



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

How to apply for a duty assessment

Anti-Dumping Commission

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Purpose

This guide outlines the steps involved in applying to the [Anti-Dumping Commission](#) (Commission) for a duty assessment.

Specifically, this guide sets out:

- who can apply
- when to apply
- how to apply, and
- what to expect during the assessment process.

Introduction

Duty assessments are covered by Division 4 of Part XVB of the [Customs Act 1901](#).

A duty assessment is the process whereby the [Commission](#) works out the final duty liability for goods subject to anti-dumping and/or countervailing measures (anti-dumping measures).

An importer of goods on which interim dumping duty (IDD) and/or interim countervailing duty (ICD) has been paid may apply, within specified time limits, for an assessment of final duty payable. An importer can apply for a duty assessment if it believes it has overpaid duty on imports into Australia and wishes to obtain a refund of the amount overpaid.

The Dumping Commodity Register (DCR) lists the IDD and ICD rates by country and exporter for each good subject to anti-dumping measures. The Commission publishes the DCR on its [Measures](#) page.

The final duty payable will differ from the interim duty payable where variable factors ascertained to calculate the interim duty are different to the **actual** variable factors.

Variable factors are:

- export price
- normal value
- amount of countervailable subsidy, and
- non-injurious price.

For the Commission to calculate the final duty liability, it will generally need the cooperation of your exporter(s) to assess the actual variable factors. Therefore, it is important you and your exporter(s) understand what is required when you apply for a duty assessment.

This guide provides general information only and may not be relevant to your particular circumstances. Importers who are small-medium enterprises can seek assistance from the [International Trade Remedies Advisory \(ITRA\) Service](#) to help them complete their duty assessment application.

Who can apply

Any importer of goods on which interim duty (IDD and/or ICD) has been paid.

When importers can apply

There are six-month time periods that rule the duty assessment process, specifically

- importation periods, and
- application periods.

Where securities are taken the importation period may deviate from six months.

The [DCR](#) lists the importation periods and applications periods for each good subject to anti-dumping measures.

Importers must apply before the end of the relevant application period. Your application cannot be considered if it is lodged after this period.

Importers are encouraged to lodge applications at an early stage of the application period. That way, if the Commission rejects the application there may be time for the importer to amend and resubmit the application prior to the end of the application period.

How to apply

Section 269W of the [Customs Act 1901](#) sets of the requirements of an application for a duty assessment. The Commissioner must reject an application for duty assessment if it not does contain everything required under section 269W.

Importers are encouraged to fill in the Application for Duty Assessment Form (ADC2) and the Duty Assessment Calculation spreadsheet on the [Commission's website](#). The Duty Assessment Calculation spreadsheet assists applicants to prepare for and lodge a duty assessment application.

The application must include *all* consignments of the goods imported by the applicant from *all* exporters during the importation period.

Goods covered by an exemption notice or not subject to anti-dumping measures do not need to be included. However, where goods are subject to interim duties but the importer has not paid duty (for example, where a floor price duty is in place and the goods are imported at a price above that floor price) these must be included.

For each consignment of goods imported, you must state what you believe are the export price, normal value and/or amount of countervailable subsidy (as relevant). And, you must provide supporting evidence for your opinion—the application must contain either:

- sufficient evidence to establish that your opinion is correct, OR
- evidence that your opinion is correct PLUS a commitment that someone else will provide further evidence within 30 days¹ so that the Commission will have sufficient evidence to establish that your opinion is correct.

Normally, your exporter(s) will need to provide this further evidence.

Shortly after an application is received, the Commission will generally send each exporter identified in the application form an exporter questionnaire to assist them in providing the required information. However, a commitment that further evidence will be provided must be fulfilled regardless of whether or not the exporter receives a questionnaire from the Commission. If further evidence is not provided, the Commission may reject the application.

What is 'sufficient evidence' will vary from case to case. Examples of supporting documents that may be 'sufficient evidence' include:

- import declarations - to show the importation dates and relevant IDD and ICD paid
- purchase evidence for each import declaration (commercial invoice, bill of lading, proof of payment, etc.)
- evidence of the amounts that you contend are the normal value, countervailable subsidy and export price of the goods in each consignment, for example:
 - Export price: sales invoices from your exporter showing
 - the Free on Board (FOB) export price
 - full description of the goods
 - shipment terms
 - payment terms
 - date
 - manufacturer, and
 - country of origin.
 - Export Price: if interim duty was calculated with reference to a deductive export price, there is additional evidence that you must provide. The application form provides further information on what is required.

¹ Or such longer period as allowed.

