

International Trade, Industry Policy & Customs Services

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29 May 2009

Australia's anti-dumping system
Productivity Commission
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Transmitted by Email to: antidumping@pc.gov.au

We submit herewith, the company's submission to the Commission's inquiry into Australia's anti-dumping system. By way of introduction, we have been associated with anti-dumping matters in a consulting capacity for approximately 20 years and have provided assistance to clients as initiators of actions as well as assistance to clients seeking to defend against such actions. More specifically, we have represented Australian manufacturers, importers and foreign exporters of plastics products throughout the period. Accordingly, the views expressed in this document reflect the culmination of 20 years experience with a broad range of issues associated with Australia's anti-dumping system.

Matters raised by the Commission

Several of the matters raised by the Commission are directly relevant to the issues experienced in recent times and are addressed in the ensuing text. The remaining questions would more appropriately be addressed by other parties with sufficient background knowledge on the relevant topics.

- 1. Is there evidence that some importers price less aggressively to reduce the risk that they may be subject to anti-dumping action? If so, has this practice increased or decreased in recent years?** (page 8 of Background Paper)

The question put by the Commission suggests importers' pricing is pivotal to determining whether anti-dumping sanctions should be applied against them. We respectfully remind the Commission that any ensuing sanctions are actually applied against exporters of goods under reference and not specifically against any importer. Importers may be affected by virtue of the goods they receive from exporters against whom action is taken. However, they are generally free to switch supplies of identical goods from other sources not affected by measures.

We shall therefore assume the question asks whether there is any evidence suggesting the formulation of importer domestic pricing is deliberately influenced by a desire to avoid or deflect potential accusations of dumping against the overseas supplier.

In response, we wish to advise that such “sensitive” pricing deliberations do exist and are most likely to be prevalent within those import establishments that have had direct and relatively recent experiences with dumping investigations.

We allude in particular, to the existence of residual levels of “dumping” awareness held by marketing and sales personnel within a corporate environment. However, that awareness is often transient because of regular personnel movements within those establishments, as well as its significance within the context of prevailing economic priorities. This suggests there are varying degrees of dumping awareness (and associated pricing sensitivities) held by an importing corporate entity over time. In essence, dumping awareness tends to be cyclical in concert with movements of experienced personnel, the fluctuation fortunes of the market place and the levels of anti-dumping activity.

Accordingly, there is little evidence to suggest importer pricing practices reflecting a need to avoid potential dumping accusations, are any more or, less prevalent now than they were ten years ago.

2. Why is anti-dumping activity heavily concentrated in a few key industries? Is it because cost structures in these industries lend themselves to price discrimination across markets? Are the outputs of these industries relatively homogenous, making it easier than in other industries to meet the ‘like goods’ test? (page 9 of Background Paper)

Tests for “likeness” are easier to demonstrate for certain types of goods under consideration because of their homogenous nature. Raw material inputs such as polystyrene and polyethylene used by downstream manufacturers represent two examples. While there may be some technical differences between the locally produced and imported versions in terms of the applications to which they best suited, they are nevertheless, generally easier to categorise because of their basic chemistry.

For more elaborately transformed manufactures where there is greater technical diversity between comparable goods, the test for likeness is more difficult to achieve.

With regard to the apparent concentration of relatively few industries engaged in anti-dumping activity, there are likely to be a number of factors at work here. They include:

- An acute awareness and appreciation of the anti-dumping system by those industries.
- The likely economic benefits from anti-dumping activity are able to be quantified more readily by those industries, thereby facilitating their decisions to participate.
- A history of successful actions by particular industries tends to encourage repetitive claims by those industries.
- Complexity of the anti-dumping system and the associated costs of preparing a claim tend to dissuade potential applicants from proceeding.

- The limited availability of suitable technical resources to assist with claim preparation.

3. Does the growing concentration of Australia’s anti-dumping measures on exports from Asia reflect the broad shift in our trading patterns, or are other factors at work? (page 9 of Background Paper)

The growing incidence of measures against Asian exports reflects a shift in trade patterns, as well as a relocation of manufacturing to, and a growth in manufacturing investment within, the Asia Pacific region.

It is also believed to occur as a result of generally higher tariff levels, particularly in China, Korea and Thailand where domestic manufacturers tend to fully price their products to reflect the protective opportunities afforded by their respective tariffs. However, exports from these countries are priced at levels consistent with those of other regional competitors and therefore, are dumped by default. This “dumping phenomenon” is strictly a technical issue that arises simply because of the existence of significant protective tariffs within the exporting countries and the manner in which dumping is assessed under the present system. Australia’s system does not differentiate between predatory dumping and dumping caused by statistical abnormalities.

