
3 Recent anti-dumping and countervailing activity

Key points

- Anti-dumping and countervailing activity in Australia has declined over the past decade or so and, until quite recently, was at historically low levels. There are currently 27 measures in place against 19 products and 14 countries.
- Various factors have contributed to the downward trend in usage, including the strong state of the economy for much of the past decade and the changing composition of Australian industry.
- For many years, almost all of Australia's measures have been dumping-related, with only one countervailing measure currently in force.
 - Australia has relied principally on duties to address injurious dumping, with only three of the current measures involving price undertakings, and then only for some of the exporters concerned.
 - The lesser duty rule has been applied to nearly half of the measures currently in force, with the specific rate (dollar per unit) duties concerned being reduced, on average, by 15 per cent.
 - The ad valorem equivalents of the duties collected on the products currently subject to measures vary considerably — from 2 per cent to over 100 per cent, with the mean and median being 20 per cent and 8 per cent respectively.
 - In recent years, the total amount of anti-dumping and countervailing duties collected has averaged around \$9 million, with some 40 per cent (\$3.5 million a year) subsequently refunded.
- The average duration of measures has been growing, with an increasing proportion being extended on one or more occasions.
- The majority of measures in Australia apply to a relatively narrow and diminishing range of basic industrial chemicals and plastics, base metal products, paper products and processed agricultural products — the bulk of which are inputs to further manufacturing processes.
- Around three quarters of Australia's anti-dumping measures apply to goods exported from Asian countries, with China accounting for eight alone.
- Australia's current usage of anti-dumping and countervailing measures is broadly in line with its share of world trade. Over the past decade, Australia has accounted for around three per cent of new measures imposed globally.

The usage of Australia's anti-dumping system, and the nature of that use, are relevant to assessing the benefits and costs of the system. In looking at usage, it is important to recognise that the 'demand' for anti-dumping and countervailing measures has historically fluctuated in response to economic cycles and has been influenced by other trade and industry policies (see appendix B). Over time, usage has also been affected by the composition of Australian industry, itself influenced by these broader policies. Many of the industries that previously used the system no longer exist as manufacturing entities in Australia. Indeed, as is evident from the usage statistics, the system is becoming more narrowly focused on a handful of industries which produce mainly intermediate goods.

3.1 Recent usage of the system

The extent to which Australian industries have used the anti-dumping system is reflected in four metrics — the number of applications for measures, investigations initiated, new measures imposed and total measures in force. However, only limited information is publicly available on the first of these (see chapter 7). Hence, the following discussion is based on the latter three indicators.

