

# SUBMISSION TO PRODUCTIVITY COMMISSION ISSUES PAPER

## Australia's Anti Dumping and Countervailing System

Submitted by: Peter Crisp, Member for Mildura

July 2009

### Introduction

I have been a member of the Victorian Parliament since November 2006 and prior to entering Parliament I was Chair of Sunraysia Citrus Growers and an executive member of the VFF Horticultural Council. It was in my role as Chair of SCG that I made a submission to the 'Joint Study of The Administration of Australia's Anti Dumping System' in 2006.

Horticulture and horticultural value adding has been a key part of the Mildura economy for over a century. The climate and soils in this region produce high quality citrus, table grapes, dried fruit, nuts, wine and vegetables. Most of these products are packaged or processed in Mildura for the export or domestic market. Based on horticulture and the industries that support horticultural production, Mildura has become a significant regional centre in Australia.

Mildura's economy is expanding into other sectors, with the mineral sands mining the most recent and hopefully a solar power station will further diversify our economy. For more detailed information on the Mildura economy I suggest you contact the Mildura Development Corporation who are the keepers of our economic data.

The Customs website describes dumping as *'occurring when goods are exported to Australia at a price that is below the 'normal value' of the goods. The normal value will usually be based on the domestic price of the goods in the country of export. Dumping is not a prohibited practice under international trade agreements. However, remedial action may be taken where dumping causes (or threatens to cause) material injury to an Australian industry.'*

Anti Dumping and countervailing measures form a vital part of risk management for the Growing Industry in the Mildura region. Both domestic and export market returns for fresh produce are linked and thus a cost reduction or dumping spike on the domestic market can have a leveraged impact as the domestic export market linkages come into play. Growers cannot carry this risk, it must in my view remain with Government and it must remain as an effective and available instrument to protect Mildura's industries from short term attack resulting in long term harm. This also prompts a debate about response to these attacks in the realm of free market vs regulation. It is my view that the free market looks after itself but regulation is a matter for Governments and should be used as a risk mitigation measure to ensure the future food security and food diversity of Australia.

I would also like to acknowledge the work done by the ADFA and HAL in presenting their submissions and support the issues raised in these submissions.

The submission to the Productivity Commission will be in four parts:

- Comments to the Terms of Reference
- Responses to Selected Topics in the Issues Paper
- Other Challenges
- Questions

## Comments on the Terms of Reference

I've noted the Terms of Reference and make the following comments on the scope of the Inquiry.

1. I believe AD&CVD should remain as part of the Government's overall policy framework. I believe it is part of the sovereign responsibility of Government to ensure the Nation's needs are met by offering a diversity of products and opportunities for its citizens. Governments can only ensure this diversity by protecting sectors of the economy from damage due to dumping. Once a sector is lost it is very difficult to recover, I believe, even if it is in the Nation's interest to do so.
2. In examining the economy-wide costs and benefits of the AD system, the Commission will need to drill down into the Australian economy to some depth to understand all the micro sectors and the threats to those sectors and I am pleased that the Productivity Commission has come to Mildura to take evidence from one of those micro sectors.
3. The administration of the Anti Dumping sector has been an issue for the citrus industry in the past and was very much the main focus of my submission to the joint study. In that study I focussed on the long term impacts on the citrus industry of short term downward spikes in the frozen concentration orange juice price and the difficulty of the current Anti Dumping process to act soon enough to be effective in preventing injury to the citrus industry. One of the recommendations of that submission was to have a generic case held at the 60 day threshold or most appropriate place in the process to allow for more rapid imposition of AD or CVD to counter a spike attack on the citrus industry.
4. I wish the Productivity Commission all the best in addressing the issues raised in this section. I make this comment about 4C, that Australia would have to be one of the few developed countries that have any interest in their rights and obligations in International Trade Law in the current WTO DOHA round. It is my view that the EU and USA have little intention to meaningfully complete the DOHA round.

## Responses to Selected Topics in the Issues Paper

### *3. The rationales for Australia's anti-dumping system*

In response to the issues I will use an example from my citrus experience. Australia is about one percent of the world's citrus production but it is a significant horticultural export for Australia. Thus we are an insignificant blip on the world's trading radar and as we have learnt from our free trade escapades, the world may listen but Australia is unable to influence their actions. The world is not going to look after us, so we had better look after ourselves. So from this point of view, I urge caution in exposing sectors of the Australian economy to any more harm by believing that we can influence the giant WTO players.