4. Has predatory behaviour been an explicit consideration in any recent Australian anti-dumping investigations? For the sorts of goods that have been the focus of investigations in Australia, how likely is it that an overseas supplier could employ dumping to secure an enduring monopoly position in the Australian market? (page 11 of Background Paper)

Predatory behaviour was never a consideration in any of the cases with which I have been associated during the last 12 years. In each of those cases, varying degrees of dumping exhibiting both positive and negative margins for individual shipments were observed. However, there were no distinct patterns of pricing behaviour which might otherwise have suggested predatory intent.

For overseas manufacturers and suppliers of plastics, there is little or no prospect of securing any monopolistic position in the Australian market because of the minimal barriers to entry, as well as the large range of alternative supply sources available for like goods.

5. Do any current measures apply to overseas suppliers that would be in a position to exercise significant market power were their local competitors to cease operations? (page 11 of Background Paper)

For reasons expressed above, there would be minimal opportunities for overseas suppliers of plastics products to exercise significant market power in the event locally based competitors ceased operations.

6. What effects does intermittent dumping have on local industries? How significant, relative to other factors, is its impact on the volatility of prices and supply? (page 12 of Background Paper)

We understand there is no official definition of “intermittent dumping” although the Commission’s background paper suggests it relates to overseas suppliers

offloading surplus stocks at low prices on a periodic basis. We would suggest that for plastics products over the last 5 years at least, any such activity would have been either minimal or, non-existent for the reason that global (and in particular, Asian) demand had outstripped supply by a considerable margin. It has been our experience that up to the beginning of the current global economic crisis, supply constraints would have largely prevented the occurrence of intermittent dumping of the type described above.

An alternative form of intermittent dumping may occur but for a variety of reasons unrelated to excess inventories. For example, intermittent dumping is observed while assessing individual shipments during particular periods, where some consignments appear to be dumped while others are not. In such circumstances, one could suggest that dumping was occurring intermittently. For plastics materials, it tends to occur because of a combination of both pricing (and input cost) volatility, as well as the process by which dumping is assessed. An analysis of such occurrences can frequently reveal that certain shipments appear to be dumped but only because of inappropriate data matching and not because of any deliberate attempt to either engage in predatory conduct or to offload any surplus inventories. That process is further discussed in this submission.

7. Is Australia's current anti-dumping system a significant deterrent to intermittent dumping? Are there any recent anti-dumping cases that have been specifically concerned with such behaviour? Is the imposition of dumping duties for periods of five years an appropriate way to deal with instances of intermittent dumping? (page 12 of Background Paper)

As indicated earlier, intermittent dumping of the type envisaged by the Commission constitutes an occurrence that is less likely to have arisen in recent years. There had been a significant undersupply of plastics raw material products throughout the world for a number of years, up until mid-2008.

Therefore, Australia's anti-dumping system is not considered to have deterred intermittent dumping of plastics raw materials in recent years. Nevertheless, the system itself can readily address genuine cases of such dumping where the circumstances are warranted.

On the issue of whether five-year sanction periods are appropriate to deal with such infractions, an initial reaction would suggest such a period is excessive. On the other hand, it would also depend upon the circumstances of that dumping in terms of volumes involved, the margins of dumping, the number of instances it occurred, the levels of material injury directly attributed to such dumping and the prospect of a recurrence of such activity. Unfortunately, the current system does not differentiate between degrees of culpability or material injury when sanctions are imposed. There are arguments to suggest that although five-year periods could be retained for some of the more compelling cases, there should be lesser periods such as two to three years where the threat of further material injury from dumping is not as patently clear.

Both Australian and WTO anti-dumping codes adopt the convention of applying measures only to a level that would be sufficient to remove material injury. That convention is applied during the calculation of measures to be imposed. Therefore, the quantum of measures are actually based on the lower of the difference between export price and normal value or, the export price and "non-injurious" price

("NIP"). Such a principle could equally be applied to the duration over which the measures are in place so that instead of standard five-year periods, measures may be imposed for periods of between say, three to five years.