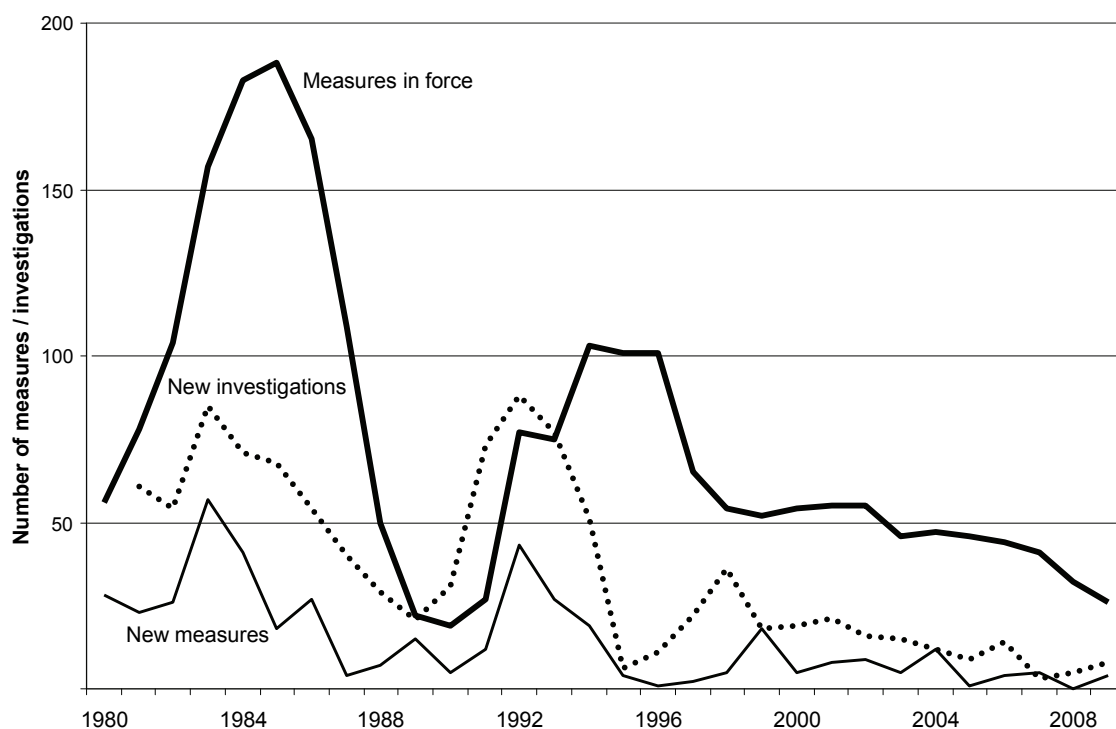
Against each of these, recourse to Australia's anti-dumping system has been declining over the past decade and more (figure 3.1). In sum:

- In the decade to 2008-09, Customs initiated around 12 new anti-dumping investigations each year. In contrast, the number of cases investigated in the 1990s averaged over 40 each year.
- The number of new measures imposed has similarly fallen — from an average of around 14 each year during the 1990s to around five each year over the past decade. Although the declining number of investigations has driven this trend, the impact of that decline has been partially offset by a higher 'success rate'. Nearly 50 per cent of cases initiated in the past 10 years ultimately led to action against the imports concerned, compared to around one third of cases in the previous decade.¹
- In turn, the reduction in new measures, together with the expiration of some existing measures, saw the total number of measures in place fall to 26 at 30 June 2009 (covering 18 products from 13 countries). (The Minister has

¹ In contrast, there has been no discernable trend in the number of requests for measures that have been terminated at the application phase. According to information provided to the Commission by Customs, over the past decade, around half on average have been terminated (that is, not initiated), though with considerable fluctuation in proportions up and down from year to year. With around half of initiated cases also being unsuccessful in the past 10 years, this means that around 25 per cent of applications ultimately lead to the imposition of measures.

subsequently imposed one additional measure, taking the number of measures in place at the time this report was being finalised to 27.)

Figure 3.1 **Australia's anti-dumping and countervailing activity^a**



^a An investigation or new measure is an action applying to one commodity from one country or customs region during a financial year. The number of measures in force is at 30 June.

Sources: ACBPS Dumping Notices; PC (2009).

Despite the stock of measures declining over time, measures have been tending to stay in place for longer, with an increasing proportion being extended on one or more occasions. Between 2002 and 2009, the average duration of measures increased from 4 years 7 months to 5 years 2 months. Those currently in force that have the longest duration are anti-dumping measures on polyvinyl chloride (PVC) homopolymer resin (from Japan and the USA), which have been in place for nearly 20 years (since 1992), and countervailing measures on brandy (from France), which have been applied continuously since 1995.

Factors affecting usage of the system

There was widespread agreement amongst inquiry participants that a key factor affecting the cyclical pattern in anti-dumping activity over the past 30 years has been changes in the strength of the global economy. Past periods of heightened anti-dumping activity in Australia have generally coincided with below average world

economic growth, such as in the early 1980s and early 1990s. This suggests that the diminished usage of Australia's anti-dumping system over the past decade can, to an extent, be attributed to a generally strong domestic and global economy.

