



AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2006/54

CHANGES TO SUPPLYING INFORMATION FOR THE PUBLIC FILE

On 24 November 2006 the Minister for Justice and Customs and the Minister for Industry Tourism and Resources announced a number of changes to the administration of the anti-dumping system. The announcement follows the acceptance by the Ministers of the Joint Study Report on the Administration of Australia's Anti-Dumping System (the Report). The Ministers' Joint Press Release may be found at www.customs.gov.au.

Section 269ZJ of the Customs Act 1901 (the Act) requires that Customs maintain a public record of certain investigations. Two of the accepted recommendations in the Report concern the provision of non-confidential information for the public record.

Provision of a non-confidential summary

It is a requirement of the Act that non-confidential versions of submissions are to be provided for the public record when making applications for dumping/countervailing duties; reviews of existing measures; requests for the continuation of measures; and, submissions made in response to these applications. Quite often it has been the practice to blank or black out sections that are of a confidential nature.

The Report recommended (Recommendation 10) "that, to improve the ability of interested parties to obtain a reasonable understanding of the substance of information in public file documents, every deletion be followed by a bracketed summary containing sufficient detail to permit a reasonable understanding of the substance of the information deleted."

The Act requires that to the extent that information given to Customs is claimed to be confidential or whose publication would adversely affect a business or commercial interest, the person giving the information must (emphasis added) ensure that a summary of that information contains sufficient detail to allow a reasonable understanding of the substance of the information, but does not breach confidentiality nor adversely affect those interests.

The Act allows that a person is not required to provide a summary for the public record if Customs can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information. However, such a summary would add considerably to an interested party's understanding of information contained in a document.

As provided for in the Act, and in line with the recommendation of the joint study, Customs is seeking the cooperation of all interested parties in providing a explanation, in brackets, of deleted or blacked out information for the non-confidential version of submissions. Note that if such an explanation is not provided Customs may disregard the information in the submission.

The following is an example of what the new requirements will look like:

Management accounts (eg income statements) can be extracted for individual operating segments, global business units, value centres, etc Company X to individual grades and packing types. Accounts can be further split by legal entity (eg Company X) and sales region.

[redacted] [explanation of cost allocation through the divisions of Company X].

Documents to be placed on the public file at least two weeks prior to the publication of the statement of essential facts (SEF)

The Report recommended (Recommendation 11) “that, to allow time to examine public file documents, Customs endeavour to have all documents on the public file as soon as possible but in any case not less than two weeks before the publication of the statement of essential facts.”

Customs has undertaken to comply with this recommendation and will endeavour to place all such documents on the public file at least two weeks prior to the publication of the SEF. Customs will be seeking the cooperation of interested parties in providing and/or clearing non-confidential documents in a timely manner.

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