



Australia's Anti-Dumping and Countervailing (anti-subsidy) System

What is dumping?

Dumping occurs when an exporter sells goods to Australia at a price that is below the 'normal value' of the goods. The normal value will usually be the domestic price of the goods in the country of export. The margin of dumping is the amount by which that normal value exceeds the 'export price' of the goods.

Dumping is not prohibited under international trade agreements and it is not illegal.

What is subsidisation?

Subsidisation occurs when imported goods benefit from government assistance in the country of export. It can be:

- an export subsidy that encourages export performance
- a domestic subsidy that assists all of the production of the goods in the industry concerned including the export production.

More common subsidies are preferential loans; grants; tax incentives; and the provision of goods or services. There are many types of potentially actionable subsidies.

A 'countervailing duty' can be imposed to offset the amount of the subsidy where the subsidy is limited to a specific firm or group of firms or industries. Export subsidies, and subsidies contingent on the use of domestic over imported goods, are prohibited and are deemed to be specific.

What is material injury?

Material injury is demonstrated through all relevant indices and factors that reflect the state of the industry. Typically these are:

- the volume of the dumped or subsidised imports
- the price effects of these imports
- the resulting economic effects such as profit, capacity utilization, and market share effects.

The injury must be greater than that likely to occur in the normal ebb and flow of business.

Material injury may be current material injury, threatened material injury, or material hindrance to the establishment of an industry.

It must be demonstrated that the dumped or subsidised imports are causing the material injury.

What happens if dumped or subsidised goods are found to have caused, or threaten to cause, material injury?

Where dumped or subsidised goods have caused material injury to an Australian industry remedial action may be taken by the Minister – namely anti-dumping and countervailing (anti-subsidy) duties, or price undertakings by the exporter.

The anti-dumping duties can be an ad valorem duty, fixed duty, floor price, or a combination of fixed and variable duty. The countervailing duty can be imposed as an ad valorem duty or a fixed amount per unit, or a combination of the two.

Price undertakings are an agreement by the exporter to sell at a minimum price, and in this case anti-dumping duties will not be collected on the imported goods. The acceptance of an undertaking is at the Minister's discretion.

Administration of Australia's anti-dumping and countervailing system

The Anti-Dumping Commission administers Australia's anti-dumping system. The Commission investigates the dumping and subsidy claims lodged by the Australian industry applicant.

The investigation includes examination of the alleged dumping and subsidies, the injury suffered by the Australian industry concerned, and the causal link between the dumping or subsidy and the injury found. The Commission recommends to the Minister whether the special duties should be imposed. Where the Minister decides that duties are warranted they are imposed on the importers of the goods and collected by Australian Customs and Border Protection.

Applications

An application for the publication of a dumping and/or countervailing notice can be made by an Australian industry (or a representative) producing like goods. The application must be made in an approved form available on the Commission's website at www.adcommission.gov.au.

The investigation process

If there are reasonable grounds for the publication of a dumping and/or countervailing notice, the Commission will initiate an investigation. The Commission has up to 155 days to investigate and report to the Minister (unless the investigation timeframe is extended by the Minister).

The Minister generally has 30 days in which to decide whether or not to accept the Commission's recommendations and final report. Following the Minister's decision anti-dumping measures may be imposed.

See **Attachment A** for a diagram of the anti-dumping investigation process.

Appeals process

Certain decisions of the Minister and the Anti-Dumping Commissioner relating to dumping and countervailing investigations and inquiries may be reviewed by the Anti-Dumping Review Panel (Review Panel). For further information on the appeals process refer to the Review Panel's website at www.adreviewpanel.gov.au

Further information on Australia's anti-dumping system

Further information on Australia's anti-dumping system is available on the Commission's website at www.adcommission.gov.au. Anti-dumping application forms are also accessible at this website address.

Enquiries in relation to the anti-dumping system or the application process should be directed to the Commission at the following contact details:

Phone: 1300 884 159 (Dumping Hotline number)
+61 2 6275 6066 (international)

Facsimile: 1300 882 506
+61 2 6275 6888 (international)

Email: clientsupport@adcommission.gov.au

Attachment A – anti-dumping investigation process