However, other factors have almost certainly played a role. For example:

- The changing composition of Australian manufacturing has seen many of the industries that previously used the system cease local production (see box 3.1).
- A relatively more self-reliant attitude among manufacturers, encouraged by a generally more open trading environment, means that today's industries are increasingly competitive and may feel less need to seek protection via the system than their counterparts in the past.
- Increasing globalisation means that a growing proportion of local producers in industries such as chemicals and plastics also import product to complement their locally manufactured ranges. While some have claimed that such importing activity has increased the scope for strategic use of the system (see chapter 4), it may more generally have discouraged recourse to anti-dumping measures.
- Some participants also contended that hurdles for initiating cases have become higher, reducing the incentives for small and medium enterprises in particular to seek the application of measures (see chapter 6).

3.2 Nature and form of measures

Virtually all of Australia's measures have, for many years, been dumping rather than subsidy-related. Only one countervailing measure has been in place over the past 10 years.

In addition, Australia has relied principally on duties to address injurious dumping with only three of the current measures involving price undertakings, and then only for some of the exporters concerned. However, some duties may, in practice, be operating as de facto price undertakings insofar as overseas suppliers have increased their prices and importers have recouped interim duty payments via the duty refund system (see chapter 2).

- In recent years, an average of six importers each year have applied for duty refunds, with around 90 per cent of the duty collected from them having been returned.
- Over the past three years, some 40 per cent of the total amount of anti-dumping and countervailing duties collected has been refunded (around \$3.5 million out of \$9 million on an annual basis).

3.3 Product and country incidence

Product coverage

Almost all of Australia's anti-dumping and countervailing measures apply to a relatively narrow range of basic industrial chemicals and plastics, base metal products, paper products and processed agricultural products, many of which are either raw commodities or semi-finished goods that are inputs to further manufacturing processes (table 3.1). Moreover, the concentration of measures within these industry groups has almost doubled over the past 20 years, from 48 per cent to 92 per cent. This is despite a contraction in the number of firms in, and the range of products manufactured by, these industries in recent years.

Table 3.1 **Australia's anti-dumping and countervailing measures by industry^a**

<i>Industry</i>	1989		1999		2009	
	No.	%	No.	%	No.	%
Chemical products, plastics & rubber	6	26	16	34	11	42
Food & beverage manufacturing & processing	3	13	6	13	8	31
Paper and paper product manufacturing	12	26	3	11
Base metal products	2	9	2	4	2	8
Machinery, mechanical & electrical equipment	5	22	2	4
Other manufacturing	7	30	9	19	2	8
Total	23	100	47	100	26	100

^a Measures are counted as one good from one country or customs region at 30 June.

Source: ACBPS Dumping Notices.

Several factors appear to explain this increasing concentration.

- Although the nature of the anti-dumping system means that measures have always been limited to a relatively small group of products that are often physically similar (and thus more amenable to the like goods test), industry rationalisation has reduced the range of local production activities even within this group. Thus, while some past users have expanded their manufacturing activity, others have moved to importing particular lines, or have ceased domestic production altogether (see box 3.1).
- Globally, the size of new production facilities in these industries has continued to grow, with many being heavily, if not exclusively, export-oriented. The high capital cost of such facilities provides a strong incentive for producers to maximise the use of installed capacity. Thus, during periods of softer demand, or

when new capacity comes on line, selling product on world markets at discounted prices may be an attractive strategy.

- Over time, industries that are aware of the anti-dumping system, or that have a history of successful applications for measures, are more likely to consider repeat actions (see, Casselle Commercial Services, sub. 2, p. 2). Indeed, given the complexities of the system, there may be considerable scope for ‘learning by doing’.

Box 3.1 Industry rationalisation and the narrowing product coverage of measures

As far as the Commission is aware, the following products that have previously received anti-dumping protection are no longer manufactured in Australia.

