



National Farmers' Federation

**Submission to the
Senate Economics Legislation Committee
inquiry into the Customs Amendment (Anti-
Dumping Measures) Bill (No. 1) 2015 and the
Customs Tariff (Anti-Dumping) Amendment
Bill 2015**

April 2015



Australian Chicken Growers' Council Ltd



AGFORCE



ALPA



Animal Medicines Australia



Australian Livestock Exporters' Council



Australian Pork



Australian Veterinary Association



Beechworth Honey



CANEGROWERS



CATTLE COUNCIL OF AUSTRALIA



CORPORATE AGRICULTURAL GROUP



COTTON AUSTRALIA



driedfruits australia



Future Farmers Network



Goat Industry Council of Australia Inc



GrainCorp



Grain Growers
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Horticulture Research & Development Authority



NSW FARMERS



NEW SOUTH WALES IRRIGATORS' COUNCIL



The Pastoralists' Association of West Darling



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Primary Employers Tasmania



RICEGROWERS' ASSOCIATION OF AUSTRALIA INC



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TFGA
Agriculture's Future
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Victorian Farmers Federation



WAFARMERS



WOOLPRODUCERS
AUSTRALIA

Committee Secretary
Senate Economics Legislation Committee
Parliament House
Canberra ACT 2600

15 April 2015

Dear Committee Secretary

The National Farmers Federation is pleased to provide a submission to the Customs Amendment (Anti-Dumping Measures) Bill (No. 1) 2015 and the Customs Tariff (Anti-Dumping) Amendment Bill 2015 (the bills) inquiry.

The NFF supports Australia having an effective trade remedies regime. It represents an integral part of a robust international trading system and Australian farmers want to ensure that a level playing field exists. The NFF supports and recognises the improvements that have been made to Australia's anti-dumping arrangements since June 2011 particularly in relation to assisting small organisations access the information they need to bring dumping complaints forward, including international trade price data.

NFF believes dumping is a form of predatory pricing and the major challenge for Australian governments (with industry) is to improve the accessibility of Australia's anti-dumping system for industries with legitimate claims against dumped products. The system must do this while ensuring that any changes to policy or administration do not result in an increase in the number of unsubstantiated applications from industry sectors seeking to use the anti-dumping system as a means of protectionism.

The key guiding principles that the NFF supports in relation to the Bills in question and in relation to anti-dumping measures and the associated structural arrangements more broadly include the following.

- Ensuring Australia's anti-dumping system is WTO-consistent, and that industries with legitimate claims against dumped imports have the opportunity to seek remedy through an efficient, cost effective and transparent system.
- Government should take on a more cooperative role in working with affected sectors to compile critical and relevant market (and non-market) information on pricing and subsidy arrangements and in particular consider measures that impact on the farm sector.
- It is critical that the proposed removal of the International Trade Remedies Forum (ITRF) not undermine the capacity of relevant organisations to engage with and communicate with government on specific matters of concern. The replacement framework must allow for and provide relevant expertise and appropriate resources to effectively apply Australia's anti-dumping system across all industry sectors, and in particular agriculture. The NFF seeks Government assurances that the agricultural sector will not be worse of in terms of capacity to engage and consult as a result of the removal of the International Trade Remedies Forum.

- Any arrangements must provide a consistent and coordinated whole of government perspective to adequately respond to anti-dumping issues.

NFF notes that none of the proposed changes in the Bills shorten the period of investigation of a dumping claim, and believes this to be a significant weakness in the Bill. One of the largest ongoing issues with dumped goods in Australia is the distortion and impact that they have on a market, and therefore on the producers and businesses involved in that market, while a dumping investigation is undertaken. The significant length of time taken to conduct dumping investigations in Australia, and our continued refusal to take interim action while a case is being determined, only add to this impact.

The NFF understands that Australia aspires to what is internationally a relatively tight timeframe for the determination of anti-dumping claims, with final determinations required after 155 days.¹ However, NFF also notes that Custom's submission into the 2009 Productivity Commission Report into Australia's anti-dumping system indicated it was only able to complete approximately 40 percent of anti-dumping claims within this threshold, with an average extension time of 60 days.² Regardless of international comparisons, and even without extensions, this period of time provides more than ample opportunity for dumped goods to have significant impacts on a market or on the producers that supply it.

The issue is problematic but can be resolved through two means. Firstly, by a shorter, regulated maximum period for dumping investigations. Secondly, an interim determination and final stage determination process could be used, where an interim decision is implemented immediately while a final decision is considered. The NFF understands that both options comply with WTO requirements and neither is subject to compensation or countervailing in the country of origin.

- The WTO agreement on dumping allows interim measures so long as they are not taken before 60 days after a dumping application is lodged. NFF understands that historically, Australia has been reticent to use this provision, preferring to wait until after the issue of a Statement of Essential Facts at 110 days before a preliminary affirmative determination is proclaimed.³ However, with this in mind, NFF welcomes the public advice of the government that under changes to Australia's anti-dumping laws, *'The Minister will direct the Anti-Dumping Commissioner that, wherever possible, provisional measures be imposed at day 60 of an investigation. This is the earliest time in an investigation that provisional measures can be considered.'*⁴

Conclusion

Australian farmers, for differing reasons, depend on a transparent, efficient and defensible anti-dumping system. Australia's anti-dumping regime must be transparent and robust and

¹ Productivity commission p.181

² Productivity commission p.141

³ Productivity commission p. 14

⁴ <http://www.industry.gov.au/industry/IndustryInitiatives/TradePolicies/Pages/Levelling-the-playing-field-changes-to-Australia%E2%80%99s-Anti-dumping-laws.aspx>

carry with it a high level of integrity. In addition it must be accessible to all parts of the value chain and not be compromised by un-necessary costs or barriers that restrict concerns being considered.

Any short term windfall to consumers from dumped goods is more than comprehensively outweighed by the long term distortions caused by the dumped goods on markets and the producers that supply them. Australia cannot afford to risk the short term supply of dumped goods undermining an existing productive and efficient industry. The demise of efficient local industry through dumping can only result in adverse long term impacts, as Australian consumers are forced by necessity to purchase expensive imported products which lack local competition.

For further information on this submission please contact:

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