



ANTI – DUMPING SPECIALISTS

ACN 056 514 213 ABN 87 056 514 213

30 March 2006

Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Ave
Canberra ACT 2600
Attention: Ms Antonina Bolschelarski

Dear Antonina,

JOINT STUDY OF THE ADMINISTRATION OF AUSTRALIA'S ANTI-DUMPING SYSTEM

An initial submission to the captioned study follows. Available time has constrained my contribution and hopefully there will be further opportunity to provide comments during the process.

1. Access to the Anti-Dumping System

The main issue I see is consistent interpretation of the legislative requirement that an application provides “reasonable grounds” to publish an anti-dumping notice and the WTO Anti-Dumping Agreement requirement that it provides “sufficient evidence” to justify initiation.

It would, in my view, contribute positively to the objective of consistent interpretation of these requirements if a single unit of the Trade Measures Branch (“the Branch”) had total responsibility for the screening of applications and decision as to whether they provide “reasonable grounds” or “sufficient evidence” for initiation, be it the Dumping Liaison Unit or other unit within the Branch.

At present, the various operations directorates have screening responsibilities and interpretations of “reasonable grounds” and “sufficient evidence” are quite variable in my experience.

The converse view is the more involved in the process the more chance there is of objective assessment.

I believe industry would be better served by the development of consistency in approach.

2. Transparency

Again I see consistency of interpretation of legislative and WTO requirements concerning the extent of disclosure in non-confidential versions of submissions, in particular applications, the main issue.

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It is my opinion that Customs should develop a policy which is more in line with the requirements of Article 6.5 of the Agreement and administer it uniformly, i.e. require meaningful non-confidential summaries of all information submitted in confidence or require parties to provide a statement of reasons why summarization is not possible.

3. Conduct of investigations

Once again consistency in the conduct of investigations into dumping, injury and causation is the major issue. There is widespread inconsistency in approach to the various aspects of investigations, not only across directorates within the Branch but across investigation teams within directorates.

Referral of preliminary and final determinations to the Policy Section of the Branch before they are signed off by delegates is an admirable compliance objective but cannot work unless all pertinent details are available to the Policy officer(s) responsible for monitoring compliance – and this is often not the case.

In my opinion the necessary level of consistency can only be achieved by on-going, high standard training and a more searching approach by Policy officers before certifying compliance of determinations.

Confidence in the process is seriously undermined by inconsistent decision making.

4. Post imposition of measures

I see monitoring the effectiveness of measures the responsibility of the Australian industry that sought them. However, Customs should thoroughly investigate industry claims of circumvention and non-compliance which are supported by sufficient prima facie evidence.

These are my initial comments which may be further developed as the process allows.

Yours sincerely,

Roger Simpson