

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 215

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Under the new rules relating to the investigation of MES countries as well as EIT countries:

- a) Will any more investigators be hired?
If so, where will they be hired?
If not, do you anticipate needing to hire any additional investigators in the near future?
- b) Are there any plans to open any new offices overseas to cope with the new rules?
- c) How many more investigators are being posted to Beijing?
- d) In the sense of anti-dumping activities, will there be any formal distinction between Market Economy Status and Economy in Transition Countries?
 - i) If so, what is it?
 - ii) Will there be any informal distinctions? Will you be giving EIT countries any extra attention?
 - iii) Are any new mechanisms being put in place to assess MES countries? Or same procedure as for EIT countries at the moment?
- e) How many successful dumping cases were there for the years 00-01-02-03-04-05?
 - i) Which countries were they against?
 - ii) What was the amount of goods that they related to?
- f) How many unsuccessful dumping cases were there for the same years?
 - i) Which countries were they against?
 - ii) What was the amount of goods that they related to?
 - iii) On what grounds were they rejected?
- g) Is the new dumping handbook available on your website? If not, please provide.
- h) When will the new China office be ready to be opened?
- i) What additional personnel and resources will be transferred to this office once it is opened?
- j) Could you provide a list of all countries identified as MES and EIT?
- k) How great exactly do the direct and indirect subsidies have to be to qualify for dumping protection?
- l) Could this affect, say, heavily subsidised farm products from the EU or similarly subsidised products from the US?

The answer to the honourable senator's question is as follows:

The rules governing MES and EIT countries have not changed. For MES countries, existing rules that enable investigators to examine alternatives to domestic selling price have been clarified.

- a) No new investigators will be required as a result of this clarification of existing legislative provisions.
 - Not applicable.

- b) There are no plans to open new offices.
- c) The existing Customs post in Beijing is to be expanded by the addition of two officers who will provide capacity for the post to support and facilitate trade measures investigations in China, as well as contributing to the broad range of Customs issues at the post. Investigations of alleged dumping of specific products will continue to be conducted by Australian-based anti-dumping investigators with contributions ongoing monitoring of market and business regulation issues by the post.
- d) (i) Yes. Where an application raises economy in transition issues in respect of the country of export, and supplies appropriate supporting evidence, Customs approaches the determination of normal value under specific legislative provisions. Having regard to a number of factors set out in Customs Regulation 183, the Minister may consider whether market conditions apply in respect of the domestic selling price of the goods. This consideration does not apply to countries that are not regarded as economies in transition. In order to carry out its investigation of these matters, (under Regulation 183), Customs sends an additional exporter questionnaire to exporters in economies in transition.
- (ii) No. Any distinctions made between MES and EIT investigations relate to the requirements of EIT legislative provisions. All cases are investigated thoroughly and according to procedures and general principles laid down in legislation. Where there are informal distinctions made, these relate to the circumstances of the individual case. For example, in some cases it is necessary to apply greater resources or flexibility in timeframes to overcome language and geographic barriers. Other cases may raise technical issues that require specific technical expertise to be applied.
- (iii) There are no new mechanisms for MES countries. The recent clarifications to the anti-dumping manual relate to existing legislation and anti-dumping procedures. Where a country being investigated is an economy in transition the procedure is different because an additional questionnaire is sent and different provisions of the legislation are applied.
- e) In 2000 measures were imposed on polyvinyl chloride exported from Hungary and the Republic of Korea; linear low density exported from Indonesia and poly vinyl chloride bottle compound exported from Singapore.
- The value of the goods to which the measures related was approximately \$15m.

In 2001 measures were imposed on steel shelving kits exported from the People's Republic of China and Thailand; clear float glass exported from Indonesia; split system air conditioners exported from Italy; copper tube exported from the Republic of Korea; A4 ring binders exported from Malaysia; ammonium nitrate exported from Russia; tinsplate exported from Taiwan; and pineapple pieces and pineapple juice from Thailand.

- The value of goods to which the measures related was approximately \$50m.

In 2002 measures were imposed on sodium metabisulfite exported from the People's Republic of China; polyvinyl chloride exported from Israel; structural steel exported from the Republic of Korea, Thailand and South Africa; flexible slabstock polyols exported from the Republic of Korea, Singapore and the United States of America; galvanised steel pipe exported from Thailand and carpet grippers exported from the United States of America.

- The value of goods to which the measures related was approximately \$34m.

In 2003 measures were imposed on mill liners exported from Canada; dichlorophenoxy-acetic acid from China and United Kingdom; high density polyethylene exported from the Republic of Korea, Malaysia, Singapore and Sweden; washing machines exported from the Republic of Korea and linear low density polyethylene exported from the Republic of Korea and Thailand.

- The value of goods to which the measures related was approximately \$116m.

In 2004 measures were imposed on steel plate exported the People's Republic of China, Indonesia, Japan, and the Republic of Korea.

- The value of goods to which the measures related was approximately \$29m.

In 2005 (to date) measures have been imposed on silicon exported from one the People's Republic of China.

- The value of goods to which the measure related was approx \$7m.

Amounts given for values of goods are based on the nearest 12-month period for which data is available and may not coincide with the calendar year shown.

f) In 2000 ten investigations against Brazil, Singapore, Indonesia, Korea, Malaysia, Saudi Arabia, Austria, Italy, Taiwan, and China, involving five different goods, were unsuccessful

- The total value of goods involved was approximately \$31m.
- Reasons: termination - negligible volume of dumped goods (one country); negative finding - negligible dumping margin (two countries); negative finding - negligible dumped volume (four countries); termination - insufficient industry support (three countries).