8. **What impacts have Australia's anti-dumping system had on your activities as:**

- **a local producer facing competition, or the threat of competition, from dumped goods?**
- **an overseas supplier subject to anti-dumping measures or actions**
- **a local firm importing products subject to anti-dumping measures?**
- **local producer using goods subject to anti-dumping measures, or subject to the threat of such measures.** (page 13 of Background Paper)

Having either represented or, maintained close relationships with all such parties during the course of anti-dumping investigations, we wish to comment from their perspectives on the relevance of the current anti-dumping system.

Impact on local producer

As a local producer of like goods competing in an open global environment, there is an ongoing need to ensure domestic manufacturing is not unduly compromised by inappropriate trading behaviour from overseas competitors. When contemplating additional investment in plant facilities, the prospect of such behaviour constitutes a significant risk to both proposed investment as well as to the operations of the business. Therefore, Australia's anti-dumping system provides an effective and universally recognised mechanism with which to address any concerns from dumping.

From an operational viewpoint, the system provides a higher degree of certainty in relation to market pricing and removes an element of volatility attributed to predatory practices. However, once measures are imposed, they are often difficult to adjust to reflect more contemporary market pricing. Apart from the substantial lead times involved in gathering evidence and making formal applications for reviews, a further six months is required to complete the Customs inquiry process. It is not unusual for the entire application process (from commencement to conclusion) to occur over a twelve to eighteen month period after which time, a further and immediate review might be required.

The financial and human resources required when making an initial application for measures, monitoring the quantifiable factors associated with current measures and possibly seeking their review, imposes a considerable burden on a business. Accordingly, all such activities cumulatively amount to a significant diversion of resources from core business operations.

Impact on overseas supplier

Anti-dumping sanctions imposed against overseas suppliers have engendered a higher degree of caution when setting export prices in order to comply with prescribed measures. Depending upon the levels of those measures and their relevance to contemporary market pricing as well as market demand, exports may:

- be diverted to alternative markets where commercial returns are significantly more attractive; or
- continue to be shipped to Australia where they can be profitably resold into that market.

Once measures are imposed, suppliers are at a significant disadvantage when global pricing for particular goods commences to decline below the threshold benchmark established by the ascertained export price. Such a decline may effectively prevent any further exports to Australia. In the event measures are permitted to expire, suppliers must then embark upon a process of acquiring sufficient knowledge and resources to assist them in determining normal values acceptable to Australian Customs. The process associated with such determinations requires high levels of skill and a thorough knowledge of the relevant Australian legislative provisions and Customs administrative practice. The expertise required to perform the relevant computations is not always readily available and can be expensive. Nevertheless, accurate normal value assessments represent an obligatory first step toward resuming export sales that are not likely to attract further sanctions.

The anti-dumping system also imposes a considerable administrative burden by creating an obligation for suppliers to participate in all Customs inquiries and reviews associated with the measures. The levels of participation extend to the preparation of detailed responses to 39 page exporter questionnaires, the compilation of a multitude of spreadsheets and the supply of preliminary documentary evidence. During subsequent verification visits to suppliers' overseas offices, there is a further requirement for teams of administrative staff to become available to Customs officers to assist with further inquiries and to produce further evidence. Such visits generally occur over an eight to ten day period. There is also ongoing staff participation both before and after such visits.

Suppliers are particularly aggrieved by a system that imposes specific sanctions against them for allegedly causing material injury in a foreign market while denying them the opportunity to properly test whether that injury was correctly attributable to their exports.

Impact on local firm importing products

Imports subject to sanctions generally become more expensive than like goods available from Australian industry and this tends to diminish the competitiveness of those importers affected by measures. Profit margins from domestic sales of affected goods are often depressed and leave importers with no other option but to seek alternative sources of supply.

Importers also have an obligation to maintain supplies to local producers who rely upon competitively priced raw material inputs for their survival and who need access to alternative suppliers for their dual sourcing strategies. The imposition of measures tends to reduce the number of viable suppliers to the Australian market, thereby reducing procurement options for downstream manufacturers.

Contrary to popular belief, a number of importers have considerable investments in Australia and are often entities who also conduct local manufacturing operations. It is somewhat ironic that measures introduced to allegedly protect one Australian industry may have significantly adverse consequences for another.

Finally, local entities who initiate measures against like goods from particular exporters often engage in import activities involving the same goods in order to supplement local production. There is no restriction on export pricing for those goods and consequently, the local entity can enjoy an unfair competitive advantage against other importers whose products are captured by measures. This is one of the unintended consequences of Australia's anti-dumping scheme and constitutes a loophole that may be used for anti-competitive behaviour.

