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Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

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Dear Committee Secretary

JELD-WEN Australia is pleased to provide a submission to the Senate Economics Legislation Committee on the Customs Amendment (Anti-Dumping) Bill 2011 [CAAD].

JELD-WEN Australia is the largest window and door manufacturer in Australia with an annual turnover of about $650 million and employs 2,000 people directly and engages more than 2,500 installers, fabricators and contractors.

At the outset, JELD-WEN wishes to affirm that it does not condone dumping. At the same time, the anti-dumping system should not become a vehicle for de-facto protection of inefficient and uncompetitive industries.

JELD-WEN has participated actively in anti-dumping cases involving aluminium extrusions and clear float glass. Through its first-hand experience of Australia's anti-dumping system, JELD-WEN considers that substantial improvements can be made to the operation of the system. In this context, it is highly desirable that the Government's response to the Productivity Commission Inquiry Report on *Australia's Anti-Dumping and Countervailing System* and the CAAD are not progressed in parallel or independently.

In our view there are provisions in the CAAD that could enhance Australia's anti-dumping system. But these amendments need to be placed in the context of a coherent and consistent framework that should be articulated by the Australian Government.

The objectives of the amendments should be to achieve an anti-dumping system that is effective and efficient, fair to all stakeholders, transparent and contestable and compliant with Australia's international trading agreements and internal laws governing competition and commercial behaviour.

Where local production of intermediate goods falls short of domestic market demand, the availability of competitively-priced imports is of critical significance to downstream processors and fabricators and their customers. This is particularly the case where the local manufacture of the intermediate input is a monopoly or oligopoly as is the case with glass, steel and aluminium -- commodities that are processed and fabricated extensively within the building products sector of the industry.

Many downstream users of intermediate goods are small and medium-sized businesses, which, in aggregate, typically employ many more people than are engaged in the manufacture of the primary intermediate products. Currently, local processors and fabricators of intermediate goods cannot make submissions to an anti-dumping investigation unless they *import* 'like goods'. Such restrictions should be removed by conferring upon intermediate users of like goods status as 'interested parties'.

The cost of participating in investigations can be prohibitive for small and medium-sized businesses. Most businesses are unlikely to be able to devote sufficient internal resources or be able to meet the consultancy costs that are involved with advancing their position cogently and within the ambit of the complexity of the Customs' legislation.

JELD-WEN considers some of the amendments contained in the CAAD, by taking to account employment and investment impacts beyond the applicant's industry would help to round-out an assessment of the implications of inaction against dumped imports, as well as the costs and benefits of proposed trade measures, similar to

the approach adopted under a Regulation Impact Statement. Such an Impact Assessment also should consider the effects on market competition, including small business and potential price impacts on purchasers of final products.

Failure to consider flow-on effects to related sectors could inadvertently lead to negative outcomes for local employment. By way of example, the imposition of trade measures on imported intermediate goods, such as clear float glass, may increase the risk of local trade merchants and distributors shifting to imports of fully-finished products, such as windows and doors upon which trade measures do not apply. While the intention of trade measures is to protect the local manufacture of the intermediate good from dumped imports, the effect on overall jobs could be counter-productive because of the substitution of finished imported products for locally-fabricated like goods.

The Impact Assessment could be undertaken by an economic agency, such as the Productivity Commission or one of a number of reputable private economic/accounting firms that are used frequently by government. The Impact Assessment Statement would support the work of Customs.

While many firms have complained about the duration of investigations of anti-dumping applications, the imposition of unrealistic statutory time-frames could compromise the thoroughness of investigations. If there are concerns about the timeliness of investigations, then there are possible actions that could be considered, such as:

- Ensuring that Customs and the Trade Measures Review Officer are resourced adequately;
- Allowing accredited legal and accounting representatives to access 'confidential' information (subject to a binding confidentiality agreement) as occurs in other countries, that would enable the local industry, importers, exporters and downstream users to respond more effectively to issues in the investigation and assist Customs in determining its findings;
- Streamlining the appeals process, such as the appellate process that is well established under income tax law;
- Imposing penalties, similar to those applying under the companies' code where parties are found to have submitted deliberately misleading financial and management information. Where a party, either the applicant *or* an objector, is found to have deliberately breached the guidelines applying to the provision of information, it should be required to meet the costs of the other party.