In 2001 four investigations against Germany, UK, Indonesia [twice], involving four different goods, were unsuccessful

- The total value of goods involved was approximately \$52m.
- Reasons: negative finding – dumping but no injury (two goods with one country each- total value of goods approximately \$2.5m); negative finding – negligible dumped volume (one country); negative finding – no dumping (one country).

In 2002 nine investigations against Japan (twice), Indonesia (twice), Thailand (twice), China (twice), and Malaysia, involving six different goods, were unsuccessful

- The total value of goods involved was approximately \$46m.

- Reasons: negative finding – no dumping (one country); negative finding – negligible dumped volume (two countries); negative finding – no exports (one country); minister unable to determine (four countries); negative finding – dumping but no injury (one country).

In 2003 four investigations against India, Korea, Belgium and China, involving four different goods, were unsuccessful

- The total value of goods involved was approximately \$31m.
- Reasons: negative finding – negligible dumping margin (one country); terminated – negligible dumping margin in respect of a particular exporter (from one country); terminated – negligible dumped volume (one country); terminated – negligible dumping margin (one country).

In 2004 seven investigations against, Italy and Spain (involving both subsidy and dumping investigations), Greece and Korea (twice), involving three different goods, were unsuccessful:

- The total value of goods involved was approximately \$77m.
- Reasons: negative finding – negligible dumping margin in respect of a particular exporter (one country); terminated – no subsidy (three countries) and negligible dumping margin for certain exporters and no injury for the remainder of the exporters (two countries); terminated – dumping but no injury (one country).

In 2005 six investigations against China, Korea (twice), Malaysia, Thailand, and Canada, involving three different goods, were unsuccessful:

- The total value of goods involved was approximately \$232m.
- Reasons: terminated – dumping but no injury (five countries for two different types of goods); terminated – no dumping by certain exporters and negligible dumped volume for the rest (one country).

Amounts given for values of goods are based data available to the nearest 12-month period, and may not coincide with the calendar year shown.

- g) Yes.
- h) Customs opened its new office in China in April 2005.
- i) The China office will receive two additional personnel who will have the resources to contract local expertise to conduct research and support anti-dumping investigations in China.
- j) Schedule 1B to the Customs Regulations (copy attached) lists the countries to which the economy in transition provisions cannot apply. All countries (on Schedule 1B) are treated as market economies unless they meet the definition of a planned economy.
- k) The CEO is required to terminate an investigation if countervailable subsidisation is negligible. “Negligible” in the legislation is defined as:

- (a) If the country of export is not a developing country the subsidy, when expressed as a percentage of the export price of the goods, is less than 1%.
- (b) If the country of export is a developing country but not a special developing country the subsidy, when expressed as a percentage of the export price of the goods, is not more than 2%.
- (c) If the country of export is a special developing country the subsidy, when expressed as a percentage of the export price of the goods, is not more than 5%.

Hence, countervailable subsidisation must equal, or must exceed, these levels, in order for the CEO to continue an investigation.

The Senator's question refers to dumping. It should be noted that countervailing duties are to offset the injury caused by a subsidised product, whereas dumping duties are to offset the effects of injurious dumped product.

- 1) Whether heavily subsidised farm products exported from USA and EU (or any other country) would be subject to countervailing measures depends on the circumstances of the case. It would have to be shown that the subsidised farm products (whether it be direct or indirect) are causing material injury to the industry in Australia producing like products to the imported products

Attachment A

Schedule 1B Countries to which subsection 269TAC(5D) of the Act does not apply

Angola	Grenada	Pakistan
Antigua and Barbuda	Guatemala	Panama
Argentina	Guinea	Papua New Guinea
Armenia	Guinea Bissau	Paraguay
Austria	Guyana	People's Republic of China
Bahrain	Haiti	Peru
Bangladesh	Honduras	Philippines
Barbados	Hong Kong Special Administrative Region of China	Poland
Belgium	China	Portugal
Belize	Hungary	Qatar
Benin	Iceland	Republic of Korea
Bolivia	India	Romania
Botswana	Indonesia	Rwanda
Brazil	Ireland	Saint Kitts and Nevis
Brunei Darussalam	Israel	Saint Lucia
Bulgaria	Italy	Saint Vincent and the Grenadines
Burkina Faso	Jamaica	Senegal
Burundi	Japan	Sierra Leone
Cameroon	Jordan	Singapore
Canada	Kenya	Slovakia
Central African Republic	Kuwait	Slovenia
Chad	Kyrgyz Republic	Solomon Islands
Chile	Latvia	South Africa
Colombia	Lesotho	Spain
Congo	Liechtenstein	Sri Lanka
Costa Rica	Luxembourg	Suriname
Côte d'Ivoire	Macao	Swaziland
Croatia	Madagascar	Sweden
Cyprus	Malawi	Switzerland
Czech Republic	Malaysia	Thailand
Democratic People's Republic of Korea	Maldives	Togo
Democratic Republic of the Congo	Mali	Trinidad and Tobago
Denmark	Malta	Tunisia
Djibouti	Mauritania	Turkey
Dominica	Mauritius	Uganda
Dominican Republic	Mexico	United Arab Emirates
Ecuador	Mongolia	United Kingdom of Great Britain & Northern Ireland
Egypt	Morocco	United Republic of Tanzania
El Salvador	Mozambique	United States of America
Fiji	Myanmar	Uruguay
Finland	Namibia	Venezuela
France	Netherlands	Zambia
Gabon	Netherlands Antilles	Zimbabwe
Gambia, The	New Zealand	
Germany	Nicaragua	
Ghana	Niger	
Greece	Nigeria	
	Norway	