is where farmers were not smart enough—of increasing prices, the upstream pre-farm supply chain was allowed to build up. That is just a matter of record, and you have seen the earlier evidence of where resellers and some agents could not price their stock because Incitec Pivot held it back. There were sheds full of fertiliser which could not be priced out, in anticipation of the rise. Obviously in July and August 2008 some fertiliser providers were actively trying to reduce their inventory because of market intelligence, which farmers did not have, that the market was going to do this, and one of the main drivers of the fall was, of course, the huge fall in the freight charges, which I have here and which I will table for the committee. There is a peak in about April, and then it goes from 1.4c per tonne per nautical mile down to 0.2c per tonne per nautical mile. So that was a key driver. Here is one of the flaws in the present system for Australian farmers. I noticed that China put on a tariff for sovereign reasons. One of the things that you might be able to consider to assist farmers—we want to assist you and to assist farmers—is opening up the question of whether, in your business model, you export. What percentage of your manufacture out of Mount Isa do you export?

Mr Whiteside—Perhaps I can answer that. It is between 30 and 40 per cent depending on how large the domestic market is.

CHAIR—I presume that is because holding the inventory is not commercial for you.

Mr Whiteside—That is primarily the reason. As you know, we make the product at Phosphate Hill. We make around 80,000 tonnes a month. We have 80,000 tonnes of storage in Townsville, so we need two 40,000-tonne ships a month to leave Townsville. We have limited storage in the south, and our view is that it makes more sense to move that product into other markets and, if we need to replace with imports when domestic demand is higher, to do that.

CHAIR—It is a question now of the sovereign issue. At the present time—I checked the prices in June over the weekend—we are still about \$200 a tonne too dear if we are really taking on the global price for MAP. We are still \$200 dearer than the landed price here from Florida or somewhere would be. I can give you those figures afterwards if you like. The landed price for urea and MAP-type products out of Florida to a farmer in the United States compared to the landed cost here shows that the latter is still, according to the wholesale price, \$200 a tonne too dear, allowing for the freight factor. The question I really want to ask is: would it be a business proposition to give consideration to this?

Given the apparent withholding or slowing down—and you can respond to this—when the market was rising it was bloody hard. I have to confess I did get some, \$700 or whatever it was;

it was \$400-odd the year before. But the agent I was dealing with was not very happy. He said: ‘We know it’s going to be \$1,200 or \$1,400 after Christmas; why would I sell it to you now? Why don’t I put that \$400 a tonne in my pocket?’ This is even though the shed was full and he was requested by IPL to take some out of the shed because they wanted to move stock. But I think it is unfair to withhold stock because the price is rising and then try to quit stock as the price is falling. I use this example of quitting stock as the price is falling—this is the trust thing. Paul Thompson wrote on 23 July 2008 in the *Land*:

With no indications that fertiliser prices will ease in the next two years, it is critically important that growers look to secure stocks early, according to Australian Fertiliser Services ...

When that article was written, there were press items saying, ‘Get in and buy your fertiliser now.’ I did not know what to do myself. They said MAP might well go to \$2,000 a tonne, and obviously there is no money in that for a farmer; we would be out of business. So I did nothing. It was not good judgment; it was a fluke. As a bloke called Angus Taylor pointed out to us, the Bloomberg site—and I am aware that you know about this—in June said fertilisers were going to fall. In July, the rural press here, with the assistance of IPL, were saying, ‘Get in and buy your fertiliser, because the price is going to rise.’

Mr Whiteside—I understand how difficult these pricing scenarios were and how difficult it was for farmers to try and make decisions. We have a defined domestic southern Australian season to meet the winter cropping market. So we sell product and by June or July we try and have limited inventories of MAP and DAP, because we have to hold them over. So we are not in the business, and never have been in the business, of trying to sell next year’s fertiliser in the previous June or July. Now, there were all sorts of comments and observations made by a number of industry participants—some of them were right; some of them were wrong—but there was never an orchestrated campaign by us to encourage farmers to run out and buy next year’s fertiliser.