Finally, JELD-WEN is deeply concerned that the CAAD seeks to impose on importers evidentiary burdens that importers would be unable to discharge and which would contravene Australia's international legal obligations. Australia's anti-dumping system must be fair and balanced and comply with international rules that Australian has agreed to.

Some of the other proposed amendments would contravene the World Trade Organisation Anti-Dumping Agreement to which Australia is a signatory. These areas are identified in the attached submission, which provides comments on each of the provisions contained in the CAAD.

JELD-WEN would welcome an opportunity to appear before public hearings of the Senate Economics Legislation Committee.

Yours sincerely

for: Ron Silberberg, AO
Senior Corporate Adviser
JELD-WEN Australia Pty Limited

JELD-WEN Australia
Submission to the Senate Economics Committee
Customs Amendment (Anti-Dumping) Bill 2011

JELD-WEN

1. Submissions on the Customs Amendment (Anti-Dumping) Bill 2011

	Part A – Submissions on the Bill Item-by-Item	
Item	***Proposed Amendment***	***Submission***
1	To amend the definition of "affected party" to include trade unions some of whose members are directly concerned with the production or manufacture or like goods as opposed to the existing definition where only trade unions the majority of whose members are directly concerned with the production or manufacture or like goods.	JELD-WEN considers that the definitions of "affected party" and "interested party" should be extended to also include industries that use the like good as inputs to manufacture as they, like trade unions' members, may be directly affected by anti-dumping and countervailing duties. The interests of such industries should be taken into account in a dumping and/or countervailing investigation, particularly as they generally employ significantly greater number of Australians and as they contribute significantly to the Australian economy.
2	To amend the definition of "interested party" to include trade unions some of whose members are directly concerned with the production or manufacture or like goods as opposed to the existing definition where only trade unions the majority of whose members are directly concerned with the production or manufacture or like goods.	See submission in Item 1.
3	To add to the anti-dumping legislation a rebuttable presumption that, if there is a finding of dumping, that dumping is causing material injury to the Australian industry.	This proposed amendments is contrary to Australia's international legal obligations under the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (**Anti-Dumping Agreement**). Article 3.1 of the Anti-Dumping Agreement requires that a determination of injury must be "*based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products and (b) the consequent impact of these imports on domestic producers of such goods*"(underlining added). Clearly the proposed amendment is inconsistent with and does not comply with this article.
4	To add to the anti-dumping legislation a rebuttable	See submission in Item 3.

	presumption that, if there is a finding of dumping, that dumping is causing material injury to the Australian industry.	
5	This amendment proposes to require consideration to be given to the effect that dumped imports have on jobs	JELD-WEN supports the proposed amendment. However, JELD-WEN submits that consideration also should be given to the economic effect of any anti-dumping and/or countervailing measures may have on Australian industries that use the like goods as inputs to manufacture, including on employment in those industries.
6	This proposed amendment will require the CEO of Customs to consider, as relevant economic factor, the impact of the imports in question on capital investment in the industry.	JELD-WEN supports the proposed amendment as the CEO of Customs already is entitled to have regard to the impact of the imports in question on capital investment in the Australian industry producing like goods.
7	To add to the anti-dumping legislation a rebuttable presumption that, if there is a finding of dumping, that dumping is causing material injury to the Australian industry.	See submission in Item 3.
8	This amendment proposes to restrict supporting data to a dumping and/or countervailing duty application to data relating to no more than the 90 day period prior to the application	By restricting supporting data to no more than the 90 day period prior to the application, it is unclear what such information could be capable of establishing. It certainly would be too short a period to demonstrate that imports were causing material injury to the Australian industry. No meaningful conclusions could be drawn from such limited information that would warrant the initiation of an investigation. Further, information as to the effects of imports on the Australian industry should be readily available to members of that industry. That is, the Australian industry should have readily available to it information concerning its own economic performance in the relevant Australian market and how imports were impacting on it. Assertions that information relating to an extended period of time means that the Australian industry must have incurred injury before it can file an application for an investigation are not correct. If the Australian industry has evidence that imports pose an imminent and foreseeable threat of