Chemicals and plastics: Di-butyl phthalate; di-isobutyl phthalate; dioctyl phthalate; glyphosphate; levamisole hydrochloride; phthalic anhydride; polystyrene; sodium metabisulfite; sodium stearoyl lactylate; sodium tripolyphosphate; sorbitol.

Machinery: Multi-tyred rollers; outboard motors; washing machines.

Other manufactured products: Air circuit breakers; coloured pencils; fibreglass gun rovings; hypodermic needles; plaster of Paris bandages.

Country coverage

Over the past decade there has been a greater concentration of measures against imports from Asian countries. Three quarters of Australia’s anti-dumping and countervailing measures apply to Asian countries, with China alone accounting for eight measures (table 3.2).

Table 3.2 **Australia’s anti-dumping and countervailing measures by exporting country^a**

<i>Country or region</i>	<i>1989</i>		<i>1999</i>		<i>2009^b</i>	
	No.	%	No.	%	No.	%
Asia	11	48	17	36	20	77
China	3	13	3	6	8	31
Other Asia	8	35	14	30	12	46
Europe	7	30	16	34	4	15
North America	2	9	7	15	2	8
Other regions	3	13	7	15	0	0
Total	23	100	47	100	26	100

^a Measures are counted as one commodity from one country or customs region at 30 June. ^b Since June 30, the Minister has imposed measures on geosynthetic clay liners from Germany.

Source: ACBPS Dumping Notices.

The growing prevalence of measures against Asian exports reflects, at least in part, the relocation of manufacturing to, and growth in manufacturing investment within, Asia and the attendant shift in Australia's trade patterns. Between 1998-99 and 2007-08, the average annual growth in Australia's merchandise imports from Asia was nearly double that from non-Asian countries (11 per cent compared with 6 per cent). Similar anti-dumping and trading trends have been observed in other developed economies such as Canada, the European Union and the USA (see section 3.5).

Extent of import competition for goods subject to measures

In recent years, almost all products subject to new anti-dumping measures in Australia have faced competition from other imports as well as from local production. In almost all instances, there have been at least four distinct suppliers (including those in countries not investigated). In the cases of food service and industrial (FSI) pineapple and PVC resin, measures were simultaneously imposed against three and four countries respectively.

3.4 Magnitude of support

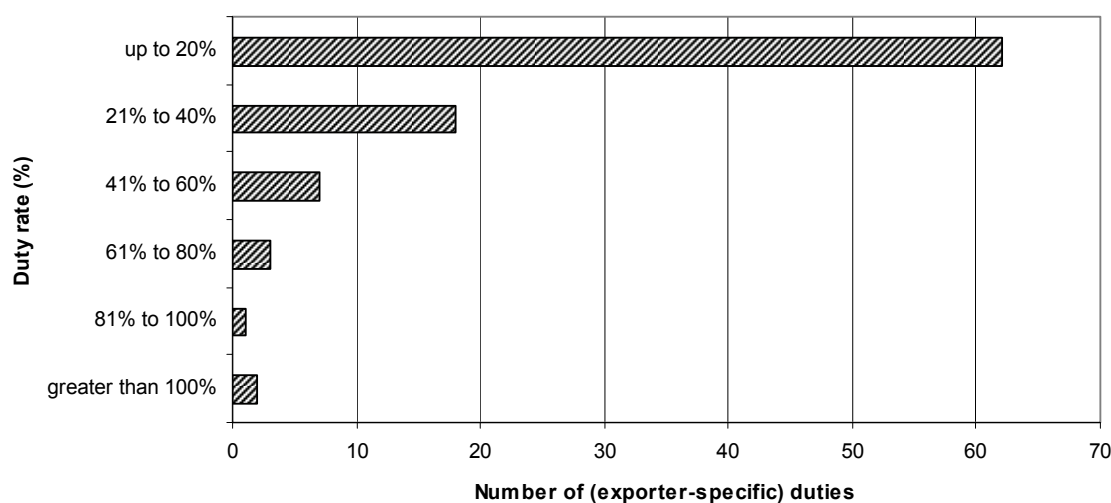
The apparent support provided to local producers by the current measures varies considerably. Though specified in dollar terms, the ad valorem equivalents of a small number of these are over 100 per cent. However, the mean and median are much lower at 20 per cent and 8 per cent respectively (figure 3.2).