Senator HEFFERNAN—But you would agree that if we farmers were a bit smarter—most of us would not know where to go to find the Bloomberg site—we could have been able to tell in June that the price of fertilisers was going to fall because it was over those three months that it went from 1c a nautical mile to 0.2c. You are in the business of maximising profit, and that is fair enough; that is your obligation. But, when that guy in South Australia initially said he was going to import a load, I was aware the Black Sea price for urea was \$200 and something a tonne or whatever, \$380 delivered. You were still charging some outrageous amount of money—\$600, \$700 or whatever it was—and you guys said that you could not drop your price because you had expensive fertiliser in your inventory. Do you agree with that?

Mr Brinkworth—There are a couple of things there. I would first of all like to answer the first question: would farmers benefit from being able to access global information or good information about what is happening in the global fertiliser market? I think we would agree the answer to that is yes. So, in terms of your first question, any approach or initiative that helps and informs farmers is something we would support.

Senator HEFFERNAN—So staying on that subject—and I am very grateful for your assistance to me—as a consequence of the inquiry, you would agree that it would not be a bad idea if we recommended that an independent third party like the NFF or someone provided

farmers with a service whereby they had the global picture available on the net daily or whatever.

Mr Brinkworth—Absolutely. There are a number of different sources that are available. But, certainly, if there was a reliable source or an independent source that could be provided, I think that would be a good outcome.

Senator O'BRIEN—What Bloomberg suggests would be the case, or what any other market analyst suggests would be the case, is never guaranteed in terms of the final outcome. Lest we colour this debate with Bloomberg's as it turned out correct prediction guaranteeing all other predictions, I think we need to be clear that an analysis of predictions would reveal that not all are correct and that sometimes advice leads you down the wrong path.

Mr Brinkworth—I think you are absolutely right. That is why we would support an independence to the process to ensure that that integrity is maintained through the whole process.

CHAIR—Sorry, Mr Brinkworth, I interrupted you. That was the first matter you were going to raise.

Mr Brinkworth—Only to the extent that the issue that you raised in relation to existing inventories was a statement reflecting on why prices had not moved down to that point, the context being that prices had started to move. As you quite rightly pointed out, there was an initial move which related largely to freight cost changes. Then, I believe it was around September or so, global prices started to come down. Obviously it did take time for those changes to flow through into the Australian market, at a time when Australian farmers are much more informed as a consequence of this process than perhaps they were.

CHAIR—Certainly.

Mr Brinkworth—We are very aware and, as you can appreciate, as prices started to come down, demand stopped in essence, or was dramatically reduced. So it did take time. So that reference or that comment that you are referencing was in relation to why things had not changed to that point.

CHAIR—As a consequence of that reference, there were some serious financial outcomes, and that was played out in the media. As a result of that, some people did what I did not do. They booked in fertiliser at a time when prices were falling. For instance, in August, it was about \$1,300 a tonne. What used to happen—and bear in mind I have been at this for a long time—was that in the spring of any given year you would ring up your local bloke and say, 'I want 50 tonne in March' or whatever. He would give you the price, and you would get some sort of a discount if you did an early bird order. So you fellas knew what we wanted early in the piece. All of a sudden one of the justifications for what happened was the excessive build-up of your manufacturing capacity to meet the demand, and therefore prices rose. We used to have early bird ordering at a predetermined price. Is that not possible now?

Mr Brinkworth—Again referencing the opening comments, we are looking at a variety of different approaches as to how we can best support our customers. It is important to draw the

distinction that we sell to our customers who are distributors and then we rely on distributors to manage the transaction through to farmers. Certainly our customers have identified a number of different purchase options that they would like us to consider, and we are exploring those.

CHAIR—But there are legal disputes that are now occurring because of that. Some farmers feel mightily pissed off. I can tell you that when they were taking delivery at \$1,300 or \$1,400 a tonne, the price was \$800 or thereabouts. So you are aware of some disputes with resellers?

Mr Brinkworth—I am aware through this process in particular that there are a number of farmers who are very concerned about it.

CHAIR—So there is work that is being done by legal people, some of it on a pro bono basis. So obviously transparency is what fell apart there. Could I go back to the inventory and the holding costs. One of the logics—and I am a wool classer and a welder, and Senator O'Brien is a broken-down horse trainer—

Senator O'BRIEN—I may be broken down, but I have never been a horse trainer!