		material injury to the Australian industry and those imports are at dumped prices, there is nothing in either Australia's anti-dumping regime or under the Anti-Dumping Agreement that would preclude an application from being lodged and being acted upon by Customs. Finally, it is incongruous to impose anti-dumping measures or countervailing duty measures for a period of 5 years based on 90 days of information.
9	This amendment proposes to permit the CEO of Customs, when determining whether there is sufficient support for the application by the Australian industry, supporting applications lodged under a proposed new s.269TC(4)(baa).	It is unclear how this amendment would operate in practice given that the CEO of Customs would have had to accept that an application was sufficiently supported by the Australian industry before the proposed s269TC(4)(baa) would or could come into operation. JELD-WEN does not support this proposed amendment and sees no reason to depart from the existing position.
10	This amendment proposes to permit the CEO of Customs, when determining whether there is sufficient support for the application by the Australian industry, supporting applications lodged under a proposed new s.269TC(4)(baa).	See submission in Item 9.
11	This proposed amendment seeks to enable the CEO of Customs to have regard to new and updated information provided by an interested party that could not reasonably have been provided earlier.	JELD-WEN supports this amendment as it is sensible for the CEO of Customs to have regard to current information that is relevant to an investigation.
12	This amendment proposes to impose an onus of proof on importers to prove that the imported goods have not been dumped into Australia or subsidised for export to Australia. Further, the proposed amendment also seeks to provide for a rebuttable presumption of dumping and/or subsidisation by an importer who materially fails to co-operate in proving that its imports are not dumped and/or subsidised.	These proposed amendments are inconsistent with Article 3.1 of the Anti-Dumping Agreement. As noted earlier above, Article 3.1 of the Anti-Dumping Agreement requires that a determination of injury must be "*based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products and (b) the consequent impact of these imports on domestic producers of such goods*". Clearly the proposed amendment is inconsistent with and does not comply with this article.

		Further, these proposed amendments reveal a serious lack of understanding about dumping. An importer will not have information available to it to prove that imports by it are not dumped. Dumping occurs when an exporter exports goods at export prices that are less than its domestic selling price of like goods in the country of export. An importer would not have such information available to it, especially in arms length transactions involving unrelated parties. It is unreasonable to impose a statutory obligation on a party that cannot be discharged. Secondly, where the importer is unable to provide the required information, such failure gives rise to a rebuttable presumption that the importer's imports are deemed to be dumped. This is manifestly unreasonable and inequitable. To require an importer to prove that its imports had not been imported at dumped prices when the case against it unsubstantiated allegations made by an Australian industry would see an increase in vexatious applications and would be contrary to all principles of fairness. These amendments should not be proceeded with.
13	This amendment proposes to remove the prohibition on the CEO of Customs making a preliminary affirmative determination during the 60 day period following the initiation of an investigation, thereby allowing securities to be taken out on imports of like goods at an earlier time.	This proposed amendment is inconsistent with Australia's international legal obligations under the Anti-Dumping Agreement. Article 7.3 of the Anti-Dumping Agreement prohibits the imposition of provisional measures within 60 days of initiation of an investigation. Further, the CEO of Customs is unlikely to have sufficient information before him or her to make a preliminary affirmative determination prior to the expiration of the 60 day period as he or she would not have responses from importers and exporters in response to Customs importer and exporter questionnaires. The CEO of Customs would not possess positive evidence upon which to base a preliminary affirmative determination. This proposed amendment should not be proceeded with.
14	These amendments propose to require the CEO of Customs to have regard to:	JELD-WEN supports the proposed amendments. However, consideration should be given to defining "related Australian industries" to include those Australian industries that use like goods as inputs to manufacture.