For 12 of the measures in force, the lesser duty rule has been applied — meaning that a lower non-injurious price, rather than the normal value (or the full benefit of the countervailable subsidy), was used to set the level of these measures. In these cases, the duty reduction relative to that which would have otherwise applied is up to 45 per cent, and averages around 15 per cent (expressed as a reduction in the duty on a dollar per unit basis).

In addition, anti-dumping measures are often on top of some (typically minor) protection afforded by general tariffs. Over the past decade, around three quarters of new anti-dumping measures have applied to products subject to tariffs of five per cent or less, with the balance largely made up of tariff-free goods.

At face value, the spread of duties depicted in figure 3.2 would suggest that, in some cases, their price raising effects are very significant. However, the actual impact will depend on a variety of supply and demand factors. And while measures may have significant effects in the particular markets concerned, their economy-wide effects are seemingly very small. These matters are discussed further in chapter 4.

Figure 3.2 Anti-dumping duty rates, 30 June 2009^a



^a Customs applies duties at dollar rates per unit. For comparison purposes, the duty rates for measures in place at 30 June 2009 were expressed as a percentage of the most recent ascertained export price. The duty rates applied to 93 individual exporters or groups of exporters (including 'all others'), as part of 23 (out of 26) measures then in place. Three measures could not be included in the analysis on a comparable basis: brandy from France (countervailing) and PVC from Japan and the USA (which operate under the pre-1993 floor price mechanism). The rates of 13 duties (out of 93) were zero.

Data source: ACBPS.