CHAIR—He is a race horse owner, so he buys chaff—which is good. On the logic that says you have to export 30 or 40 per cent because it is out of season and we do not have sheds et cetera, if we are going to go to dinky-di global pricing and, as I say, I will supply you—this does not have to be resolved today; we will have a watching brief on this—you would still be \$200 a tonne over what ought to be the landed price if you take the global price into consideration. We had evidence from Ron Greentree on the urea problem. The landed price here is not really the global price that is available from that exporter in Western Australia. If you add the freight onto his global price for export, you still get it here a lot cheaper than the price you fellas are supplying it for—the so-called domestic price in relation to the global price. There are a couple of things. Firstly, would it be a proposition to open up Mount Isa to trucks? Secondly—and this would save a lot of double handling—would it be a proposition to give consideration to a system where you built into the forward cost the holding cost of the fertiliser if, on a cost-benefit analysis, when you export your off-season fertiliser it is more expensive to bring it back in season? If you export 30 per cent off season, what percentage do you import on season?

Mr Whiteside—I guess it depends on the market. In the last year or two I think we had one or two imported vessels.

CHAIR—Yes, but we have had droughts.

Mr Whiteside—In a normal year it would be four or five vessels. That is somewhere between 100,000 and 200,000 tonnes. So it is maybe half of what we export.

CHAIR—In other words, you actually manufacture more than Australia uses?

Mr Whiteside—No, because we do not have 100 per cent of the share.

CHAIR—Would it be a proposition, given that freight is a huge factor in the trigger? The other trigger, by the way, is that some of the Black Sea companies were asked to reduce their manufacturing to maintain the price—because of the so-called financial crisis and falling oil

prices et cetera. In other words, they were asked to do what OPEC do: reduce the supply and maintain the price. They said, 'No, you can stick it. We're going to continue to manufacture at the present price.' And that actually caused the Black Sea price to fall. Have you done the sums on the holding costs? One of the tricks of this game is that, if you export a certain amount and then you import it, there is a global price and whether you reflect the global price is a matter of conjecture. I am grateful that you are here. That is a great thing for the industry, but could there be a benefit for farmers if they were prepared to pay a little extra so that it does not get exported?

Mr Whiteside—If we thought there was a market demand for that sort of product, we could look at it. There are two things. Ultimately, whether you believe it or not, we do price on an import parity basis, so whether the product is imported or comes from Phosphate Hill should make no difference to the farmer in terms of the price he pays. The problem we have is that in spring, for example—and you referred to those early bird deals—two years ago everybody wanted the product because they thought it was going up, but this year no-one wanted the product because nearly everyone knew the price was going down. So it is very hard to have a retail offer that is going to work in every season. Particularly as the market becomes more informed, I think we are going to have to have a suite of retail offers to meet the needs of the farmers and the particular market that we are in.

CHAIR—Mate, you are talking to someone who did not know what to do. We were told that it might go to \$2,000—this is MAP—and it was about \$1,400. I paid \$720 for what went in the ground, because I ordered it early to you before. But also the doubt was sown because of the forecast and the dry season and the financial capacity to meet the contract and all the rest of it. So it was a double banger, as it were. It was a bloody nightmare scenario. And it still is, by the way. There is still a terrible forecast for this spring, even though hopefully we are going to scramble through. South Australia is certainly going to scramble through. Would you give consideration to that?

Mr Whiteside—As I said, we would give consideration to anything we thought made sense. I am not sure whether the notion of keeping product domestically for the domestic market and not exporting it, so reducing imports, actually solves any problems at all.

CHAIR—I might get you what I understand to be the reflective of global parity at the present time versus what we are still paying. What is the average on the eastern seaboard for MAP delivered to your reseller at the present time?

Mr Brinkworth—At the moment—this is an assumed to price subject to distributor margins—APs would be around \$750 landed on farm.

CHAIR—My figures show that, allowing for the various margins, it would certainly be in the mid-600s.

Mr Brinkworth—If I may, in terms of that particular offer or proposition to farmers, Incitec Pivot would welcome the opportunity to sell more of its phosphate rock into Australia. If farmers were willing to pay and there was a commercial proposition for farmers and for ourselves, then absolutely we would be keen to explore that. As I have been going around, I have not heard any of our customers indicate that they would be willing to pay a premium or to pay for that expense.

