



## International Trade Remedies Forum

### Summary of meeting outcomes and action items

9 July 2019

#### Agenda item 1 – Introduction and welcome

The Commissioner of the Anti-Dumping Commission (Commissioner) opened the meeting and congratulated the Hon Karen Andrews MP, Minister for Industry, Science and Technology on her reappointment as Minister. The Commissioner noted his intention to continue to hold meetings of the ITRF around Australia reflecting a national trade remedy system. The Commissioner acknowledged the sad passing of Tony Dixon and Ian Cairns noting the great contributions they made and offered condolences to the Australian Steel Institute (ASI). Mr Casey from ASI thanked the Commissioner for the recognition. The Commissioner invited the Minister to give her opening remarks.

#### Agenda item 2 – Minister for Industry, Science and Technology remarks

Minister Andrews commented that ITRF provided a great opportunity to engage with stakeholders. The Minister outlined key Government priorities of growing the economy and increasing job opportunities and expressed a willingness to work with the sector to meet those objectives. The Minister noted the release of the first TRINDEX as a positive outcome for the Commission. The Minister explained that her Office had not been in a position to progress the policy reforms given the timing of the Federal election. The Minister mentioned that there was now a need to re-consult on the reforms to ensure they remained current. The Minister noted that this consultation would be conducted in a timely manner and that it was important for stakeholders to take the opportunity to inform the Minister of the key concerns experienced by their sector.

The Commissioner invited members to ask questions of the Minister. Mr Dragicevich of Capral Ltd said that he considered it very important to finalise the reform process and also added that there were current gaps in the trade remedies system as evidenced by recent anti-circumvention cases. Mr Hudson representing the Custom Brokers and Forwarders Council of Australia and the Food and Beverage Importers Association explained that customs brokers were eager for advice on goods descriptions. Mr Lee from Chemistry Australia noted his concerns that some ITRF members were advocating the need for a public interest test. Mr Lee expressed that a public interest test would not be transparent and would require an assessment by public servants as to which job losses would occur. To facilitate discussion, the Minister requested that Agenda item 8 – public interest considerations be moved forward. The Chair agreed.

#### **Public interest considerations**

Mr Willcocks from the Australian Chamber of Commerce and Industry (ACCI) opened discussions noting that the Productivity Commission proposed a public interest test in 2009 and provided examples of public interest in other jurisdictions including New Zealand. Mr Willcocks referred to the ACCI discussion paper (for discussion by ITRF members) noting its suggestion for a working group with interested key stakeholders.

Mr Brennan from the Anti-Dumping Policy Section within the Department of Industry, Innovation and Science (the department) provided further background, noting that the public interest test was included in the 2017 anti-dumping policy reform consultations. Mr Brennan also mentioned that the public *'Government response to the Senate Economics References Committee Report on Australia's steel industry'* report released February 2019 noted the recommendation to continue opposing the introduction of a public interest test and indicated that it was not a consideration of the government at that time. Mr Hudson supported the notion of the paper presented by ACCI. Mr Hudson reminded members that the 2011 *'Streamlining Australia's anti-dumping system'* report rejected the Productivity Commission's proposed bounded public interest test and said he would support a broader discussion on this topic.

Mr Dragicevich expressed support for the current system and queried the utility of considering a public interest test. Mr Dragicevich noted the existence of the lesser duty rule and stated that a public interest test may serve to disincentivise industry from applying for measures. Mr Dragicevich also noted the limited visibility of import statistics which made it difficult to make an application. Mr Wacey from the Construction, Forestry, Maritime, Mining and Energy Union expressed concern of the impact this discussion was having on industry. Mr Wacey urged the Minister to rule out public interest as a consideration and cautioned against suggesting that individual jobs were not in the public interest. While querying the utility of this discussion by the ITRF, Mr Wacey urged members to reinstate confidence into industry by agreeing to cease discussions.

Mr Vlahonasios from Liberty Steel noted that in contrast to the Australian system, New Zealand does not have Ministerial discretion to impose measures and the European Union had multiple member states often with multiple industry members per sector. Mr Gibbs from Bluescope Steel expressed support for the current system, describing it as independent, balanced and transparent founded on fact-based decisions. Mr Gibbs also expressed the view that the interests of downstream users were served by the mandatory consideration of the lesser duty rule. Ms Sebastian from the Department of Foreign Affairs and Trade (DFAT) thanked ACCI for the discussion paper and indicated that DFAT was open to discussions on public interest. Mr Lee expressed a strong view against the need for a public interest test and cautioned against needing to decide what jobs were in the public interest. Mr Birrell from the Australian Steel Association reminded members that a key recommendation of the Productivity Commission was to form a working group and expressed that ASA did not share Mr Wacey's concerns on the impact on jobs. The Commissioner advised that the department would manage this policy matter going forward. The Minister thanked members for the discussion and ACCI for presenting its paper.

