

***INDUSTRY TASK FORCE***  
***On***  
***ANTI-DUMPING***

**SUBMISSION TO THE SENATE LEGAL AND  
CONSTITUTIONAL LEGISLATION COMMITTEE**

It is the Task Force's view that the proposed legislation is in accord with Article 15 of the Protocol admitting P.R.China to the WTO. Article 15 allows for surrogacy treatment where the producers/exporters cannot "clearly show" that market economy conditions prevail in the industry exporting to Australia. The protocol extends this treatment for 15 years after 23rd November, 2001, when P.R.China was admitted to the WTO. The proposed legislation inserts "price influence" in lieu of "price control" and places the onus on the exporter to demonstrate market economy conditions exist in their industry and there is no foreign government influence in the manufacture, production and sale of the exported goods. This is in accordance with the terms of the Protocol.

Since 1996 when it was first identified that existing legislation was inadequate in addressing exports from "economies in transition" countries, the Task Force has sought legislation to bring Australia into line with the approach adopted by its trading partners. The accession of P.R.China to the WTO and their agreement to the Protocol terms has given impetus for the introduction of this legislation.

The legislation aligns Australia with other WTO members in the approach adopted for "economies in transition".

Previous legislation introduced in 1999 was ineffective as the requirement to establish "price control" was narrowly interpreted and did not allow for a proper examination of foreign government influence in the sector exporting. It is our understanding that it was always, and still is, Australian Government policy to take in to account a broader range of factors impacting on prices and costs where "economies in transition" countries are involved in anti-dumping cases.

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Additionally, there was no onus placed on exporters to provide evidence of free market conditions and in the absence of such evidence the Minister was obliged to extend free market treatment.

The Task Force was disappointed the Ministerial Guidelines issued by the Minister in December, 2000, based on "price control" were not effective, because they were made under legislation that did not provide for the onus of proof to be placed on the exporter as is now indicated under Article 15 of the Protocol.

Since 1996 when surrogacy treatment was deemed not to be appropriate cases involving P.R.China have rarely been successful. Many industries have collapsed that would still exist if Australia's approach was similar to that adopted by other WTO members, notably the EU. The attached list is illustrative. In most cases while material injury was established no dumping was found because Chinese prices and costs were accepted. Only 2 of 13 were successful and these were where Chinese prices and costs were not provided. This has been a disastrous period for the manufacturing sector with jobs and investment declining. The proposed legislation is welcomed by the Task Force and its enactment will bring a long awaited remedy to counter dumping from "economies in transition" countries.

The Task Force will be happy to elaborate and answer questions.

Bruce McAllen

Chairman

### CHINA anti-dumping cases

Year	Product	Applicant	Basis of Normal Value	Outcome
<b>ADA</b>				
1996	Glyphosate acid	Monsanto Australia Ltd	ADA used Chinese selling price data	Negligible dumping. No measures
1997	Picture Frames*	Garnond Australia P/L	Unknown	No Dumping. Case Withdrawn.
1997	Laminated Glass	Pilkington (Australia) Limited	TAC(1)	No dumping. No measures.
1997	Toughened Glass Panels	Don Mathieson & Staff Glass P/L supported by: Pilkington (Australia) Limited Chevron Glass P/L G James Australia P/L	Based on Costs	Some dumping but not cause of injury - no measures.
1998	Cotton Blankets	National Textiles Limited	Based on Costs	No dumping. No measures.
<b>ACS</b>				
2000	Ordinary Portland Cement	The Cement Industry Federation	TAC(5G) Constructed, raw material subject to price influence/control	No Dumping. No measures.
2001	<b>Steel Framed Storage Shelves</b>	<b>Summit Storage Products Pty Ltd</b>	<b>TAC(2)(D) Third Country sales.</b>	<b>Dumping - Measures Imposed</b>
2002	Glyphosate	Monsanto Australia Limited	Costs	No Dumping. No Measures.
2001	Carpet Gripper	Multifloor Accessories Pty Ltd	TAC(6) Best available.	No Dumping. No Measures.
2002	<b>Sodium Metabisulfite</b>	<b>Incitec Ltd</b>	<b>TAC(6) Best available</b>	<b>Dumping. Measures Imposed.</b>
2002	Steel Ladders	Hills Industries Limited	TAC(6) Best available	No Dumping. No Measures.

\* No Report : Case either terminated or withdrawn.

There are references from ACDN's that cases were initiated for **Gun Rovings** (1997) and **Disc Brakes** (2000) - however, cases must have been either withdrawn or terminated. No follow up ACDN's were noticed!

Counting these 2 there have been 13 cases initiated with only 2 successful.