

Better support FOR AUSTRALIAN

The New Anti-Dumping and Countervailing System

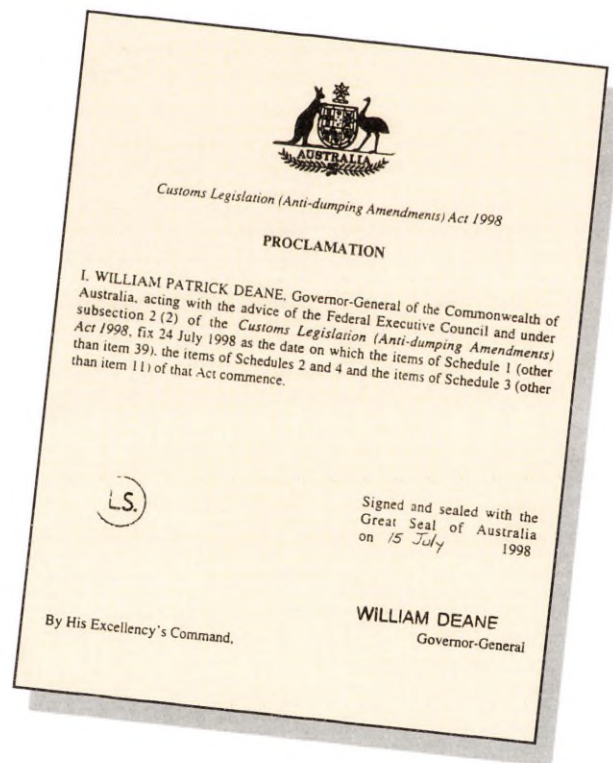
On 24 July this year a sweeping reform of Australia's anti-dumping and countervailing administration took effect. The new fairer process will resolve anti-dumping and countervailing matters faster, benefiting all parties to an investigation.

An Australian industry believing that it is suffering material injury caused by the presence of dumped or subsidised imports in the Australian market may prepare an application to have anti-dumping and/or countervailing measures imposed. Dumping occurs when an overseas exporter sells goods to Australia at a price lower than the normal value on the home market.

The Customs Dumping Liaison Unit is available to advise industries and importers as to the investigation process and the nature of the information required to substantiate an application.

A New System

Under the old system Customs conducted the first part of an investigation and then the Anti-Dumping Authority (ADA) continued the investigation, making a



recommendation to the Minister who makes the final decision. This process was criticised by parties to investigations as too bureaucratic, particularly as the ADA was seen to duplicate the role of Customs while applying methodology inconsistent with that of Customs. In addition the whole process took 220 days from initiation of a case to the Minister receiving a recommendation.

Under the new system the ADA has been abolished, with Customs to undertake the entire investigation and make a recommendation to the Minister within 155 days.

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Some people may question how Customs will be able to conduct a thorough investigation in this shortened timeframe. The reduction in time merely reflects the loss of duplication that existed with the two-agency system.

Australia's policy is to conduct an investigation only once, but thoroughly.

In fact the new system will be more thorough with a statement of the essential facts (on which the recommendation to the Minister will be based) to be published within 110 days. Interested parties will then have 20 days to respond and Customs will analyse these comments before making a recommendation to the Minister. This ensures industry and importers alike have greater participation in the investigation process.

The reforms provide greater support for Australian companies against dumped or subsidised products, and are fast and fair.

Customs is proud to be a key part of this initiative.

Securities

Australian industry will have faster access to provisional measures in the form of securities. Customs will be able to impose securities from 60 days into the investigation, however this may only be done once Customs has found:

- dumping or subsidisation that is causing injury; and
- that measures are necessary to prevent injury being caused during the investigation.

This test ensures importers will not be unfairly treated by premature imposition of securities.

If not satisfied with the Minister's decision, any affected party may appeal to the new Trade Measures Review Officer (TMRO) for a review of the decision. Unlike the ADA, the TMRO does not conduct a further investigation, but simply reviews the findings of fact that formed the basis of the Minister's decision.

If the TMRO has any doubt about a particular finding the TMRO can recommend to the Minister that the matter be remitted to Customs for re-investigation. This process gives any aggrieved party access to an efficient and independent review of the final decision while maintaining a consistent approach by having Customs conduct all the investigative work.

Trade Measures Action

The Trade Measures Branch is the area of Customs responsible for conducting anti-dumping and countervailing investigations. The following table shows the number of cases initiated by Customs in the last six years and the number of these that have resulted in final measures being imposed.

Region	Cases Initiated*	Cases Resulting in Final Measures [#]
Asia	106	18
Europe	60	7
Nth America	12	3
Sth Africa	16	4
Sth America	9	2
Total	203	34

* Cases initiated between 1 July 1992 and 30 June 1998

[#] Nine cases were in progress and undecided at 30 June 1998

Each of these cases involved a unique set of facts and patterns cannot readily be found. However it is interesting to note that only 18 percent of finalised cases ended with the imposition of final measures. If this statistic can be interpreted to mean anything it demonstrates the complexity of dumping and subsidisation matters and the difficulty Australian industry has in finding accurate and reliable information to substantiate its claims. Customs will often find after conducting investigations within Australia and overseas that the evidence gathered supports a different conclusion to that proposed by the applicant. It is therefore in the best interests of exporters and importers affected by claims of dumping or subsidisation to co-operate with Customs in its investigation.

It is Australia's policy to conduct impartial investigations, giving any party affected by claims of dumping or subsidisation the right to defend their interests.

Further Information Available

If you would like more information about anti-dumping or countervailing matters please contact the Dumping Liaison Unit within the Trade Measures Branch of Customs.

The contact telephone number for the Dumping Liaison Unit in Canberra is (02) 6275 6066.

Alternatively, the facsimile number is (02) 6275 6888.