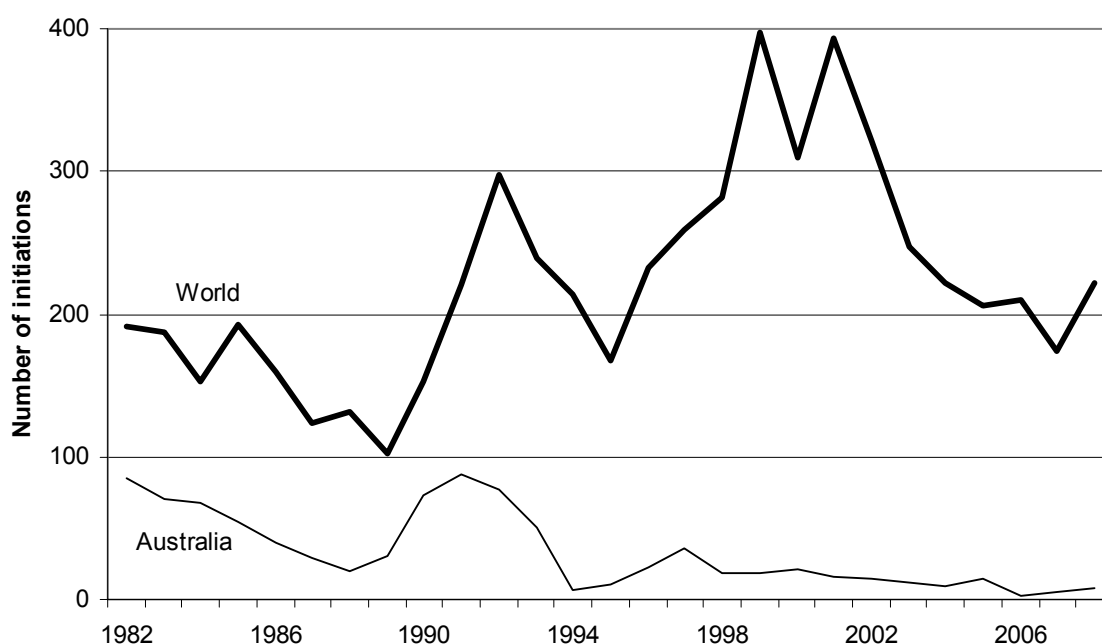
3.5 Global perspective

Between 1990 and 2000, global anti-dumping and countervailing initiations trended up (figure 3.3). In large measure, this reflected growth in the number of countries with anti-dumping systems. And although initiations have declined in recent years, the share accounted for by 'new' users (in particular, India) has continued to grow. In contrast, the share by 'traditional' users (Australia, Canada, the European Union and the USA) has, in aggregate, been declining. It is also noteworthy that although there has been a marked upswing in global initiations following the onset of the global financial crisis, the impact in Australia has so far been less significant.

Further, while there has been a large increase in the number of countries with systems, a small group of countries account for the bulk of the new measures that have been introduced in recent years.

- The European Union, India and the USA have accounted for over 50 per cent of all new anti-dumping measures imposed globally over the past decade.
- Over 80 per cent of new countervailing measures introduced since 1999 have been applied by the European Union, Canada and the USA (table 3.3).

Figure 3.3 Global anti-dumping and countervailing initiations^a



^a Each investigation initiated covers one product imported from one country.

Data sources: ACBPS Dumping Notices; Stephenson 2009; PC (2009); Whitwell (1997).

While Australia was one of the more significant users of measures up until the early 1990s (when fewer countries had systems), it is now a relatively small and declining user; with its anti-dumping and countervailing activity broadly in line with its share of world trade. Thus the number of new anti-dumping and countervailing measures imposed by Australia over the past decade (55 and 1 respectively) represents around three per cent of the global total. This decline in Australia's significance as a user of measures is despite the fact that it arguably remains a relatively attractive export market, with well established legal, payment and transport systems and industries that generally need only relatively moderate levels of support service. (Few measures, nine anti-dumping and one countervailing, have been imposed against Australian exports over the past decade.)

As in Australia, new anti-dumping and countervailing measures globally over the past decade have been:

- predominately anti-dumping (95 per cent) rather than countervailing (5 per cent)
- typically applied to a relatively small range of products, including: basic industrial chemicals and plastics, base metal products and paper products
- largely imposed on exports from Asia (over half) and, in particular China (23 per cent of anti-dumping and 14 per cent of countervailing measures) (table 3.3).

Table 3.3 Global anti-dumping and countervailing activity: new measures imposed^a

<i>Country or customs region</i>	<i>1999–2008</i>		<i>2008</i>	
	No.	%	No.	%
Anti-dumping				
<i>Country imposing</i>				
India	347	21	31	22
USA	191	11	23	17
European Union	169	10	15	11
Other	977	58	69	50
<i>Exporting country</i>				
China, P.R.	380	23	52	38
Other Asia	522	31	39	28
Non-Asia	782	46	47	34
<i>Sectors</i>				
Chemical, plastic & rubber products	627	37	68	49
Base metal products	467	28	28	20
Textiles	160	10	10	7
Machinery, mechanical & electrical equipment	104	6	8	6
Wood pulp, paper & paperboard	68	4	11	8
Other	258	15	13	9
Total anti-dumping	1684	100	138	100
Countervailing				
<i>Country imposing</i>				
USA	46	48	7	64
European Union	20	21	0	0
Canada	13	14	3	27
Other	16	17	1	9
<i>Exporting country</i>				
China, P.R.	13	14	10	91
Other Asia	41	43	1	9
Non-Asia	41	43	0	0
<i>Sectors</i>				
Base metal products	48	51	4	36
Chemical, plastic & rubber products	13	14	3	27
Machinery, mechanical & electrical equipment	8	8	2	18
Other	26	27	2	18
Total countervailing	95	100	11	100

^a Each measure covers one product from one country or customs region.

Source: WTO (2009a; 2009b).