	(a) forecast economic impact on the relevant Australian industry and related Australian industries, including on employment, capital investment and market operation; or (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269TC(4A)(b).	
15	These amendments propose to require the CEO of Customs to have regard to: (a) forecast economic impact on the relevant Australian industry and related Australian industries, including on employment, capital investment and market operation; or (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269TC(4A)(b).	See the submission in Item 14.
16	This proposed amendment seeks to enable the CEO of Customs to have regard to new and updated information provided by an interested party that could not reasonably have been provided earlier.	See submission in Item 11.
17	This proposed amendment seeks to enable the CEO of Customs to have regard to new and updated information provided by an interested party that could not reasonably have been provided earlier.	See submission in Item 11.
18	This proposed amendment seeks to enable the CEO of Customs to have regard to new and updated	See submission in Item 11.

	information provided by an interested party that could not reasonably have been provided earlier.	
19	These amendments propose to preclude the Minister from disclosing certain normal values, export prices and/or non-injurious prices to affected parties in a review of the rate of interim duty imposed on like goods.	JELD-WEN does not support these proposed amendments as they preclude an affected party, namely, importers from knowing the rate of a tax (i.e. interim dumping and/or countervailing duties) being imposed on its imports. While other affected parties need not know the rate of interim dumping and/or countervailing duty apply to imports, importers of the goods must have the ability to ascertain what rate of tax will apply to their imports so that they can properly conduct their business affairs.
20	These amendments propose to preclude the Minister from disclosing certain normal values, export prices and/or non-injurious prices to affected parties in a review of the rate of interim duty imposed on like goods.	See the submission in Item 19.
21	These amendments propose to preclude the Minister from disclosing certain normal values, export prices and/or non-injurious prices to affected parties in a review of the rate of interim duty imposed on like goods.	See the submission in Item 19.
22	These amendments propose to preclude the Minister from disclosing certain normal values, export prices and/or non-injurious prices to affected parties in a review of the rate of interim duty imposed on like goods.	See the submission in Item 19.
23	This amendment proposes to require the CEO of Customs to provide to an applicant in a duty assessment a copy of the information that the CEO intends to rely upon and, if any of that information is confidential, to provide a non-confidential summary of that information that allows a reasonable understanding of the confidential information.	JELD-WEN supports the proposed amendment as it enhances transparency.
24	These proposed amendments require the CEO of Customs to consult with persons with expertise in the	JELD-WEN supports the proposed amendment. However, consideration should be given to defining “related Australian industries” to include those

	relevant Australian industry and related Australian industries.	Australian industries that use like goods as inputs to manufacture. Further, consideration should be given to requiring Customs to not only consult with experts but also with the Productivity Commission as an "expert" in Australian industry in all investigations.
25	These amendments propose to require the CEO of Customs to have regard to: (a) any new or updated information that could not be provided earlier; and (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269TC(4A)(b); and (c) any other relevant information.	See the submission in Item 14.
26	These amendments propose to require the CEO of Customs to have regard to: (a) any new or updated information that could not be provided earlier; or (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269ZC(1A).	See the submission in Item 14.
27	This proposed amendment would require an application for the continuation of measures to be in the prescribed form and be accompanied by any other information prescribed by the regulations.	JELD-WEN supports the proposed amendment as it enhances transparency and certainty in what information such an application must contain.
28	These proposed amendments require the CEO of	See the submission in Item 24.

	Customs to consult with persons with expertise in the relevant Australian industry and related Australian industries.	
29	These amendments propose to require the CEO of Customs to have regard to: (a) any new or updated information that could not be provided earlier; and (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269ZHD(1A); and (c) any other relevant information.	JELD-WEN supports the proposed amendments. However, consideration should be given to defining "related Australian industries" to include those Australian industries that use like goods as inputs to manufacture.
30	These amendments propose to require the CEO of Customs to have regard to: (a) any new or updated information that could not be provided earlier; or (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269ZHD(1a).	See the submission in Item 14.
31	These amendments propose to require the CEO of Customs to have regard to: (a) any new or updated information that could not be provided earlier; and	See the submission in Item 14.

	(b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new s.269ZHD(1A).	
32	To amend the definition of "interested party" to include trade unions some of whose members are directly concerned with the production or manufacture or like goods as opposed to the existing definition where only trade unions the majority of whose members are directly concerned with the production or manufacture or like goods.	See submission in Item 1.
33	These amendments propose to require the CEO of Customs to have regard to: (a) any new or updated information that could not be provided earlier; and (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new ss.269ZZEA or 269ZZQA.	See the submission in Item 14.
34	This proposed amendment permits an applicant, in an application for a review of a decision by the Minister, to provide new or updated information to the Review Officer that reasonably could not have been provided earlier.	JELD-WEN does not support this proposed amendment because it defeats the purpose of a review by the Trade Measures Review Officer of the Minister's decision which was based on information before the Minister at the time he or she made the reviewable decision. In effect, the proposed amendment extends the investigation to a time after the Minister has made a decision.
35	These proposed amendments require the CEO of Customs to consult with persons with expertise in the relevant Australian industry and related Australian industries.	See the submission in Item 24.

