

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry, Innovation and Science Portfolio
2016 - 2017 Additional Estimates
2 March 2017

DEPARTMENT: DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

TOPIC: New investigations model (Preliminary Affirmative Determinations)

REFERENCE: Question on Notice (Hansard, 2 March 2017, page 60)

QUESTION No.: AI-9

Mr Seymour: I am very pleased to report that we have a new investigations model, and we started implementing the model from October last year. That new investigations model is designed to bring the time lines down closer to the 155 statutory calendar days in the act, and also it is balanced against the need, as I said earlier, to ensure procedural and substantive fairness to all the parties through the investigation. So the new investigations model is live and is working extremely well. There is a raft of information that I have taken the International Trade Remedies Forum members through, which is industry, unions and government, on the detail of that new investigations model, and I am more than pleased to share that information with senators if that is required. It goes to the very detail of how we go about the practice regime of investigating the allegation of dumping, both here and abroad. It is designed around the need to get better information earlier into the system so that we are in a position to be more informed and to act more quickly in making our deliberations, the first of which is the most important one, which is a day 60 preliminary affirmative determination by me to take securities, where I believe that a prima facie case has been made that dumping has actually occurred. I am pleased to say that that is working extremely well. That was an amendment that was made two years ago by the government in a direction to me that I would have to do that on day 60 in every case and have a very good reason not to. That is working extremely well and is supported fully by this new investigations model. I have examples, if senators are interested, in terms of how that has moved the securities—

Senator Kim Carr: Perhaps I could get, on notice, the examples and the other supporting information.

ANSWER

New investigations model

The Commissioner of the Anti-Dumping Commission (Commissioner) presented information on the new investigations model to the International Trade Remedies Forum on 9 September 2016 and 12 December 2016. These presentations are available on the Anti-Dumping Commission's website at <http://adcommission.gov.au/adsystem/Pages/ITRF.aspx>.

Preliminary Affirmative Determinations

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the Ministerial Direction) made on 2 November 2015, 60 days after initiation of an investigation the Commissioner must make a preliminary affirmative determination (PAD) or publish a status report providing reasons why a PAD was not made.

A PAD can only be made where the Commissioner is satisfied that there appears to be sufficient grounds for the publication of a dumping duty or countervailing duty notice. Following the publication of a PAD, the Commonwealth may require and take securities on the goods subject to

an investigation if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry while the investigation continues.

The average time to make a PAD has declined significantly since the Ministerial Direction has been in place. In 2016-17 (to 31 March 2017) the average date of a PAD is day 123 compared to day 145 in 2015-16 and day 228 in 2014-15.

Since the Ministerial Direction was made, 13 dumping/countervailing cases have been initiated where the Commissioner has been required to publish a PAD or a status report on day 60 (as at 31 March 2017). Of those 13 cases, PADs were published at day 60 for two cases (hollow structural sections exported from India and the United Arab Emirates and aluminium extrusions exported from Malaysia and Vietnam). For the remaining cases a status report was published on day 60. The Commissioner did not make a PAD on day 60 in those 11 instances because he was not satisfied, at that time, that there appeared to be sufficient grounds for the publication of a dumping/countervailing duty notice.

Of the 11 cases where a status report was published:

- a PAD was subsequently published in four cases (chrome plated steel bar, grinding balls, resealable can end closures and copy paper)
- the Commissioner is still considering a PAD in three cases (zinc coated (galvanised) steel, alloy round steel bar and cooling tower water treatment controllers)
- a PAD was not made in four cases (quicklime, steel reinforcing bar, steel shelving units and rod in coils). In these four cases the investigations were either terminated or no duties imposed at the completion of the investigation.

PADs and status reports are available on the Anti-Dumping Commission's website (www.adcommission.gov.au).