CHAIR—The market will sort out what the premium will be. As you can see, the freight factor in bringing it back is an issue in maintaining the global parity price above where perhaps it could be in terms of your costs of manufacture. Your costs of manufacture at Phosphate Hill, with the supply of gas, et cetera, did not increase 100 per cent. You just reflected—and fair enough—what the rest of the market said. Also, with the access to Mount Isa for some of the large farmers with road trains, and just say it is \$2 or \$3 million to build a facility there, why would you not have a crack at that?

Mr Brinkworth—This has obviously been something that has surfaced as a consequence of this process, that there are customers of ours and certainly some farmers who would be interested to see whether they could access product direct. We have begun a process of trying to understand what that would take. There is no simple solution. It was never built as a distribution centre. Significant capital investment would be required—

CHAIR—Several million, yes.

Mr Brinkworth—Several millions of dollars. We would not allow a product to leave unless it met our quality standards, which would require screening and other, as I said, capital investment. There are some commercial challenges because it is a long way from many of the markets it would be supporting. Given the scale and the basis of the existing infrastructure, we do obviously have a rail contract where product is moved to Townsville. It is not simply a matter of loading up a truck and arriving at our Phosphate Hill facility, but we are open. We are looking at whether it is doable but I would have to say that there are a lot of challenges in making this happen. From a customer or farmer perspective, as we mentioned earlier, we sell to customers or distributors. For our customers or distributors to have access there is a very real commercial issue in that it is a long way. We would need to make sure that it could occur at a time when it was safe and the roads were appropriate. Equally, it is a long way to run a truck up that would largely be empty. The commercial implications of running an empty truck up and back over that distance make it particularly challenging.

CHAIR—One the reasons that the vegies come back cheap is that the trucks come back empty. The trucks go up full. There are plenty of full trucks going up and coming back empty. The market will sort out.

Mr Brinkworth—I am just highlighting that—

CHAIR—In the present facility, if you load rail trucks—obviously that is all screened and up to standard?

Mr Whiteside—The product is actually screened at Townsville before we put it on a vessel.

CHAIR—Okay. So you would agree that more transparency in the market would assist your relationship with farmers as well as assist the farmers in knowing how to make decisions on what and when to buy.

I will just go quietly to Nauru. I am still getting lots of information and I realise that there are some politics involved in this, but would you describe for us what the hell you think is happening in Nauru? Is it correct to say that when you originally helped fund the reopening of

the plant for Nauru rock phosphate, which has some issues—it has to be blended; I understand it has cadmium and other things in it—what exactly did you agree to?

Mr Whiteside—We entered into a contract whereby we supplied some capital—

CHAIR—How much—\$5 million?

Mr Whiteside—I think it was around \$5 million. Those numbers, I think, to the extent we can, have been in a written submission. I think it was around \$5 million to refurbish the plant and provide some equipment and machinery to allow them to export. In return we took rock which was valued at a price and we took that for free until we had recouped our \$5 million.

CHAIR—Which was \$40 a tonne.

Mr Whiteside—It was around \$40 a tonne.

CHAIR—Can you tell me what the contractual arrangement was—unless you think it is market sensitive? Was it 300,000 tonnes a year?

Mr Whiteside—I think that it was up to 300,000 tonnes. We never took anything like that quantity.

CHAIR—I know you took 200,000 tonnes; I have the shipping notes right here.

Mr Whiteside—It took us longer to actually get those free tonnes back because there are always ongoing operational issues at Nauru. It is not a perfect environment. It is still capital constrained so it does not work as well as it should all the time. The price that we struck was a fair price done in an arms-length agreement at the time. The value of that phosphate rock obviously subsequently went up. So we renegotiated a new higher price.

CHAIR—When did you do that?

Mr Whiteside—I do not have the information in front of me. I think that we have already provided that—

CHAIR—You can take it on notice for today.

Mr Whiteside—Okay. In the end we then terminated that agreement and renegotiated a new traditional supply agreement, which is a normal purchase agreement whereby we on an annual basis negotiate a price. We have done that again for the contract year which starts in July. It is a number substantially higher than \$40—again, done on an arms-length basis to reflect—

CHAIR—What is it now?