### [Agenda item 3 – Anti-Dumping Policy Section update](#)

Mr Brennan suggested that considerable stakeholder support would be needed to re-open consideration of a public interest test given the most recent decision by the Government. Mr Brennan indicated that members should contact the Anti-Dumping Policy Section team with their views on public interest.

On the existing policy reform package, Mr Brennan explained the process for Government consideration of the reforms to members. Mr Hudson reiterated that the reform package was widely endorsed and broadly agreed to by the ITRF in 2017. Mr Brennan noted that members would be contacted individually and flagged that wider consultation on the reforms may be conducted through the Industry website. Mr

Mike Lawson, Deputy Secretary, Department of Industry, Innovation and Science indicated that further consultation was needed to ensure that a persuasive case could be made for the reform package.

#### [Agenda item 4 –Sub-committee Chair updates](#)

Mr Gibbs provided an update on the work of the sub-committee on compliance and anti-circumvention on behalf of the Chair, Mr Matt Condon of Liberty Steel, who sent his apologies. Mr Gibbs outlined the sub-committee's terms of reference and noted that its recent work had focused on transshipment. The Anti-Dumping Commission (ADC) had provided the sub-committee with an overview of its first transshipment inquiry, and the department had undertaken to provide feedback on other jurisdictions' approaches to transshipment. Most industry members of the sub-committee saw value in the EU's approach as an effective way to combat phoenix companies. The sub-committee welcomed the ABF's recent efforts to target duty evasion in relation to aluminium extrusions, hollow structural sections and clear float glass.

Mr Wacey provided an update on the work of the sub-committee on access to import data. At its recent meetings, the sub-committee had considered approaches to the release of data in the US, Canada and the EU. This preliminary analysis indicated some high level similarities and differences between the jurisdictions. The sub-committee also discussed the US Administrative Protective Order (APO) model which allowed confidential information to be disclosed to lawyers in trade remedy investigations. The ADC had agreed to prepare a paper outlining the differences in these approaches, including the APO model, with support from ABS and other sub-committee members. The sub-committee would also be seeking information on New Zealand's approach. Mr Wacey noted the sub-committee had received a report on the Trade Remedy Index and members would be providing feedback on it. The sub-committee was still considering as a priority how to pursue the previous recommendations of the compliance and anti-circumvention sub-committee in relation to import data.

Mr Dragicevich asked if more timely access to data could be provided for industries where dumping has been consistently found. The Commissioner advised that he was keen to continue working with ABF and ABS to determine what more could be done to increase data access within appropriate limits.

#### [Agenda item 5 – Anti-Dumping Commission update](#)

##### [5.1 Action items from previous meeting](#)

The Commissioner sought members' endorsement of the outcomes of the last meeting on 5 December 2018. In response to a comment from Mr Wacey, the Commissioner agreed to include a more detailed report of the previous discussion on the public interest. These meeting outcomes have now been published on the ADC's website.

##### [\*Previous action item 1: Commission to organise briefing to the compliance and anti-circumvention sub-committee concerning the transshipment case.\*](#)

The Commissioner informed members that the ADC had provided a briefing on the inquiry into the transshipment of aluminium extrusions to the compliance and anti-circumvention sub-committee on 29 March 2019. The sub-committee had a robust discussion of possible improvements to the anti-circumvention framework, including in responding to intermediaries offering transshipment services.

## 5.2 WTO A4 copy paper dispute

Mr Nathan Zhivov, Economic and Strategic Services General Manager in the ADC, provided an update on the WTO dispute with Indonesia in relation to anti-dumping measures on A4 copy paper. Since the December 2018 ITRF meeting, officials from the ADC, DFAT and the Attorney-General's Department had attended two oral hearings in Geneva. The Government had also filed responses to questions from the panel and a second written submission. The panel had now adjourned to write its report, which is not expected before late 2019 at the earliest. Mr Wacey welcomed the Government's efforts in defending the copy paper measures on behalf of the workforce in Maryvale.