Impact on local producer using goods subject to anti-dumping measures

Anti-dumping measures tend to impose upward pressure on raw material costs which in turn, cascade into higher manufacturing costs for finished products. Depending upon the levels of measures imposed and the consequential effects on both raw material pricing and supply, measures can and do exert disparate levels of hardship on local producers.

One of the critical issues confronting local producers is their ability to maintain several supply sources (rather than a single source) as insurance against possible disruptions from a dominant, major supplier. While this generally forms the cornerstone of a corporation's strategic procurement policy, it also encourages opportunities for competitive pricing from the market at large. To this extent, pricing negotiations need to remain flexible and yet, sufficiently transparent to remove any doubt from the minds of competing bidders. It is not uncommon for bidders to singularly focus on price as the key success factor in winning a bid when in fact, a successful bid may simply reflect a corporation's desire to direct business to a higher priced, imported product for strategic or, product performance reasons. In such an event, a losing bid from Australian industry is likely to generate the perception of price undercutting by competitive imports. While such a situation may not arise if there was adequate disclosure and transparency during the bidding process, producers are nevertheless constrained by the need to maintain confidentiality with each of the parties involved. Accordingly, the appropriate disclosures are not made and the lost sales opportunity is treated as evidence of material injury from imports.

Regardless of the levels of manufacturing activity in which local entities are engaged, all appear to support the notion of an anti-dumping scheme. However, there are divergent views on how the scheme should operate. A common thread among the views expressed is the desire for improved transparency and equity. There appear to be many examples of highly contentious anti-dumping decisions where for example, measures were perceived to be too severe and heavily biased in favour of Australian industry. Such outcomes should be avoided where there are significantly adverse cost implications for the broader manufacturing community.

9. Are there features of the current system that diminish the benefits received, or add to the costs imposed? What are the longer term implications of Australia's anti-dumping system for investment, innovation and productivity across the economy? (page 13 of Background Paper)

There are elements of the current system, which, by their rigidity, impose considerable additional costs in some instances, while in others, diminish the effectiveness of measures imposed.

The first such instance occurs when assessing the incidence of dumping during an investigation period and then developing measures to apply to imports on a prospective basis. Statistical information used to calculate normal values, AEP thresholds, dumping margins and appropriate levels of assistance is usually derived from investigation periods occurring some 18 months to two years before final measures are imposed. Since measures are only applied on a prospective basis, their levels often have little relevance to the quantum of assistance actually required by Australian industry. Therefore, there is a tendency for measures to be set at levels that bear little relationship to prevailing conditions, thereby creating significant inequities throughout the term of their imposition. Under certain circumstances, measures may be insufficient for Australian industry while in others, they may constitute an excessive penalty for importers.

There are opportunities after subsequent twelve-month periods to seek reviews of such measures. However, ensuing investigations frequently take at least six months to conclude before revised measures are finally determined and implemented. Apart from the adequacy or otherwise of revised measures, participation in review inquiries by all relevant parties represents an additional expense imposed by the system

The second instance is relatively similar but has specific relevance to imports in recent times. Global markets for the types of products captured by measures (e.g. commodity plastics) are highly volatile in terms of supply and price. For plastics in particular, their values are primarily driven by dynamic oil prices and currency exchange rates, as well as demand.

This suggests that when prices of certain commodity plastics collapse some 30% over a period of three months, nominal measures viz. the IDD and AEP threshold remain unchanged, but their effectiveness and relevance become highly punitive for exporters. Such declines in market pricing tend to magnify the sanctions, which in turn, become grossly excessive in terms of the levels of assistance required by local industry. The Commission should clearly understand that any difference between the AEP threshold and lower export prices is collected as additional dumping duty by Australian Customs.

Longer term implications of the system

As indicated earlier, anti-dumping activity is heavily concentrated within a small number of industries. Outputs from those industries are of a kind that appear to be readily available from overseas sources and are therefore, globally tradeable within a competitive environment. Such industries also attract significant risk from higher levels of competition and are therefore, likely to be more susceptible to any adverse market conditions. Investments proposed for those industries are

often viewed in a similar context where the risk profiles tend to weigh heavily against additional expenditures. However, the anti-dumping system has a propensity to significantly reduce the risk, particularly from competitive pressures attributable to dumping. In the circumstances, investments within a narrow range of import competing industries appear more likely to continue as long as there is recourse to an anti-dumping system.