Mr Whiteside—That is commercially confidential. It is substantially higher. It reflects the value of the rock. The P in the rock, the fact that it is quite high in heavy metals like cadmium, so we can only use it as a fairly low rate. I would imagine it is in line with the price that the marketing division of the Nauru government is selling to other customers around the world.

CHAIR—What is the productive capacity of Nauru, with Getax and you?

Mr Whiteside—I am not sure.

CHAIR—Do you know how much in recent times your importation of the Nauru phosphate rock is—the recent history? Is it 200,000 tonnes?

Mr Whiteside—It would be around that.

CHAIR—So in terms of your overall production and sourcing of rock phosphate, what percentage is that?

Mr Whiteside—We use Nauru rock at between 15 to 20 per cent of our total rock blends.

CHAIR—So when you were buying it for \$40 a tonne were you bringing it on to your books at \$200? How did you bring it on to your books?

Mr Whiteside—It would have come in at the price that we paid for it.

CHAIR—Are you quite sure of that? You did not write it up into your books.

Mr Whiteside—No, we would bring it onto the books at the price on the supplier's invoice.

CHAIR—So your profit came further down the line from getting it well under the market?

Mr Whiteside—Yes, it would be reflected in our manufacturing markets.

CHAIR—So you did not bring it in as a write-up of stock in the books?

Mr Whiteside—No.

CHAIR—Where else do you source your rock phosphate?

Mr Whiteside—The bulk of it comes from Morocco.

CHAIR—Do you have a fixed annual contract price there or does it vary with the market?

Mr Whiteside—It would depend on the contract. It would be six-monthly or annual or, particularly in a volatile market, it may be three-monthly. In some cases we may even negotiate a spot price with the supplier if we feel that it is advantageous to do so.

CHAIR—Would it be fair to say that, given that five entities—I think that is the number—control 85 per cent of the world's rock phosphate, there is a capacity for market power to be exerted on you blokes as purchasers of the raw product?

Mr Whiteside—We buy the rock that is compatible with our plants and allows us to meet the product specification.

CHAIR—But you do not have much choice in where you get it from?

Mr Whiteside—There is not a huge number of suppliers.

CHAIR—If Morocco—a bit like the argument that is going on now in China with iron ore—says, ‘Sorry old mate it is going up,’ there is not much that you can do about it, is there?

Mr Whiteside—No, there is not. We have tried hard to cultivate new suppliers—

CHAIR—One of the terms of reference for this committee is to look at whether there is global cartel behaviour in fertiliser. Would you agree that there is?

Mr Whiteside—No, I would not. I would agree that the events of the last six months and the rapid decline in prices demonstrate that if there were a cartel it was not working terribly well.

CHAIR—Well let’s put it another way: monopoly behaviour. What forced down the price of rock phosphate from Morocco?

Mr Whiteside—All phosphate fertilisers went up dramatically when demand exceeded supply and all phosphates collapsed dramatically when supply exceeded demand. The fact that we in Australia may choose to buy the majority of rock from one supplier is evidence of a monopoly.

CHAIR—But if it is the only rock phosphate that fits the chemical specification of what you need and you know that, you are in some ways locked into it.

Mr Whiteside—We would be if that were the case. We have other suppliers: we have taken rock from other North African countries, like Togo; we have developed new suppliers in Vietnam and, before export taxes were in place, we took rock from China. So we have tried very hard to avoid that situation where we are reliant on one supplier.

CHAIR—How many years supply have you got left at Mt Isa?

Mr Whiteside—I think our published reserves are around 25 to 30 years.

CHAIR—Have you taken a business plan to acquire other reserves?

Mr Whiteside—We have maintained a continuing watching brief on new opportunities.

CHAIR—There is a geological phenomenon up there west of you that is similar to yours. Do you think it would be a good thing if that were to be developed?

Mr Whiteside—I think, invariably, the world is going to need that phosphate rock—not just Australian farmers but the world will need to develop phosphate rock reserves in the future—and I think it is just a matter of time until those reserves are developed.

CHAIR—You will be pleased to know that the CSIRO thinks we are going to run out of phosphate and they are developing technology now to have production without fertiliser as we know it.

Mr Whiteside—It is a finite resource.

