



Joint Study of the Administration of Australia's Anti-Dumping System

Comments by the Food & Beverage Importers Association

Introduction

1. The Food & Beverage Importers Association (FBIA) is an industry association that represents importers of food and beverages, both retail ready and ingredients for further processing, into Australia.
2. Currently, there are a number of foods that are subject to anti-dumping measures: pineapple fruit prepared or preserved in containers, canned peaches and preserved mushrooms. Moreover, there are often claims that an imported food is being dumped or subsidised. Over 2004/05, there was a subsidisation investigation into olive oil from Spain, Italy & Greece, which Customs terminated in a decision that was supported by the Full Federal Court.

Access to the Anti-Dumping System

3. Dumping is a complex issue. Concepts such as normal value, like goods, and material injury are very far from simple, and the question of causation requires a thorough examination of many factors that influence prices in a competitive market.
4. It should be recognised that anti-dumping investigations impose substantial costs on the importer and have a highly disruptive impact on its operations. There are the costs of preparing submissions and meeting with Customs during verification visits. Provisional anti-dumping measures may be imposed and, while they may be refunded, their cost must be borne for the duration of the investigation. The initiation of an anti-dumping investigation has an immediate impact on the Australian market and the importing industry under inquiry.
5. If anti-dumping or countervailing measures are legislated, higher costs are imposed on importers, domestic industries that may use the import subject to dumping duties and on consumers. The imposition of dumping duties has significant economic and commercial consequences.

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6. Given what is involved in a dumping investigation and the significant consequences that flow from the launching of an investigation, let alone the imposition of duties, the information requirements for an application to be accepted for investigation should be substantial. Rather than ease information requirements, we believe consideration should be given to a 'bond' system, under which a complainant has to pay a bond on lodgement of its application that is only repayable if the application is ultimately successful.
7. The Dumping Liaison Unit is located within the Trade Measures Branch of Customs, but that Branch also conducts the dumping investigations. It seems to us that the link between assisting in developing and lodging applications for anti-dumping assistance and the assessment of the case is too close. There should be a complete division between assistance and assessment. The liaison function should at least be located in a different branch of Customs. Otherwise, there is an appearance of lack of impartiality by Customs in making its inquiry.

Transparency

8. Importers are severely handicapped in preparing submissions to Customs by claims of confidentiality for 'material injury' information. The public versions of anti-dumping applications provide only scanty information on what injury is alleged and the reasons for alleging that imports are causing the injury. The information is too often not much more than headings of alleged injury and lack of injury details prevents the importer from testing or disproving specific claims. Material injury claims and details are heavily hidden under confidentiality claims.
9. The Association believes the complainant should be under a greater onus to provide a meaningful and testable statement of its material injury claims.

Conduct of Investigations into dumping injury and causation

10. The Association is concerned that the short investigation periods that now apply do not provide sufficient time for a thorough examination of the issues and do not afford adequate opportunities for importers to defend their interests. Fact finding and verification take up a considerable part of the investigation period and would seem to leave little time for a thorough analysis and testing of the issues. Rushing investigations has implications for the quality and rigour of those investigations.



Post imposition of dumping measures

11. We note that the only activities monitored by Customs are those of importers and exporters. In our view, Customs should also monitor the activities of the complainant to ensure that measures remain in place for the minimum time necessary.

Future of Anti-Dumping System

12. While discouraging predatory activity which would limit competition, the competition policy principles agreed to by the Council of Australian Governments strongly recognised the benefits to the domestic economy from price competition generally. Australia's anti-dumping regime may provide assistance to certain producers, but the broader impact of anti-dumping actions should be recognised. There can be no presumption the benefits generated by anti-dumping action outweigh the costs associated with increased prices and reduced competition.
13. In that regard, we note that in its Report for *The Review of National Competition Policy Reforms* (No. 33, 28 February 2005), the Productivity Commission recommended that:

The Australian Government should, as soon as practicable, initiate the independent review of anti-dumping arrangements previously scheduled under the NCP. (Recommendation 9.3)

We would request that the Joint Study include a reference to this recommendation in its Report.

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