

Dumping—a look inside



Dumping, at first glance, is a straightforward issue involving a simple equation. In fact, it is a complex issue that follows a detailed set of guidelines. Challenging issues involving international relations, commercial competition and fair trade form part of the complete picture.

Governed by a complex set of guidelines, Australia's trade measures system is designed to provide assistance to local manufacturers injured by dumped or subsidised imports. This is consistent with the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (the Anti-Dumping Agreement), and the *WTO Agreement on Subsidies and Countervailing Measures* (the Subsidies Agreement).

Put simply, an exporter is dumping goods into Australia if it exports a product at a price lower than it charges its domestic customers. Similarly, exports are subsidised if the government of the exporting country provides certain forms of assistance to exporters.

It is the task of the Customs Trade Measures Branch to investigate matters relating to imports into Australia of goods that are dumped or subsidised. Investigations have dealt with products from canned fruit to cement, paper to PVC, wool packs to wound-closure strips. They have involved countries from Singapore to Saudi Arabia, Italy to India, Thailand to Taiwan.

The traditional users of anti-dumping actions have been the United States, the European Community, Canada and Australia. However, the number of cases

initiated by countries such as India, Argentina and Brazil has increased significantly in the past few years. Anti-dumping actions globally rose from 156 cases in 1995 to 251 cases in the year 2000.

In Australia, as in the rest of the world, the chemical industry is the most prolific user of trade measures. The paper industry is a significant user of the trade measures system in Australia.

Measures, if imposed, can take two forms:

- a *duty* (dumping duties for anti-dumping matters, countervailing duties for subsidy matters); or
- an *undertaking* by the exporter that it will export above a certain price.

In all cases, the amount of the duty should be no higher than necessary to remove the material injury caused by dumping.

The effects of trade measures

The imposition of trade measures can have significant effects on the Australian industry and the market for the goods concerned. Customs adherence to legislative guidelines can benefit both exporting and importing countries, but it is clearly not a solution to all international and local trade challenges.

Customs trade measures investigations often attract considerable interest from foreign governments and domestic political and industry representatives.

Trade measures might allow Australian industry to raise its prices and/or increase market share, leading to increased revenue and profits. The flow-on effects of these measures can result in

increased investment, production and employment. These are examples of positive effects for the region where the industry is located, and for the Australian economy in general.

Imposing measures can also be considered a “zero sum game”—where one part of the economy wins, but another may lose. The imposition of trade measures is intended to increase the price of the product. This increase may ultimately be borne by the consumer in Australia.

Advocates of competition in the marketplace have also raised concerns about the lessening of competition in the Australian market due to the imposition of trade measures, particularly where a few producers dominate the market concerned.

Trade measures might also have a “trade-chilling” effect – where exporters might be hesitant to export the goods to Australia, as a consequence of a Customs trade measures investigation, even if no measures are eventually imposed.

The Australian system, which implements the relevant WTO agreements, supports the principles of fair trade by addressing the effects of dumping and subsidisation of imported products on Australian industries.

The guidelines for Customs trade measures investigations are set out in Australia’s trade measures legislation, which comprises:

- the *Customs Act 1901* (Part XVB), setting out the general investigation process; and
- the *Customs Tariff (Anti-Dumping) Act 1975*, which provides for the imposition of anti-dumping and countervailing measures.

The legislation provides for the Minister to issue directions on

matters of general principle relevant to the exercise of the Customs Chief Executive Officer’s powers and duties under Part XVB of the Customs Act 1901. The trade measures legislation does not contain a national-interest provision.

Customs also maintains a set of detailed policies and working procedures available to the public.

The imperatives of trade measures

Once an application is received, Customs, in accordance with the legislation, must decide within 20 days whether it should proceed to a full investigation. If it does, Customs has a further 155 days to complete the investigation and report its findings to the Minister.

The WTO agreements, to which Australia is a signatory, do not prohibit dumping. However they recognise that remedial action may be taken when all of the following conditions are met:

- there is dumping or subsidisation;
- the industry in the importing country has suffered material injury (ie, significant or serious injury);
- such injury has been caused by the dumping;
- there is a continuing threat of material injury by dumping.

Measures remain in place for five years, unless revoked earlier (following an application by an interested party). Interested parties may also seek a review of those measures after they have been in place for 12 months.

Customs trade measures officers are part of a challenging work area that calls for a diverse range of skills and attributes. In varying degrees, all trade measures

investigations require an understanding of accounting, finance, economics and the relevant law. They also call for good analytical and information-gathering skills and a lot of patience and common sense.

During investigations, trade measures officers visit Australian industries and overseas exporters to collect and verify information that is commercially sensitive and confidential.

“Parties to an investigation have competing interests and may have much at stake on the outcome of the investigation,” Sue Pitman, Customs National Manager Trade Measures Branch, said.

“This can lead to a tense atmosphere and a great deal of pressure on officers to reach quick conclusions, often about complex matters. Clearly, Customs needs to consider and verify all relevant information very carefully and, although we work to a tight timeframe, this process can be frustrating for industry and exporters alike.”

She said investigators work hard to explain what they are doing, what the parties need to do to expedite the process, and what they can expect from Customs at all stages.

In addition to conducting investigations, Customs implements and monitors trade measures, and advises interested parties on matters relating to investigations.

Common myths about trade measures

Ms Pitman said that, since taking over as National Manager Trade Measures, she had come across several myths about the imposition of trade measures.

One of those myths is that Customs pursues dumping cases of its own accord.

In the vast majority of cases, Customs commences investigations in response to applications by the Australian industry. The applicants and other interested parties must provide evidence to support their claims. Customs takes all information provided by interested parties into consideration during its investigations.

While the Act provides the Minister with the power to initiate cases and reviews of his own accord, this is not common practice. It is intended as an exception to the rule, and in most cases Australian industry is required to lodge a properly documented application.

Information about trade measures

Australian producers being injured by dumped or subsidised imports can contact the Trade Measures Dumping Liaison Unit for guidance in the requirements for making a formal application. For an application to result in an investigation, evidence of dumping (or subsidisation), material injury and causal link between the two needs to be provided.

Importers, consumers or exporters to Australia may wish to participate in investigations if they believe that they will be adversely affected by the imposition of trade measures. Information on products that are subject to trade measures can be obtained from Customs or from Customs website.

More details are at www.customs.gov.au. Brochures on the Australian trade measures system are also available on request.

Main initiators of anti-dumping investigations over the past two years.

1999			2000		
	Country	No. of cases		Country	No. of cases
1	EC	66	1	US	46
2	India	60	2	Argentina	36
3	US	46	3	India	35
4	Australia	24	4	EC	31
5	Argentina	21	5	Canada	21
6	Canada	18	6	South Africa	20
7	South Africa	16	7	Australia	15
8=	Brazil	14	8	Brazil	11
8=	Mexico	14	9	New Zealand	8

The principal exporting countries the subject of anti-dumping action during 2000 were:

- China (33 cases)
- EC and Members (23)
- Korea (19)
- Taiwan (14)
- Indonesia (11).

Breakdown by sector of anti-dumping actions globally in 2000.

Sector	No. of cases	%
Chemicals, plastics, rubbers	69	27.5%
Steel and metals	95	37.8%
Textiles and allied	16	6.4%
Mechanical engineering/appliances	34	13.5%
Paper and wood	8	3.2%
Food and agriculture	11	4.4%
Other	18	7.2%
Total	251	100%