CHAIR—I am very grateful that you have been able to come today. I am grateful that you are aware that the bush is very damaged by the experience of the last two years. Their confidence in the ‘Qantas tail’ capacity of a company to have signage that is well respected and I appreciate the fact, Mr Brinkworth, that you are determined to rebuild the confidence of farmers in Incitec Pivot and I wish you well on that journey. It is helpful for us to get confirmation that full market knowledge is probably what has been lacking in the past. That is because it has been such a comfortable relationship. I think there is a global capacity to play the market with market power, not that that is breaking the law. As the ACCC has said, if they do not use it in a predatory way to put someone else out of business, there is nothing the ACCC can do about it. We are beholden in a way to five suppliers globally for 85 per cent of phosphate supplies.

Senator FISHER—No, thank you, Chair. Thank you, gentlemen.

CHAIR—We are grateful. We would like an ongoing relationship with your company, as would farmers in general, in maintaining the best interests and help for any input or advice you can give to farmers. Obviously, you have shut down production at one of your works in Victoria.

Mr Brinkworth—Geelong.

CHAIR—Is it your intention to dismantle the works or are you mothballing it?

Mr Brinkworth—It is not our intention to dismantle it at this point.

CHAIR—But it could be?

Mr Brinkworth—It could be.

CHAIR—If it is not commercial-in-confidence, does that mean you have enough capacity in your planning to not need that plant? Is it inefficient? What concerned me when I saw that several months ago is that it is going to make it even harder for us. You say that in the build-up to the spring you did not have the manufacturing capacity so it seems strange to me that you would be getting rid of manufacturing capacity, given the one-off circumstance of a drought and a financial crisis for farmers. I can tell you what farmers did—the just put on less fertiliser. As it turns out, with less rainfall it did not matter. What happens if we get a big season and whacko? You say, ‘Sorry, we can’t provide because we’ve dismantled the works,’ which you say is not off the agenda but could be on the agenda, and you say, ‘So the price is X amount and we will get it from Timbuktu.’ That is another danger. Because of the size and proportion of the market, you are holding farmers to ransom, as it were. Farmers ought to be alert to the fact that, if you shut that works, that shuts down your capacity to provide. You do a fair bit of single super there, do you?

Mr Brinkworth—Single super, yes.

CHAIR—The reason the demand was not there for single super is how the hell could you put it on given the circumstances of the seasons? That ought to be considered in a humane sort of a way by your company. It is not that farmers are not going to use single super because it is the cheapest way of get your pasture balance for lucerne, dairy and all the rest of it, with the sulphur that is in the single super. I would urge you not to dismantle the plant. The time will come when you will be pleased you have not. The perception that you are shutting down works, which is more concentrating your capacity, and saying, ‘If it ain’t there and you want to have it, it will cost you more,’ is real. Thank you very much.

[12.18 pm]

COX, Mr Adam, Private capacity

Evidence was taken via teleconference—

CHAIR—I remind you that in giving evidence to the committee you are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action would be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence. The committee prefers all evidence to be given in public, but under the Senate's resolution witnesses have the right to request to be heard in private. It is important witnesses give the committee notice that they want to give evidence in camera. It is not your intention to go in camera, is it?

Mr Cox—No, it is not.

CHAIR—Thank you, Mr Cox. If you could give your name, rank and serial number and make an opening statement, we will then be happy to ask you a few questions.

Mr Cox—My name is Adam Cox. I am the director of a company called AMCDE Mining. We own a 300 million tonne amorphous silica deposit which we use primarily as a cattle-feed supplement and as an agricultural fertiliser. We became involved in the phosphate business through technologies where we can produce a rival to DAP and SSP, utilising phosphate rock blended with our silica from North Queensland. That then leads me on to how we got involved with the Nauruan phosphate and trying to import some of that rock so that we could produce our own phosphate products that would, I suppose, be in rivalry with the DAP produced by Incitec.

CHAIR—Thank you very much, Mr Cox. I received an email from you which is 13 or 14 pages long, maybe more. Do you mind if that becomes a public document?

Mr Cox—No, that is fine. I think generally it is a public document.

CHAIR—It starts off with:

The spreadsheet on vessel names, loading and pricing (attached ...

Is it all right if that becomes a public document?

