

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

### **Issues for Consideration**

The matters to be considered by the Joint Study will include:

#### 1. Access to the Anti-Dumping System

The anti-dumping legislation places an onus of proof on the applicant to establish reasonable grounds for the initiation of an anti-dumping investigation. Applicants are required to complete an approved form in order to provide sufficient information to allow Customs to determine if there are reasonable grounds to publish an anti-dumping notice. Conclusive evidence is not required but claims should be reasonably based and simple assertion, unsubstantiated by relevant evidence, is not adequate. The Dumping Liaison Unit of Customs is available to advise industries about the investigation process and the information requirements for an application. Issues to be examined by the Joint Study include:

- Complexity of the application and related information requirements and standards;
- Consideration of applications (the “screening” process); and
- The role of the Dumping Liaison function and whether it adequately addresses the needs of industries

#### 2. Transparency

Following the initiation of an investigation, Customs invites all interested parties by public notice to respond to the claims made in an application. Customs also directly contacts all known interested parties inviting submissions. These submissions are due within 40 days of the start of the investigation. Each submission must normally be accompanied by a non-confidential summary of the information contained in the submission. The non-confidential summary should be sufficiently detailed to allow a reasonable understanding of the substance of the information submitted. Non-confidential versions of submissions and reports are placed on a public file, as is the non-confidential version of each application.

The Joint Study will examine transparency issues including the operation of and access to the public file.

#### 3. Conduct of investigations into dumping, injury and causation

In addition to the information obtained from industry, Customs also seeks information from importers and exporters. Customs will then seek to visit the premises of the industry, importers and exporters to undertake further investigation and verify the information provided. Following the verification visits Customs analyses the information to determine if the alleged dumping is causing material injury. Generally securities can be imposed where there is sufficient verified information available and they are considered necessary to prevent further injury being caused during the investigation. A preliminary affirmative determination is issued at the

same time as the securities are imposed. On or before 110 days after the initiation of the investigation, Customs must issue a Statement of Essential Facts (SEF) on which it proposes to base its report to the Minister. Interested parties then have 20 days to respond and lodge submissions on issues contained in the SEF. In defined circumstances retrospective measures can be taken when an importer knows or ought to have known that the goods were dumped - the earliest time retrospective measures can take effect is no more than 90 days before a preliminary affirmative determination is issued.

The Joint Study team will examine the investigation process, particularly the following administrative aspects of the conduct of investigations:

- Determination of like goods
- Verification of information from industry, importers and exporters
- Consideration of 'relevant economic factors' in establishing material injury
- Information requirements for the application of the retrospective measures

#### 4. Post imposition of dumping measures

Customs monitoring of anti-dumping measures is part of the Trade Measures Branch's overarching compliance strategy to ensure the effectiveness of measures. It is limited to the identification of cases of circumvention and non-compliance by importers and exporters. Monitoring in this context does not cover the monitoring of the remedial effectiveness (in economic terms) of the measures for the Australian industry.

Goods subject to anti-dumping measures are monitored after the imposition of the interim dumping or countervailing duty. Additional monitoring can be identified through the Customs risk assessment model.

The Joint Study will examine the current standards for monitoring and their relationship with the Customs risk management policy.