36	These amendments proposes to empower Customs to require and take securities where they are satisfied it is necessary to do so to prevent material injury to an Australian industry in circumstances where the Trade Measures Review Officer has recommended to the Minister that Customs re-investigate its findings on which the Minister based his/her decision not to impose anti-dumping and/or countervailing duties.	JELD-WEN does not support the proposed amendments The proposed amendments are inconsistent with Australia's international legal obligations under Article 7.1(ii) of the Anti-Dumping Agreement that requires a preliminary affirmative determination of dumping and consequent injury to the local industry. No such determination would have been made.
37	This proposed amendment permits the Trade Measures Review Officer to seek new or updated information from the applicant that could not have been provided earlier.	See the submission in Item 34.
38	These amendments propose to permit the Trade Measures Review Officer to have regard to: (a) any new or updated information that could not be provided earlier; and (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new ss.269ZZEA.	See the submission in Item 34.
39	This proposed amendment seeks to permit the CEO of Customs, in a re-investigation, to have regard to not only the information that the Trade Measures Review Officer had regard to but also any new or updated information that reasonably could not have been provided earlier.	See the submission in Item 34.
40	This proposed amendment permits an applicant, in an application for a review of a decision by the CEO of Customs, to provide new or updated information to the CEO of Customs that reasonably could not have been provided earlier.	See the submission in Item 34.

41	These proposed amendments require the Trade Measures Review Officer to consult with persons with expertise in the relevant Australian industry and related Australian industries.	See the submission in Item 34.
42	These amendments propose to permit the Trade Measures Review Officer to have regard to: (a) any new or updated information that could not be provided earlier; and (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new ss.269ZZQA	See the submission in Item 34.
43	These amendments propose to permit the Trade Measures Review Officer to have regard to: (a) any new or updated information that could not be provided earlier; and (b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new ss.269ZZQA	See the submission in Item 34.
44	This proposed amendment permits the Trade Measures Review Officer to seek new or updated information from the applicant that could not have been provided earlier.	See the submission in Item 34.
45	These amendments propose to permit the Trade Measures Review Officer to have regard to: (a) any new or updated information that could not be provided earlier; and	See the submission in Item 34.

	(b) any information and analysis provided by persons with expertise in the relevant Australian industry and related Australian industries as a result of consultations under a proposed new ss.269ZZQA	
46	These amendments proposes to empower Customs to require and take securities where they are satisfied it is necessary to do so to prevent material injury to an Australian industry in circumstances where the Trade Measures Review Officer has recommended to the Minister that Customs re-investigate its findings on which the Minister based his/her decision not to impose anti-dumping and/or countervailing duties.	See the submission in Item 36.
47	This amendment proposes to confer jurisdiction on the Administrative Appeals Tribunal to conduct a merits review of decisions by the CEO of Customs, the Minister and the Trade Measures Review Officer.	JELD-WEN does not oppose the proposed amendment but questions the wisdom of adding another layer of review to the effect that certain decisions of the CEO of Customs and the Minister are reviewable by the Trade Measures Review Officer, whose decisions may then be reviewed by the Administrative Appeals Tribunal, whose decisions, in turn, may be reviewed by the Federal Court. This would seem to unnecessarily complicate and extend even further an already lengthy process. Further it is unclear, which decisions may be so reviewed – any and all decisions by the CEO of Customs, the Minister and the Trade Measures Review Officer under Part XVB of the Customs Act 1901 or only some of them and, if so, which ones. Finally, it is unclear what order of priority, if any, there will be in referring decisions to the Administrative Appeals Tribunal. For example, if the Minister makes decision not to impose dumping measures, will that decision:- (a) be required to be referred to the Trade Measures Review Officer first; or (b) be able to be referred to either the Trade Measures Review Officer