Mr Cox—Yes, sure.

CHAIR—I move to table the document as a public document. As there is no objection, it is so moved. So in terms of competition in the fertiliser market, Mr Cox, do you have any observations to make?

Mr Cox—I think it has been very difficult for the growers in general to get hold of these more advanced farming practices that use new technologies that are generally widely used overseas,

but it is very hard to get the base groundwork for the growers to get access to those products. Just from personal experience, we have found it incredibly difficult trying to market and trial our silica phosphate products purely because of the market that you are trying to encroach on.

CHAIR—In the document which was just tabled, you say:

It is evidence the board and management—

That is of IPL, is it?

Mr Cox—Yes.

CHAIR—It says:

It is evidence the board and management have intentionally mislead investors and shareholders and used market conditions, from which incitec were largely insulated as reasons for increasing prices to farmers.

Well, there might be a bone of contention there.

Incitec has operated a cartel with Getax, another Australian company (owned by non-resident Indian/Singapore nationals) to fix the price of Nauruan Phosphate Rock in a grossly corrupt manor to something substantially below world price, and then used this advantage and intentional volatility to further increase its profits.

What evidence do you have of that?

Mr Cox—From my personal dealings with Nauru and being substantially aware of the world price of phosphate rock. I suppose it is also evidenced by the public statements that they have made in the press, as far as IPL go—Getax do not really publicise themselves too much. They do not deal in Australia; they just trade.

CHAIR—But that is a pretty harsh statement. Do you think that Getax was paying the same price, which was \$40 a tonne at the—

Mr Cox—I do know that to be true, yes. I talked to the minister at the time in Nauru whose adviser told me in a sit-down meeting and probably in an email too that that was the price.

CHAIR—What, that Getax was paying?

Mr Cox—Yes, and Incitec—

CHAIR—Could you provide that email to this committee?

Mr Cox—I may have sent it to either Jane or Peter in your office.

CHAIR—That is the email from the Nauru minister?

Mr Cox—Yes. I think it may have been used as evidence previously when it was raised a few months ago.

CHAIR—Do you have evidence, or is it hearsay, that the fertiliser bought at \$40 a tonne may have been written up in the books as a much higher amount? We have received evidence to the contrary.

Mr Cox—I can only go by the statement that they made in the *Australian*, which was regarding the closing of the Geelong port, claiming that the depreciation of the value of phosphate rock was one of the main reasons. How you can depreciate rock that was bought at \$40 a tonne, I am not too sure.

CHAIR—Okay, I must retrace my steps here for a moment. Could I just notify the hearing that we have received in camera evidence to which I may have just referred, which is sourced from the Nauru. So I do not think we should discuss that any further.

Mr Cox—I am aware that the price was increased in about September I believe to \$120 a tonne. I think there was a knee-jerk reaction from all parties to the statements made in the previous inquiry meeting.

CHAIR—I am just going to take some advice from the committee secretary. I think we may have to have a private meeting. Because we have received evidence in camera from you, Mr Cox, I think it would be inappropriate for us to discuss that evidence without consulting the committee. We will just go to a private meeting for a moment and suspend the public hearing.

Proceedings suspended from 12.27 pm to 12.32 pm

CHAIR—Mr Cox, we are now back in the public session. We received an email from you dated 19 January 2009. It includes an email to a third party from a second party, who are in Nauru. Would you be prepared to have that placed on the public record?

Mr Cox—Is it possible to confirm which email it is. I cannot say off the top of my head what it is.

CHAIR—In order to clarify this matter we will now proceed to hear evidence in camera.

Evidence was then taken in camera but later resumed in public—

Proceedings suspended from 12.33 pm to 12.36 pm

CHAIR—We are resuming the public session. Mr Cox, you have notified the committee that in your view Incitec Pivot were contracted—and you say also that Getax were contracted—at a price below the cost of production. Could you give us your version of that?

Mr Cox—My understanding comes only via former workers on the island of Nauru and from the email that was given to me by one of those former workers, who was the managing director of the group at the time. They were well aware that their sale price to both Getax and Incitec Pivot was \$30 a tonne less than what it was costing them to operate.

CHAIR—So why do you think they would have agreed to that contract? Was it just to get the plant up and running?

