

23 April 2014

Dear Sir/Madam

**Supplementary Submission to the Senate Standing Committee on Economics – Customs Amendment (Anti-Dumping Measures) Bill (No. 1) 2015 and Customs Tariff (Anti-Dumping) Amendment Bill 2015**

I refer to the earlier submission by the Manufacturers' Trade Alliance ("MTA") dated 13 April 2015 to the Standing Committee Inquiry into the Customs Amendment (Anti-Dumping Measures) Bill (No. 1) 2015 and the Customs Tariff (Anti-Dumping) Amendment Bill 2015.

The Manufacturers' Trade Alliance includes the following member companies (with contact details):

Company	Key Contact	Position	
Orica Australia Pty Ltd	Mr. Malcolm Hart	AN Product Manager	
Bisalloy Steel Group Limited	Mr. Tom Matinca	Business Development and Strategy Manager	
Cement Industry Federation	Ms. Margie Thomson	Chief Executive	
Nufarm Limited	Mr. Bernard Lee	Industry and Government Affairs Manager	
Australian Paper	Mr. Garry Jones	Planning & Development Manager	
Dried Fruits Australia	Mr. Phil Chidgzey	General Manager	
CSBP Pty Ltd	Dr. Barney Jones	Business Manager- Ammonium Nitrate	
Arrium	Mr. Matt Condon	Manager-Trade Development	
BlueScope Steel Limited	Mr. Alan Gibbs	Development Manager- International Trade Affairs	
SPC Ardmona	Ms. Shalini Valecha	Strategy and Government Affairs	

MTA participated in a briefing session with the Department of Industry and Science on 21 April 2015. Following that briefing, the MTA members considered it appropriate to re-affirm five key areas of concern with the Bills. These matters are further addressed below.

Yours faithfully

Alan Gibbs  
Development Manager-International Trade Affairs  
BlueScope Steel Limited  
On behalf of the Manufacturers Trade Alliance

## **Supplementary Issues**

Following the briefing from the Department of Industry in respect of certain elements of the Customs Amendment (Anti-Dumping Measures) Bill (No.1) 2015 and Customs Tariff (Anti-Dumping Measures) Bill 2015, the MTA seeks to clarify concerns with proposed amendments to the Anti-Dumping and Countervailing Measures legislation.

### **(i) Submission deadlines**

The MTA has indicated that it is supportive of the proposed change in deadline for interested party submissions (including exporter questionnaire responses) to Day 37 (from Day 40) in an investigation.

MTA requests that the new deadline is for fully compliant submissions in both Commercial-in-Confidence and Public File forms. Where only a Commercial-in-Confidence submission is received the interested party is deemed non-cooperative (unless an extension has been granted).

Any extension granted by the ADC should only be for elements of the exporter questionnaire which is incomplete rather than for the entire questionnaire. The MTA recommends that the maximum extension be for a 7 day period to enable completion of any outstanding matters, subject to exceptional circumstances

### **(ii) Clarify the definition of a subsidy**

As previously indicated, MTA welcomes the clarification to the definition of a subsidy in accordance with the WTO Subsidies and Countervailing Measures Agreement. It is understood that the proposed change aligns the subsidy definition in the Customs Act with the definition in the WTO Subsidies and Countervailing Measures Agreement. It is not been sufficiently clear in the Explanatory Memorandum as to why the current definition was inadequate.

It remains unclear to MTA members why there is a requirement to impose additional burden on the Commission and Australian industries to demonstrate that a direct payment - subsection 269TACC (2) - by a government body has conferred a benefit by reference to a market price benchmark. This is not required under the WTO Agreement on Subsidies. Otherwise, subsections 269TACC (3) and 269TACC (4) in relation to financial contributions are already consistent with the WTO Agreement on Subsidies, as they require a comparison to prevailing market conditions.

### **(iii) Notification of a subsidy**

In relation to the Notification of subsidies, we remain concerned that the proposed amendment imposes a less stringent requirement on reporting countries subject to investigations. We see this as being at odds with the Government's otherwise, applaudable, "strong on WTO compliance" message.

### **(iv) Introduction of fees and a higher procedural and legal threshold for reviews to be undertaken by the Anti-Dumping Review Panel.**

The MTA is supportive of the move to make the Anti-Dumping Review Panel process more effective. The MTA reaffirms its earlier position that it is opposed to the introduction of fees for merits review of decisions in anti-dumping and countervailing investigations. The proposed fees will not deter interested parties from seeking a merits review of decisions and is open to manipulation by foreign exporters. It is likely that only Australian manufacturers will be forced to pay the proposed higher fee.

The MTA is also supportive of the raising of the threshold for merits review applications. However, the MTA is concerned that changes to the ADRP's powers in respect of the acceptance and rejection of applications has not been adequately detailed in supporting documentation to the Bills.

### **(v) Mandatory application of lesser duty rule**

As indicated, the MTA considers that the criteria that the Australian industry comprise of two or more SME-sized Australian industry members is unnecessary and should be reconsidered.