



Australian Government

Department of Agriculture, Fisheries and Forestry

Mr John Hawkins  
The Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Mr Hawkins

Thank you for your email of 4 April 2011 inviting the Department of Agriculture, Fisheries and Forestry to make a submission to the Senate Inquiry into the *Customs Amendment (Anti-Dumping Measures) Bill 2011* (the Bill). Please accept this letter as the department's submission.

The department supports all proposed amendments to Division 5 of part XVB of the *Customs Act 1901*. We agree that clarification of the process of applying for a revocation review and of the revocation test is necessary.

Australia's agriculture, fisheries and forestry industries remain important to Australia's economic wellbeing. In 2009–10 these industries provided over 13% of Australia's export revenues, worth approximately \$33 billion.<sup>1</sup> Given the openness of the Australian economy, its low tariff regime and low level of domestic support, these industries are highly exposed to international developments, including the policies and commercial practices of our trading partners. Australia's anti-dumping and countervailing duties system is important as it provides a means to address practices by other countries when these cause material harm to our industries.

We understand that the Bill seeks to clarify some uncertainty following the Full Federal Court's decision in *Minister of State and Home Affairs v Siam Polyethylene* (Siam decision). This decision formulated a new test for determining whether anti-dumping measures should be revoked, which could potentially increase the likelihood of revocation in the case of a review.

Australia's agricultural industries compete in a highly distorted global market. Anti-dumping and countervailing measures are one of the few recourses available when they suffer injury as a result of other countries trading practices. We would be concerned if the test formulated in the Siam decision resulted in legitimate, WTO-compliant measures being revoked in situations where they remained warranted and injurious dumping could recommence as a result. For this reason, we consider that the amendments proposed by the Bill, that clarify when the Chief Executive Officer of the Australian Customs and Border Protection Service must recommend that the Minister revoke anti-dumping measures, would be valuable as they would provide certainty to our agriculture, fisheries and forestry industries.

<sup>1</sup> ABARES 2010, *Australian commodity statistics 2010*, Canberra.

We also understand that as a result of the Siam decision, the Minister is currently obliged to properly consider a request for revocation, no matter when in the review process it is received. The amendments will restrict and clearly define the avenues for making a request for revocation. We consider that clarification of the review process will improve procedural fairness and benefit our stakeholders.

Thank you for the opportunity to make a submission.

Yours sincerely

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**Jo Evans**

Executive Manager  
Trade and Market Access Division

28 April 2011