
The Parliament of the Commonwealth of Australia

Circumvention: closing the loopholes

**Inquiry into Australia's anti-circumvention framework in relation
to anti-dumping measures**

**House of Representatives
Standing Committee on Agriculture and Industry**

May 2015
Canberra

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Foreword

Manufacturing in Australia has for many years been coming under increasing pressure from imported products and there has been a decline in national manufacturing output. Despite the decline of some forms of manufacturing, other sectors of the economy have expanded and on any measurement Australians have enjoyed larger increases in standard of living than most comparable countries.

Much of the increase in Australian living standards has been driven by our open trading system that has sought to remove protective barriers to our markets and concurrently reduce barriers to other markets for our goods. The open trade policies have also reduced costs to other businesses that have been able to expand and prosper as a result, enjoying the 'world price' for their input costs.

As such, we have encouraged our manufacturing industry to increase efficiency so that they are able to compete with overseas manufactured goods. If they can compete fairly at that level then, as they enjoy a freight advantage, they should prosper.

However, it does not mean that it is in Australia's interest that cheaper goods be given access to our markets if they are unfairly subsidised and sold to our consumers at less than the cost of production. All that is achieved in those circumstances is the transfer of jobs off-shore with no guarantee the goods in question will continue to be supplied below production cost when local production is driven out of business.

It is because of this reason that Australia has developed the anti-dumping framework and appointed an Anti-Dumping Commissioner. While some manufacturers are concerned that the task of launching an anti-dumping action is too onerous, many have done so and had successful outcomes with duties being applied to the offending goods.

Manufacturers have been generally pleased with this process but have become increasingly dismayed as they have watched the entities which have had the rulings placed against them indulge in a raft of activities that avoid the duties and thus the intention of the action.

Following numerous approaches from affected industries to the Australian Government and to me as Chair of the Standing Committee on Agriculture and Industry, the Minister for Industry and Science, Ian Macfarlane asked the Committee to investigate the prevalence of circumvention activity, whether recent changes to the anti-dumping regulations are effective and if anything further could be done.

It was quite clear from our earliest submissions that the issue of 'like product' (the minor modification of goods to avoid duty) was at the forefront of industry concerns. It is highly likely that the Committee would have recommended strong action in this area were it not for the announcement in March by the Department of Industry that regulations had been altered to empower the Anti-Dumping Commission to deal with this issue.

Australian industry is still acclimatising to the new opportunities presented on the anti-dumping landscape by the appointment of an Anti-Dumping Commissioner in August 2013. While the ruling on slight modification will also take a while to digest, I understand that some applications have already been lodged as a result.

Overall the Committee is of the opinion that most of what can be done at the moment has been done and that it is prudent to observe the effects of the latest rulings before further steps are contemplated.

Equally, the Committee recognises the rewards for circumventing anti-dumping actions are high and that those intent on circumvention have proved enormously resourceful and adaptable. It is for this reason the Committee believes all concerned, including the Committee, should keep a close watching brief on the situation.

The inquiry was relatively short, with little travel, and I would like to thank all those who made their time and resources available to participate. I thank my fellow members for their application to the task.

Rowan Ramsey MP
Chair



Membership of the Committee

Chair Mr Rowan Ramsey MP

Deputy Chair Ms Clare O'Neil MP

Members

Hon Joel Fitzgibbon MP	Ms Melissa Price MP
Ms Michelle Landry MP	Mr Dan Tehan MP
Ms Cathy McGowan AO MP	Mr Rick Wilson MP
Mr Tony Pasin MP	Mr Tony Zappia MP

Committee Secretariat

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Terms of reference

The Committee is to conduct an inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures, with particular consideration given to:

- the scope, prevalence and impact of circumvention practices by foreign exporters and Australian importers, especially from the perspective of Australian businesses;
- the operation of the anti-circumvention framework since its introduction in June 2013 including its accessibility, use by Australian businesses, recent amendments and effectiveness to date;
- practices that circumvent anti-dumping measures and the models for addressing practices administered by other anti-dumping jurisdictions; and
- areas which require further consideration or development including the effectiveness of anti-dumping measures and the range and scope of circumvention activities.



List of recommendations

4 Proposals for change or reform

Recommendation 1

The Committee recommends that the Minister, in imposing any anti-dumping duties, should use a combination of duties in preference to a single duty. This should be the default position in each case, unless it can be demonstrated by the Minister that a single duty is more suitable than a combination.

Recommendation 2

The Committee recommends that the Anti-Dumping Commissioner provide a briefing to the Committee every six months for the remainder of the 44th Parliament. The briefings should include any proposed legislative or regulatory changes, progress on anti-circumvention cases, and any changes to Anti-Dumping Commission processes.

Recommendation 3

The Committee recommends that the Anti-Dumping Commission and the Department of Industry fully examine all investigation processes with a view to meeting the prescribed timeframes for anti-dumping and anti-circumvention investigations; the Anti-Dumping Commissioner will report back to the Committee on any measures being implemented as part of the six monthly briefings referred to in Recommendation 2.

