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06 November 2009

RE: The Productivity Commissions' Inquiry into the Anti-Dumping and  
Countervailing System.

Dear Jill Irvine,

Attached is a copy of the CFMEU Forestry and Furnishing Products  
Division's written comments on the Productivity Commission's Anti-  
Dumping and Countervailing System Draft Inquiry Report.

Please do not hesitate to contact me if I can be of any assistance to the  
Productivity Commission in their preparation of a final report.

Sincerely,

Michael O'Connor

National Secretary

Forestry and Furnishing Products Division

*CFMEU*



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## Written Comments, CFMEU Forestry and Furnishing Products Division (FFPD):

### Australia's Anti-Dumping and Countervailing System Draft Inquiry Report

1. The FFPD's view is that weak anti-dumping and countervailing laws allow dumped items to be exported to Australia without them being subject to anti-dumping actions.
  - 1.1 The importation of dumped goods causes material injury to industry. This dumping activity is currently occurring in a number of industries of our interest and in some cases happens at the direct expense of our members, their families, their communities and the nation in general.
  - 1.2 Dumping activity affects the wider public interest of sustained employment and continued investment in the Australian economy.
  - 1.3 There are a number of reasons for the current level of dumping activity being able to occur without it being subject to anti-dumping action (See attached submission for examples)
  - 1.4 The FFPD notes that none of our suggested modification proposals to combat and counter dumping are included in recommendations made by the Productivity Commission in the draft inquiry report. The productivity Commission has ignored the issue.
  - 1.5 This issue has been ignored despite the fact that dumping activity usually affects the public interest in an adverse way. This usual adverse affect was acknowledged by the Productivity Commission by them making the proposed 'public interest test' 'bounded' implying that the presumption should be that '...the system (of anti-dumping duties being imposed on dumped items) preserving benefit would *generally* exceed efficiency costs'
  - 1.6 The Productivity Commission has proposed that any new system should take into account the public interest. Despite this, the identified inefficiencies and problems with the current system, which in effect permits dumping activity (*generally* against the public interest), have not been addressed.
  - 1.7 The Productivity Commission should as a priority, promote the public interest by recommending changes to the system which makes it more accessible to victims of dumping activity. Recommendations should be



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made which are designed to ensure that instances of dumped items entering Australia without anti-dumping duties being imposed on them are prevented. This would stem the subsequent usual unfavorable effects of dumping to the public interest.

2. The FFPD has reservations about the imposition of anti-dumping duties being subject to a public interest test, particularly the proposed 'public interest test' as it is currently recommended to operate. We submit that the 'public interest test' would have the potential to act against the *genuine* public interest due to its narrow focus.

2.1 THE FFPD submits that the 'public interest test' would have the potential to make recommendations against the *genuine* public interest. To remedy this, the test would need to incorporate a 'triple bottom line' analysis of the item being dumped to ensure that it is being produced in a sustainable way in an economic, social and environmental capacity.

2.2 The incorporation of 'triple bottom line' analysis into the structure of 'public interest test', to test the sustainability of the production process of the dumped item would be a prerequisite to the 'public interest test' making guidance in the *genuine* public interest.

2.3 If international standards which Australia are committed to (including through international treaties and covenants) are being breached in the exporting country through the production of the dumped item, it cannot be considered in the *genuine* public interest to exempt this item from anti-dumping duties.

2.4 There could be severe unintended consequences of exempting from anti-dumping duties in some cases. Consequences could include negative effects on attempts to promote human rights, labor values and environmental standards in exporting countries.

2.5 There are instances when it would not be in the *genuine* public interest to exempt a dumped item from anti-dumping duties, regardless of any perceived domestic economic efficiency benefits this action may be argued to bring in the short or long term. Our shared economic, social and environmental future with exporting countries underlines the extent that a 'triple bottom line' analysis of the consequences of the potential action of exemption is vital to the realisation of the *genuine* public interest.

2.6 Triple bottom line analysis of the dumped item would also be an important contributor to the local economic assessment of the long



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term public interest. Any public interest test must ensure that the dumped items' lower price would actually be able to be maintained (which it could not if it was being produced unsustainably) A test incorporating a 'triple bottom line analysis' would prevent the possibility of unnecessary injury caused to local industry caused by exempting unsustainably produced dumped items from anti-dumping duties and prevent the long term efficiency and competition detriments which such action would lead to.

2.7 The proposed 'public interest test's' directive is that assessments are to be 'generally limited to a consideration of effects one step up or down the production chain for the goods involved'. The FFPD contends that this assessment would not entail a robust socio-economic and environmental assessment of the public interest in a local sense (due to the test not analysing adequately the short and long term effect on flow on industries downstream or upstream the production line) or in an international sense given Australia's international priorities, interests and obligations.

2.8 The FFPD contends that recommendations based on assumptions with unknown ramifications have the potential to be made on the advice of the 'public interest test'. Ultimately for the *genuine* public interest to be achieved final decisions may need to be made 'against the public interest' as it is defined by 'the public interest test' putting undue political pressure on the Minister responsible for this.

### 3. FFPD Observation, Proposal and Recommendation

3.1 Problems and inefficiencies in the system currently allow for dumped items to be imported into Australia without the items being exposed to anti-dumping actions and subsequently not being subject to anti-dumping duties. This is often and generally at the direct detriment to the wider public interest of sustained employment and continued investment in the Australian economy.

3.2 The Productivity Commission should re-focus its attempts to promote the public interest by recommending for the establishment of a working group to consult with Customs and address weaknesses in the anti-dumping and countervailing system to stop this dumping from occurring.

3.3 The Minister should maintain his role of determining on a case by case basis if the imposition of anti-dumping duties is in the public interest without the 'guidance' of the proposed narrow 'public interest test'.