		or to the Administrative Appeals Tribunal; or (c) be able to be referred to both the Trade Measures Review Officer and to the Administrative Appeals Tribunal? JELD-WEN would support a simplification of the review process that would end the current circularity whereby the Trade Measures Review Officer, in relation to Ministerial decisions, can only recommend to the Minister that he/she affirm his/her original decision or recommend that Customs re-investigate its original findings. This almost invariably leads to two arms of the executive, Customs and the Trade Measures Review Officer, providing differing advice and recommendations to the Minister. A review and simplification of this process is required. In this regard, JELD-WEN endorses the recommendations of the Productivity Commission in its Report on Australia's Anti-Dumping and Countervailing Regime on this issue. For example the Productivity Commission recommended that where the Trade Measures Review Officer finds in favour in an appeal against a decision made by the Minister, the Minister should make a final determination without returning the case to Customs for reinvestigation unless the Trade Measures Review Officer explicitly recommends reinvestigation: see Recommendation 7.2. We also note that it would be possible to streamline the appeals process for resolution of anti-dumping applications with a view to reducing the time taken to determine matters. An alternative might be to more closely follow the appellate process already well established under income tax law. Under that system, there is a formal objection process which allows taxpayers to challenge administrative decisions made by ATO audit teams. The objection process is handled by an independent (appeals) section within the ATO, who are possessed with appropriate skill set and training to be able to determine the merits of matters referred for appeal. If a taxpayer is further dissatisfied with the objection, questions of fact may be appealed to the Administrative Appeals Tribunal (AAT),and questions

		of law to higher (federal) courts. Appeals to the AAT are generally less formal and do not involve the costs normally associated with an appeal to a court. There are a number of important differences between the income tax and customs appeals processes. Firstly, where an objection is determined favourably for the taxpayer, the decision overrides the earlier administrative decision of the audit team. This is unlike the current position of the TMRO who is restricted to merely referring the matter back to Customs for further reconsideration. Secondly, we note it is Customs' current administrative practice to appoint a fresh team to undertake such work (thereby enhancing independence), it will be appreciated that this must further delay the review process, given the complexity involved with the cases in point. It must surely be preferable for the TMRO to have the power to make a binding decision. Thirdly, for anti-dumping matters, there is no appeal to the AAT or similar quasi-judicial body. We believe that it would be worthwhile for such an avenue to be considered to reduce the strain on our courts, which are already under-resourced. The income tax appeals system is well tested and very effective for taxpayer and ATO alike and we believe that it is a model with considerable merit.
	Part B – Miscellaneous Submissions	
1	Transparency	It is JELD-WEN's understanding that an aim of the Bill is to improve transparency in anti-dumping and subsidy investigations. JELD-WEN supports any improvements in transparency in investigations and, from its own experience, believes that the singular failing with the current system is the lack of transparency in investigations, which precludes all interested parties from contributing to the decision making process in any meaningful way.

		JELD-WEN submits that this lack of transparency could be addressed, as it has been in other jurisdictions, by disclosing confidential information to solicitors of interested parties and, perhaps, certain other professionals, who have given to Customs a legally enforceable undertaking to keep such information confidential and not disclose it to any person, including their respective clients, and to use it solely for the purposes of the investigation. This would enable interested parties, whether the local industry, importers or exporters, to respond to issues in the investigation in a more informed manner and, thereby, assist Customs in reaching its findings.
2	Costs	JELD-WEN understands that the motivation for a number of the amendments proposed by the Bill is to make it less costly for an Australian industry to prepare an application for the imposition of anti-dumping and/or countervailing duty measures. It should be recognised that importers and exporters also incur considerable costs in defending their interests following the initiation of an anti-dumping and/or countervailing duty investigation, which costs can be in excess of several hundred thousand dollars. Further, if it subsequently transpires that allegedly dumped imports have not in fact been exported at dumped prices, the importers and exporters have no right to recover the costs incurred in defending their interests. It is for this reason that Australia's anti-dumping and countervailing duty regime must be balanced and impartial in the interests of all interested parties and not favour any interested parties over others. That balance is achieved by adherence to Australia's international obligations under the Anti-Dumping Agreement and by providing more transparency to Australia's anti-dumping and countervailing duty regime.