There is of course, the opposing view from a broader range of downstream, import competing industries that heavily rely upon low cost inputs in order to remain internationally competitive. They too have similar arguments for their ongoing investments suggesting that theirs might be compromised in the event they are denied opportunities to maintain their cost competitiveness.

The question for the Commission is which of the two opposing groups is likely to provide a more beneficial outcome for the Australian community's economic and strategic interests?

Improved productivity is more likely to benefit those industries that have continuous access to lower cost inputs. On the other hand, a singular preoccupation with lower costs can also obscure the need for innovation and value-adding, thereby reducing opportunities to engage in those equally important forms of commercial activity.

10. How might the current system be improved? (pages 13 - 15 of Background Paper)

Improvements to the system reflect the desire for greater equity, flexibility, transparency, relevance and accuracy when assessing

- the incidence of dumping,
- material injury and its causes and
- levels and duration of appropriate measures.

The following suggestions are presented for the Commission's further consideration:

Normal Value Assessments

The assessment process should take into account, adjustments for any protective tariffs applying in the countries of export. This will assist in reducing the incidence of "technical dumping" discussed in item # 3 above and ensure that normal values are more appropriately aligned with intra-regional market pricing. The practice is also likely to filter out those dumping activities that have minimal propensity for causing material injury, from those that are likely to be more harmful.

Dumping Margin Assessments

At item # 6 above concerning intermittent dumping, I alluded to the notion that such dumping was more likely to be observed as a direct consequence of inappropriate data matching by Australian Customs. Currently, domestic prices (i.e. normal values) and export prices are compared from invoices raised during the same billing period (e.g. the same month). However, because export sales typically involve larger quantities and relatively longer lead times associated with their despatch and billing, their corresponding price negotiations and orders

frequently occur during the preceding month. This suggests that even though both domestic and export customers can actually negotiate identical pricing during a particular month, their respective invoice values may not be compared for the same period if exports are shipped and billed the following month.

Because of the “export lag”, Customs will inevitably find evidence of dumping during periods of rising market prices. **Accordingly, a more accurate and equitable approach would be to match domestic and export sales data by referring to the dates on which domestic and export orders were received by the exporter.**

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The Commission raises the prospect of introducing “zeroing” when calculating normal values. The process is not believed to apply to normal value determinations but rather, to assessments of dumping margins. However, it is inherently biased in favour of applicants for anti-dumping assistance and therefore, unsuitable for decisions requiring equity and fairness.

In the circumstances, zeroing should not be incorporated into the Australian system.

Material Injury and its Causes

This constitutes a principal area of complaint from overseas exporters who are denied access to specific details of Customs assessment of material injury and its causes.

Exporters would welcome discrete and informative communications from Australian Customs outlining its findings of material injury and the reasons why it considers that such injury can and should be linked to their dumped exports. The provision of specific examples of where and how the injury has occurred would be helpful. Such communications would be invaluable in assisting individual exporters become more aware of the consequences of their commercial arrangements and provide opportunities for them (and their representative Australian importers) to avoid such exposures in the future. It also affords an opportunity for immediate remedial action in removing the effects of any injury caused by dumping.

Accordingly, it is proposed such briefings be incorporated into the inquiry process and performed as soon as practicable.

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A further area of conjecture relates to Customs assessment of threatened injury from dumped imports. A principal focus of that assessment relies upon the notion of a probable occurrence or recurrence of dumping from the country concerned. In proceeding with its assessment, Customs examines a supplier’s export “pricing behaviour” to other markets to determine whether exports were dumped. For those suppliers whose domestic markets are protected by tariffs, exports are invariably dumped for the reasons expressed earlier in this submission. Nevertheless, the fact that dumping is observed is in itself, sufficient for Customs to assume the

probability of a threat of material injury to Australian industry due to dumping. The issue has particular relevance during continuation inquiries where Customs attempts to determine the prospect of a recurrence of material injury due to dumped imports in the event measures were allowed to expire.

In assessing export-pricing behaviour to other markets during its threat assessments, it is proposed that Customs be required to make adjustments for any protective tariffs applying in the countries of export.

Measures

Throughout the course of their five-year terms, measures rarely remain consistently relevant for both Australian industry and affected exporters. This is because of the dynamic nature of market prices and their relevance to the threshold component of the measures viz. the ascertained export price (“AEP”). The AEP threshold remains constant, regardless of price movements, except where amended following a formal review inquiry. However, the AEP threshold generally remains unchanged for periods of at least eighteen months to two years during which time, market price volatility can render it either totally ineffective for Australian industry or, totally prohibitive for exporters. Recourse to reviews by either party under the current system is unsatisfactory because of extensive delays associated with the twelve-month limitation for applications and the six-month period for completion of the review process. Both Australian industry and exporters require measures that genuinely and consistently reflect contemporary market conditions.

