

**Economics Legislation Committee**  
ANSWERS TO QUESTIONS ON NOTICE  
Industry, Innovation and Science Portfolio  
2016-17 Supplementary Budget Estimates  
20 October 2016

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**DEPARTMENT:** DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

**TOPIC:** Ministerial direction on material injury

**REFERENCE:** Question on Notice (Hansard, 20 October 2016, page 103)

**QUESTION No.:** SI-23

Senator XENOPHON: I understand. There is no need to apologise. That is fine. Is what you are relying on to interpret how you determine whether there is an actual injury or not the ministerial direction on material injury on 1 June 2012?

Mr Seymour: We have a practice that relates back to that direction and reflects our obligations under the agreement.

Senator XENOPHON: If the ministerial direction were clearer, sharper and more in line with what some other countries are doing, could that mean potentially a different outcome in terms of some of these investigations? Because the ministerial direction is what guides you, isn't it?

Mr Seymour: It is an interesting question. The basic analysis on injury is price and volume effects. There are about five or six tests. Those tests come directly from the World Trade Organization agreement. So—

Senator XENOPHON: Do you mind setting out, on notice, what those tests are?

Mr Seymour: Yes.

Senator XENOPHON: Because we are running out of time, could you also reflect on notice on whether a new ministerial direction could potentially change the way you interpret these matters for the purpose of determining whether duties or countervailing duties should apply?

Mr Seymour: On the last one, I will just qualify my comment there: I am happy to take it on notice as you suggested, but it is a matter for the government to determine what ministerial directions they provide to me.

## ANSWER

The Anti-Dumping Commission's (Commission) assessment and findings on 'injury' and 'causation' are required to be undertaken in accordance with section 269TAE of the *Customs Act 1901* (the Act). The Act sets out a range of factors the Commission must consider when firstly establishing whether injury has been caused by exports of the 'good' and then secondly whether that injury has been caused by other factors. These factors are summarised below.

### *Injury*

- The size of the dumping or countervailing margins
- The quantity of exported goods and any increase or likely increase in volumes over the investigation period
- Export price and the difference between the export price and the like good produced by the Australian industry
- The effect of the exported good on the Australian industry (price, volume and economic factors).

*Other causes of injury*

- The volumes and price of non-dumped or subsidised imports
- Contraction in demand or changes in patterns of consumption
- Restricted trade practices of, and competition between foreign and Australian producers
- Developments in technology
- Export performance and productivity of the Australian industry.

The *Ministerial Direction on Material Injury 2012* directs the Anti-Dumping Commissioner on how the concept of ‘material injury’ should be judged and applied. The Commissioner remains obliged to apply the assessments required in the Act.