

## **ABS submission to Productivity Commission Anti-Dumping and Countervailing System Inquiry**

### **Introduction**

The ABS welcomes the opportunity to respond to the Productivity Commission's draft report on its Inquiry into Australia's Anti-Dumping and Countervailing System.

This submission responds to the Inquiry's draft recommendation that the Australian Law Reform Commission (ALRC) should give consideration to proposing a change to ABS' governing legislation, the *Census and Statistics Act 1905* (CSA), to enable the ABS to provide additional information to parties seeking the imposition of anti-dumping or countervailing measures.

### **References to ABS in the report**

Submissions to the Inquiry indicate that ABS suppression of import data on confidentiality grounds increases the cost and time of applying for anti-dumping measures.

Chapter 8.5 of the report shows that applicants wishing to make a robust case for Customs to investigate an incident of suspected dumping are often frustrated that the ABS can not provide the information the applicants need due to ABS' legislated confidentiality requirements.

Furthermore, the report states that it is incongruous that applicants can publicly access relevant export data from other countries, which is the "mirror image" of data that ABS has suppressed.

The Commission therefore recommends:

*As part of its current review into the laws and practices relating to the protection of Commonwealth information, the Australian Law Reform Commission should give consideration to proposing a change to the legislation governing the operation of the Australian Bureau of Statistics to preclude the suppression of import data when the same or similar information can be publicly accessed from the export statistics of other countries.*

### **ABS response**

#### Proposed changes to ABS legislation

The ABS does not support the proposal to change its governing legislation, the CSA, to address this issue. The CSA provides a framework to protect the secrecy of identifiable information provided to the ABS by respondents. Section 19 of the CSA forbids past or present ABS officers from directly or indirectly divulging or communicating information collected under the CSA to another person, unless the information is released in accordance with a determination or for the purposes of the Act.

Maintaining the secrecy of individual records is an essential element that enables the ABS to release high quality statistical information. The relationship between secrecy and the quality of statistical information is recognised by the United Nations as a fundamental principle for National Statistics Offices. Principle 6 of the United Nations Fundamental Principles of Official Statistics states:

"To gain the cooperation of citizens, enterprises and other respondents to ensure the quality of official statistics, data collected by statistical agencies for statistical compilation must be strictly confidential and used exclusively for statistical purposes."

The ABS enjoys a high level of community trust and cooperation because the community is confident that the information it provides to the ABS will be protected. The changes proposed to the CSA may result in the ABS losing that confidence - the community may not provide information to the ABS, or may not provide accurate information, both of which would reduce the quality of ABS statistics. This in turn would be detrimental to Australians, as key government and business decisions would be based on less reliable information. Adverse impacts of this kind have been experienced by those countries where the public have lost trust in the ability of the National Statistics Office to maintain the confidentiality of information.

The ABS has made two submissions to the ALRC Review of Secrecy Laws along these lines.

The report says that when export data are available from another country, the ABS application of confidentiality increases the time and expenses to Australian business of making anti-dumping applications. This increased time and expense is not quantified, and the Productivity Commission may like to assess this cost against the potential cost to the community (in terms of higher collection costs and lower quality data for informed decision making) if trust in the ABS diminishes.

#### ABS' role

As the foregoing paragraphs make clear, the role of the ABS is to produce statistics. It is likely that the Bureau's reputation for integrity, and public trust in its data, would be compromised by requiring it to play a direct role in administering punitive regulations, especially where this would involve disclosure of data about individual businesses.

#### Differences in the data

The report states that the export data applicants can publicly access from other countries is the "mirror image" of ABS import data. If this were the case, then it is not clear what additional benefit is served by the ABS releasing the same information in its published statistics. However, the ABS' experience is that records of imports of goods to Australia are, for various reasons, not identical to counter-party export records.

For example:

- Most countries use an international classification, the Harmonized System, but this only ensures compatibility at the six-digit level of the classification while Australia uses 10-digits for statistical purposes. In some cases, the further detail provided by the additional four digits is important to industry and the comparable statistical code may not be available from the partner country.
- There are legitimate valuation differences between exports (free on board basis) and imports (cost, insurance and freight), which mean that a "mirror image" is unlikely to be obtained.
- There can be timing differences between when exports and imports are recorded in monthly data. For example, a shipment may be exported on 30 September (and appear in the partner country's export statistics for September) but may not arrive in Australia until October thus appearing in Australia's import statistics for October.
- There are timing differences between when the ABS releases imports data (12 working days after the end of the month) and when statistical agencies in other countries release their data.