

Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Via Email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

05 May 2015

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 submissions 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.

This submission is in response to yesterday's appearance by the MTA at the public hearing of this committee, and the consequent request of the committee to for the MTA provide further details.

The Manufacturers' Trade Alliance includes the following member companies

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	

Yours faithfully

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

Following the attendance at yesterday's Senate Economics Legislation Committee's public hearing Customs Amendment (Anti-Dumping Measures) Bill (No.1) 2015 the MTA wishes to provide further details as follows:-

**Normal Values:-**

The use of surrogate third country data in relation to key intermediate product inputs has been successfully undertaken by the ADC in recent countervailing investigations and is permitted under either sub-sections 269TAC(2)(c) or s.269TAC(6). The balance of the normal value data has been sourced from cooperative exporters in the exporting country (i.e. a cooperative exporter's costs - except for the raw material - has been used).

The MTA recommends the full utilisation of third country data as the basis for determining normal value in cases where the ADC finds a particular market situation and where exporter's costs do not reasonably reflect costs associated with production and sale (i.e. some, or all costs, other than the raw material input are tarnished due to a particular market situation finding). This is despite the exporter's records having been kept in accordance with GAAP.

This complete third country surrogacy approach to establish Normal Values when a particular market situation is found would ensure that the determined Normal Value is not affected by market distortions or subsidies.

The MTA understand that this approach is not inconsistent with Australia's obligations under the WTO agreement. (per Article 2.2.1.1 - the exporter's records shall not form the basis of calculating the cost of production in this situation) and it is noted that there is no provision in the Agreement specifically preventing the application of third country data as the basis for determining costs of production under article 2.2.

**Anti-Dumping Review Panel Fees:-**

With regard to the Anti-dumping review panel, the MTA supports efforts to "raise-the-bar" to eliminate frivolous and vexatious applications.

The MTA does not support the imposition fees in respect of applications for review.

**Subsidies:-**

Further to a briefing and evidence provided by Department yesterday, the MTA remains concerned that the changes to definition of Subsidy and the extension of the compliance notification have the potential to weaken Australia's anti-dumping framework rather than strengthen it.

For this reason the MTA do not support the proposed amendments.

**Lesser Duty Rule:-**

In terms of the lesser duty rule, the MTA supports the clarification contained in the Bill. However, the MTA would reiterate the view expressed during its appearance before the Committee - that is, that the mandatory application of the lesser duty rule in setting interim measures disadvantages Australian industry.

The MTA believes that all interim measures should be set at the full margin of the dumping and/ or countervailing margin established by the ADC. This approach would be consistent with Australia's WTO obligations.