A possible solution, which could be discussed among all stakeholders, may involve a combination of the following:

- a removal of the twelve-month restriction on applications which currently prevent measures being urgently reassessed; and
- a substantially reduced review process which would principally examine:
 - a) any likely changes to the NIP threshold, from information supplied by Australian industry;
 - b) export prices derived from existing Customs database and confirmed by the exporter; and
 - c) normal values supplied by the exporter and confirmed by Australian Customs

Such a process could apply to a shortened investigation period, which concludes closer to the date an application is received. This suggestion attempts to align measures with contemporary trading conditions on a regular basis so that neither Australian industry nor exporters are significantly disadvantaged during their currency.

It is proposed that Australian Customs examines options for effective and shortened reviews and seeks opinions from interested parties on how they might be conducted.

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Price undertakings represent a viable alternative to the costly process involving dumping duties. From the perspective of Australian industry, it needs to ensure particular exporters are formally committed to a process of observing non-injurious pricing behaviour. (No such commitments are given where dumping duties are imposed). Undertakings are independently monitored. They also require constant supervision by exporters to ensure ongoing compliance within the terms of their respective obligations. Under these circumstances, Australian industry can be assured sensitive pricing thresholds are likely to occupy the attention of all exporters during the terms of their commitments.

Exporters are likely to be equally relieved in avoiding automatically imposed dumping duties on their shipments for five years.

Therefore, when assessing the nature and extent of measures against each exporter, Customs must consider the acceptance of formal price undertakings as its first option. Such consideration should only apply in circumstances where exporters can be relied upon for accurate and timely disclosures. Immediately following its assessment of dumping, material injury and the existence of a causal link between the two, Customs must clearly explain to exporters, the prognosis of events that are likely to ensue and the options available to them. Such options are to include invitations for price undertakings, together with a detailed explanation of all associated obligations.

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All measures are currently imposed for an initial five-year term, regardless of the circumstances that lead to their introduction. Such a period does not reflect the degree to which any alleged material injury is sustained or threatened, nor does it reflect a well thought-out, remedial time frame over which measures need to be retained in order to fulfil their function.

Consequently, there is no recognition given to any specific levels of culpability, material injury or threat that might otherwise mitigate the severity of the initial five-year term. Local users of imported inputs and exporters argue that five-year terms are grossly inequitable for relatively minor infractions. They suggest there should be provision for lesser periods in circumstances where only moderate levels of dumping are detected and where they are not a major cause of material injury sustained by Australian industry.

Therefore, consideration should be given to modifying the system to permit measures to apply for periods of between three to five years in accordance with criteria reflecting the dumping behaviour of exporters and the extent to which they cause material injury. Measures relating solely to threat of injury should not be imposed for periods longer than three years.

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A final, but nevertheless significant issue is the process by which material injury caused or threatened to Australian industry is directly attributed to dumped imports. Where industry simultaneously sustains injury due to other (unrelated) causes, there is no guidance on the extent to which dumping becomes actionable. In a number of cases where dumping was found not to be the principal cause of injury, positive findings against imports were nevertheless, concluded. Such

decisions create perceptions of inequity and therefore, need to be subjected to higher levels of scrutiny and transparency. A clear statement of policy is required on the actionable nature of dumping in circumstances where injury is principally caused by other factors. Customs must also ensure that any relatively minor injury reflecting nothing more than robust market competition should not be treated as justification for action against imports.

The system should be modified to provide clear direction on the treatment of dumped imports where material injury to Australian industry is primarily caused or threatened by other factors. Such direction should clearly acknowledge the existence of those factors, as well as the extent of their respective contributions to material injury. They should also be accorded appropriate weightings when determining whether and to what extent measures should be imposed.

Summary

The existing system tends to be inflexible and expensive, and lacks precision when targeting appropriate levels of assistance throughout the period of measures.

The changes proposed above represent a significant step toward improving the scheme's flexibility and equity for both Australian industry and exporters.

We would be pleased to elaborate on any of the matters discussed above.

Yours sincerely,
Casselle Commercial Services Pty Ltd



John G. Caldis
Director