

# International training benefits Australian industry

Dumping occurs when goods are exported to Australia at a price that is below the “normal value” of the goods. The “normal value” will usually be the domestic price of the goods in the country of export.

Dumping is a form of price differentiation between markets. It is not a prohibited practice under international trade agreements—but remedial action may be taken where dumping causes, or threatens to cause, material injury to an Australian industry.

For anti-dumping action to be taken, there must be a direct and identifiable relationship between the impact of the dumped goods on the Australian market and any alleged material injury suffered by, or threatened to, the Australian industry.

**A**s an active user of the anti-dumping mechanism, Australia is seen by many countries, particularly those in Asia-Pacific, as having a high level of expertise in anti-dumping investigations. It is held in high regard when it comes to anti-dumping training, particularly because Asia-Pacific is generally recognised as being extremely technically complex.

Australian Customs conducts its investigations within the framework of an international system - the World Trade Organization (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (GATT), otherwise known as the Anti-Dumping Agreement. Although there are differences in anti-dumping legislation from one country to the next, there are broad consistencies between the different administrations as signatories to the WTO Anti-Dumping Agreement.

In the context of this international system, it is to be expected that Australian companies exporting overseas will, from time to time, be subject to dumping claims by industries in the countries of export. Hence, any contribution by Australia towards the improvement of the skills and practices of other administrations will facilitate the process of managing Australian companies' dealings with those administrations.

Australian Customs has been involved in the provision of training to a number of countries, including China in the lead up to its recent

accession to the WTO. The provision of training has generally been undertaken either on a bilateral level or under the auspices of the WTO.

Representatives of dumping administrations from China, Indonesia, Korea, Malaysia, Philippines, Singapore and Thailand attended a workshop on Advanced Material Injury Analysis in Chiang Mai, Thailand, in December 2001. Two officers from Australian Customs Trade Measures Branch presented the course, in cooperation with the WTO Secretariat. The objective was to develop the participants' investigative and analytical techniques in

the areas of material injury and causal link.

Although an emphasis was on material injury analysis and the assessment of causal link, the seminar also covered other issues, such as: defining “the goods”, “like goods” and the “industry”; data collection and analysis; and report preparation.



The participants of a workshop on Advanced Material Injury Analysis.

The sessions were presented in the context of the WTO Anti-Dumping Agreement rather than any particular country's legislation, enabling a theme of consistency with WTO rules to pervade the presentations.

Theoretical and actual case studies were used as a means of demonstrating particular points, with discussion and debate that involved the participants introducing particular problems they had experienced during their own investigations.

### **Anti-dumping investigations under the WTO framework**

The international trading community considers dumping to be an unfair trading practice when the dumping of goods causes material injury to a domestic industry producing like goods in the importing country.

Awareness in the institutions of each country of the obligation to act within the framework of the WTO rules on anti-dumping is critical. In an increasingly competitive environment, with freer movement of goods and low tariffs, some industries are becoming more aware of the need to be vigilant to any possibility of dumping. The transparent processes used by Australian Customs have been its key defence against criticisms made of measures imposed in protecting industry.

The rules for taking action against dumping are embodied in the WTO Anti-Dumping Agreement. The WTO deals with rules of trade between nations, assisting in negotiations and dispute settlement.

The changes emanating from the Uruguay Round, the most significant reform of the world's trading system since GATT was created, took effect from January 1995. A significant aspect of the new WTO and its associated agreements is its extensive membership.

The reforms required member countries to notify the WTO of national legislation—their interpretation of the agreements - for scrutiny by the WTO. For many countries this meant drafting

new or modified legislation, bringing with it a heightened awareness of their rights and obligations under the various agreements. In the case of dumping, the changes prompted many governments to set up active anti-dumping administrations. In most countries the creation of consistent legislation did not cause problems, but did highlight the lack of expertise with anti-dumping investigations.

Understandably, the major focus in anti-dumping investigations falls on whether goods are dumped - exported at a price less than the price of like goods on the domestic market of the exporting country. Without proof of dumping, no action can be taken. Equally important in a dumping investigation is whether the domestic industry is suffering material injury and whether a causal link exists between the dumping and that injury. If an industry is unable to establish all three conditions then no anti-dumping action can be taken. In theory, exports of goods at dumped prices can have net economic benefits for importing countries in the form of increased competition and lower prices for consumers.

### **Providing anti-dumping training to other countries benefits Australian industry**

Events since the Uruguay Round have produced three key observable changes in the field of anti-dumping:

- the setting up of active anti-dumping administrations or reinvigorated interest in anti-dumping by governments, particularly in Asia;
- an increase in the number of anti-dumping actions; and
- a shift in the profile of major users of anti-dumping, away from the traditional users, the EU, USA, Canada and Australia to other countries, for example India and Argentina, who have recently emerged as a major users of anti-dumping measures.

In light of these changes, it is expected that more Australian industries

will be the subject of anti-dumping actions, particularly by our regional trading partners.

A major benefit to Australian industry that flows from the provision of training is that, should they be the subject of a dumping action, they will be able to defend their interests in the knowledge that a thorough, fair and transparent investigation will be undertaken by the anti-dumping administration in the country bringing the action.

Another benefit is the establishment of relations between the Australian anti-dumping administration and those of our regional neighbours to promote communication and understanding. These relationships have already indirectly benefited Australian Customs in its investigations and thereby Australian industry.

Additional objectives of Australia being involved in the provision of training for these emerging administrations are:

- more highly skilled investigating officers able to undertake their investigations more professionally, resulting in well-reasoned decisions;
- investigations conducted consistent with the WTO Agreements, leading to a higher degree of certainty in the rules;
- administrations that have more open and transparent practices, enabling Australian industries to better defend their interests; and
- consistency in practices and interpretations throughout those administrations.

More information about the Australian trade measures system is available on Customs' website at [www.customs.gov.au](http://www.customs.gov.au) (under Customs Notices). Brochures on the topic are also available from Customs on request.