- Normal value: a statement from your exporter on their letterhead, noting the average selling price or cost to make and sell the goods on the domestic market of the country of export during the relevant importation period.
- Countervailable subsidy: a statement from your exporter on their letterhead, noting the amount of subsidies they have received (if any) in respect of their exports of the goods to Australia. If applicable, this statement should note if the exporter has not received any subsidies.

Exporter cooperation

For the Commission to work out the final duty liability, it is likely to need information from your exporter(s). It is recommended that importers contact their exporters **before** they lodge an application for a duty assessment.

Cooperation may involve responding to requests for information, completing an exporter questionnaire and agreeing to a verification visit conducted by Commission officers on the exporter's premises. Examples of exporter questionnaires are on the Commission's website. What is required from the exporter(s) is determined on a case-by-case basis.

The Commission uses the data from the exporters to calculate the variable factors. An exporter is not obliged to cooperate, however when exporters do not cooperate this can make assessing the variable factors more difficult. In some circumstances, this may result in the Commission terminating the duty assessment.

Once the Commission has worked out the variable factors it can then determine the final duty payable and whether there is any excess to be refunded.

Pre-lodgement documentation check

The Commission provides, free of charge, a document check prior to formal lodgement. This check helps importers know that their proposed application meets the documentary requirements.

If you would like a pre-lodgement check, email the application plus relevant documents to clientsupport@adcommission.gov.au.

Clearly state in the email that you are requesting a pre-lodgement check. A pre-lodgement check should be requested as early as possible and well before the end of the application period.

How to lodge the application

The preferred method of lodging a duty assessment is to email applications to clientsupport@adcommission.gov.au.

Please include all supporting evidence with your application. If file sizes are too large to email, please contact the [Commission](#) to arrange a secure file transfer.

Alternatively, you can post completed applications to the Commission. Refer to [contact details](#).

Timeframes

The Commission has 155 days to examine and make a recommendation on an application for a duty assessment. However, this timeframe can be extended.

The Commissioner has 30 days to consider the Commission's recommendation and order repayment or waiver of duty (as the case requires).

Please note, additional time will be required if you seek review of the Commission's decision (see 'Rights of Review' below).

Rejection or termination

The Commission must, within 20 days after it is lodged, reject an application that does not contain everything it must under the legislation.

Where an application contains a commitment that someone else will give the Commission further evidence and the Commission is satisfied that this further information was not provided in the time allowed, it may reject the application.

The Commission may terminate its assessment of a duty assessment application if it does not have enough information to calculate the final duty liability. This may happen if your exporter does not provide the Commission with the required information or there are deficiencies with the information.

The assessment process

When the Commission receives an application, it will confirm receipt and examine it to work out if it satisfies the legislative requirements. The Commission will advise you if it has rejected your application.

If your application is not rejected the Commission may request further information from you. It may also request a visit to your premises to verify the contents of your application.

Verification visits to importers generally take one day. The Commission usually verifies:

- export prices and payments,
- import costs and payments, and
- where applicable, sales of imports into the Australian market.

Once the Commission has completed its assessment, it will calculate the final duty payable and decide what recommendation to make to the Commissioner (unless the application is terminated, see 'Rejection or termination' above). You will be informed of this preliminary decision by the Commission.

If the Commission makes a positive preliminary decision, it will recommend (within seven days of making the decision) that the Commissioner give effect to that decision. A positive preliminary decision is where the outcome is a full refund of the amount sought. The Commissioner has 30 days to consider the Commission's recommendation.

If the Commission makes a negative preliminary decision, you can seek a review before a final recommendation is made (see 'Rights of review' below). A negative preliminary decision is a decision recommending less than the amount sought or no refund at all.

If you do not seek a review, the Commission will recommend the Commissioner give effect to the decision within 7 days of the expiry of the 30-day review application period.

Possible outcomes

If the final duty payable is less than the total interim duty paid, the government will repay the amount overpaid.

If the final duty payable is more than the total interim duty paid, the government will waive the balance - the importer is not required to pay any extra duty.

If the importer fails, within the time limits available, to apply for a duty assessment, the interim duty paid on the goods is deemed to be the final duty payable.

Rights of review

You may apply to the [Anti-Dumping Review Panel](#) (ADRP) for review of the following decisions:

- Decision to reject or terminate a duty assessment.
- A negative preliminary decision.

If applying to the ADRP for a review, you must do so within 30 days of the Commission notifying you of the decision.

Find out more

- Read more about the duty assessment process in the [Dumping and Subsidy Manual](#)
- Find out about accessing Australia's [anti-dumping system](#)
- Research the [Dumping Commodity Register](#)
- Small-medium enterprises can seek assistance from the [ITRA Service](#) by email itra@industry.gov.au or the ITRA Hotline (02) 6213 7267
- Contact the Anti-Dumping Commission by email clientsupport@adcommission.gov.au or by business.gov.au on 13 28 46