Mr Cox—It gets fairly convoluted with the introduction of AusAID. Some AusAID money was provided for the rehabilitation of business in Nauru, excluding phosphate, after the detention centres were removed. So in order to carry on operations the AusAID money still needed to come in. Obviously it was in the commercial interests of the two companies to keep the sale price down. So there was a kind of seesaw effect going on between government money provided by Australia to Nauru for the development of its economy and the continuance of trade at substantially below what it was costing.

CHAIR—So the gist of your evidence is in terms of the contractual arrangements for rock phosphate out of Nauru—and we heard earlier evidence that it is between 15 and 20 per cent of the blend for IPL here in Australia—is that it was originally contracted at a cost below the cost of production by mutual arrangement and that AusAID money could have been seen to have been making up the difference as it were.

Mr Cox—That is true, yes.

CHAIR—Thank you. Is there any other evidence that you would like to give us?

Mr Cox—As far as factual documented evidence is concerned, I do not think I have anything else.

CHAIR—We have received shipping notes et cetera and other material, which have been received in public.

Mr Cox—I think the pricing overseas, the importation and how they are blended in locally only kind of paints a small picture. There is a knock-on effect that goes right throughout the industry because of the low cost of production when you are starting with the base costs. In trying to import the phosphate rock we found that, unless you can source a dramatically low base product, the same as Incitec were doing, it is impossible to compete. Whilst products other than ours also provide a more effective use of phosphate fertiliser without the run-off, without the heavy metal mobility, it is impossible for anybody to commercially compete because of the pricing.

CHAIR—So what you are saying is that for you to go and get cheap rock phosphate from Nauru, you would obviously have to blend it with other rock phosphate?

Mr Cox—We would not blend with other rock phosphate. Our silicone compound does the work of the sulphuric acid, so you still maintain an organic phosphate fertiliser. But how can we compete when we are trying to source phosphate rock from overseas at 10 times the price plus the cost of shipping? We are trying to bring it in. Commercially, it is impossible.

CHAIR—You mean if you could get it from Nauru you would be better off?

Mr Cox—For us, Nauruan rock is actually quite a good source of phosphate rock because it has a relatively high cadmium content. When you are applying the monosilicic acid to activate

the phosphate it immobilises those heavy metals, so the cheaper cost that is usually associated with heavy metal rock does not have so much of an impact for us. We do not have that need to blend it. Of course, when you are still dealing with a base product, even if they say it makes up 20 per cent of their cost, it is 10 per cent of the rest of the world's cost and the knock-on effect as you go through the production process is huge. Their base cost is—

CHAIR—I think we understand that. When you say 'we', who is we?

Mr Cox—Our company, trading as Si-Soil.

CHAIR—Is that a private company?

Mr Cox—It is.

CHAIR—I presume you would be of the view that more competition in the rock phosphate market would be of assistance to Australian farmers?

Mr Cox—Absolutely. I think the follow-on to that is more competition with regard to technology. A lot of the technology that is used here uses the traditional application of DAP, MAP—phosphoric acid. It is fairly old technology. There are many things in the marketplace that do not have the negative effect where you have this heavy metal mobility that affects your waterways. And, as I was saying, when you have groups like BSES, or some of the bigger government organisations, also receiving large amounts of funding from a company which essentially has a large monopoly it is completely counterproductive.

CHAIR—What you are saying there is that if you could develop your product in terms of run-off to the Barrier Reef et cetera, the Barrier Reef would be a lot better off?

Mr Cox—It is not so much about developing. Without just talking about what we do, there are other products there that would have a dramatic effect on sustainable farming. But it is impossible for those new products to come through when you have to go through the rigmarole of an accreditation process with government organisations, which are largely funded by the competition.

Senator O'BRIEN—Mr Cox, have you a paper or brochure that you can send to the committee that sets out this case?

Mr Cox—Yes.

CHAIR—Mr Cox, is there anything further you would like to add?

Mr Cox—No. That is fine for me.

CHAIR—I am grateful for your evidence. We will draw this hearing to a conclusion. I thank the Hansard people, the linesmen and ball boys, wherever they are, and also our witnesses, senators and very hardworking secretariat. Thank you very much.

Committee adjourned at 12.45 pm