On the effects of intermittent dumping on local industries, again I state that a short or intermittent dumping can have a long term and even permanent effect on horticultural industries. The margins in horticulture from a high cost economy are such that there is little in reserve to withstand an intermittent attack and thus long term harm occurs.

### *4. Benefits and costs of the current system*

The impacts of dumping are not only confined to Australia as most of our horticultural industries are highly export focussed, dumping in one of our overseas markets can also cause significant harm in Australia. Just as I argued previously that a low domestic price results in a low export price, the reverse is also possible. Dumping in any of our export

markets with such tight supply and demand markets will then cause the domestic market to collapse. There has been a long history of Government ignoring these linkages or not being able to address the consequences of such linkages. This in turn increases the risk to horticulture and then reflects a sovereign risk to the country for future food security.

The impact of the current dumping system in my view for horticulture is to reduce investment, innovation and productivity across the horticultural industry as the risk of injury is simply too great. It has been a long held view by family farmers that corporate farmers may be better able to manage the risks, however it appears that confidence in the corporate sector has been considerably damaged by the collapse into administration, receivership or liquidation of corporate farmers such as Timbercorp and Great Southern.

For a long time growers have been advocating for a more user friendly system, in particular one that allows a rapid transition to provisional duty. For a long period growers have been suspicious that even if a provisional duty is applied to imported product, that the importing supply chain will find ways around AD&CVD eg a free container of produce. Unfortunately rumours abound on this subject, evidence is scarce. Also, Australians look particularly to the northern hemisphere where government support appears to be far more prominent in the preparation of anti-dumping cases. I believe that the Federal Government should provide resources to assist the horticultural industry in preparing their case. This needs a division, possibly in DFAT with the task to monitor overseas activities and to positively work with industry on the process. Growers are also sensitive to the market damage provisions as dumping can collapse a price but growers in Australia must meet that price and therefore incur damages but not of loss of market share.

5. *How might the current system be improved?*

Who brings the complaint was an issue in the joint study and I will refer to the dried fruit industry for their comment on how they managed these difficulties. The ADFA structure which involves growers and industry may have been useful but is not necessarily replicated across all of horticulture.

For many horticultural producers the constraints of Australia's adherence to the WTO seem to be laughable when you have got subsidies being applied in many of our competitors economies. The joint study outcomes did seek to improve some of the administrative processes, however most growers consider the reality to be way beyond 155 days, particularly with the difficulty of proving normal value and gaining reliable information on costs in another country. I do see merit in certain forms of dumping to be automatically actionable and believe that DFAT should be able to prepare base information that would automatically trigger dumping duties when certain known price thresholds are reached in sensitive industries. I have a negative view about the DOHA round of trade negotiations, as just when DOHA is threatened with failure, there is reported to be encouraging comments, to keep the process alive. I believe that DOHA would have succeeded by now if it was going to. Just like in 'Yes Minister' or 'The Hollowmen', the diplomats keep DOHA alive just to save face and do nothing, rather than admit that it is a failure.

On the issue of using the court system as an alternative to the anti dumping provisions, I believe the current court system is overloaded and would be unlikely to be able to address the issues in a timely manner and I also have concerns about the costs of being involved in a legal process.

## **Other Challenges**

1. I would like to raise an issue that will need to be considered at some stage in the future. As Australia and the world consider and adopt Emissions Trading Schemes (ETS) or other carbon reduction measures that add to the costs of production, then Australia will need to consider how to manage the differing implementation times of these cost increasing measures on those who import to Australia and compete with Australian exports. If Australia includes agriculture in an ETS before our competitors then we could be at a disadvantage. This is likely to be an issue beyond 2015, but it is a debate that will need to be had at some stage.
2. Dealing with the impacts of export enhancement programs, export subsidies or the like on Australian export markets will continue to cause difficulty for policy makers. These programs need to be monitored for their impacts. Without monitoring you cannot quantify the impact.
3. Export tariffs will be a considerable difficulty for Australia should they appear again in the future. There has been reports to me from growers that China apply export tariffs to fertiliser and other key farm inputs in recent years which had the effect of raising the cost of production in Australia and thus effecting our competitiveness in some Asian markets where China is a supplier. This was a unique situation that actually astounded me, because I had never considered the risk of an export tariff being used and the subsequent impact on Australia. An export tariff can only have an impact if the Australian manufacturing base to produce similar product has been decimated by free trade.

## **Questions**