## 5.3 Operational matters (standing item)

Mr Paul Sexton, Investigations General Manager in the ADC, provided an overview of the Commission's caseload, with a total of 83 cases currently on hand. The composition of the Commission's cases had changed considerably in recent years, with new investigations a smaller part of the Commission's caseload. The majority of the Commission's work was now made up of reviews, duty assessments, exemptions and continuation inquiries in relation to measures already in force. Aluminium and steel products made up 84 per cent of the Commission's current caseload, and 64 per cent of measures. Other products subject to measures included paper, chemicals, plastics, electrical equipment and food. The high number of complex cases had led to a slight increase in the median timeframe for those cases in 2018-19, although overall timeframes were still down considerably from 2015-16.

In response to a query from Mr Wacey about whether the ADC's funding was sufficient, the Commissioner noted that the ADC had achieved significant operational efficiencies through reforms to its investigation model. While this had enabled the Commission to handle an increased case load, there may be limited capacity to absorb a further increase in demand, or further reduce case timeframes. Mr Brennan noted that the ADC was resourced from the department's operating budget, rather than a separate appropriation.

## Agenda item 6 – Trade Remedy Index update

The ADC provided a presentation to members on the Trade Remedy Index (TRINDEX). The aim of the TRINDEX is to make better information available earlier so that those interacting with the anti-dumping system can make more informed decisions. The first public edition had been released on 25 June 2019, with future editions expected to be published monthly. The ADC developed the TRINDEX following its analysis of the potential impact of the additional US tariffs on steel and aluminium. However, the scope of the TRINDEX had broadened and it now featured 15 products subject to measures. The TRINDEX showed volumes and weighted average unit prices of the imported goods in index form. It did not include information about the Australian industry, or whether imports are dumped or subsidised. The ADC would consider further enhancements to the TRINDEX following feedback from stakeholders.

The Commissioner noted that the TRINDEX was designed to help users of the system, and that its public release was the start of the process of increasing information to therefore ensure the ongoing effectiveness of the system. Mr Gibbs welcomed the TRINDEX's release and advised that BlueScope would provide feedback on it.

## Agenda item 7 – Joint applications for measures

The ADC delivered a presentation on how multiple industry members can make a joint application for measures, noting that stakeholders had sought guidance on this topic. When there is more than one

Australian manufacturer of like goods, a joint application is not required, but may help ensure the application meets the legislated standing requirements, and provide a better understanding of injury to the Australian industry as a whole. Joint applications were made using the standard application form, which also contained guidance on joint applications. Each manufacturer must complete a separate form with a response to the injury questions. However, the dumping/subsidies sections only had to be completed once. If an investigation was initiated, the ADC would seek to verify the information provided by each applicant, and would also seek information from any manufacturers that did not participate in the application. In practice, joint applications were often coordinated by the manufacturers involved, but an industry association or union could play a coordinating role. The ADC encouraged industry members considering an application to utilise its pre-lodgement documentation check service.

### [Agenda item 8 – Public interest considerations](#)

Discussed within Agenda item 2.

### [Agenda item 9 – Compliance update](#)

Acting Regional Commander ACT/HQ Steve Evans from the ABF advised that trade compliance was an ongoing operational priority. A new Customs Group had been established to streamline compliance work within the Home Affairs portfolio. The ABF was also working with international partners to strengthen compliance before the border. It was currently leading work with the US, UK, Canada and NZ on the evasion of dumping duties on aluminium extrusions, and working within the World Customs Organization to address transshipment practices. Just under \$25 million in revenue had been collected as a result of recent enforcement action in relation to aluminium extrusions, clear float glass and hollow structural sections. The ABF was continuing to strengthen its capacity to undertake intelligence-led enforcement work. It was also seeking to improve voluntary compliance by developing a communications campaign to inform industry of recent enforcement outcomes.

In response to a question from Mr Wacey, the ABF advised that prosecutions, while not frequent, could be leveraged to increase awareness of the risks of non-compliance. Mr Gibbs welcomed the ABF's recent enforcement outcomes, which were important to the integrity of the anti-dumping system. Mr Hudson encouraged the ABF to consider publication of the Goods Compliance Update on a quarterly basis to provide regular updates to stakeholders.

### [Agenda item 10 – ITRA Service update](#)

The International Trade Remedies Advisory (ITRA) Service provided an overview of its work assisting small and medium (SME) enterprises to engage with the anti-dumping system. The ITRA Service engaged with manufacturers, importers and end users to raise awareness, provide tailored advice, and assist with applications and submissions. Duty assessments and exemptions made up the largest proportion of its work. The ITRA Service had recently enhanced its web pages on the business.gov.au site, including by publishing 10 fact sheets on various topics developed in consultation with the ADC and ABF. It had also worked with the ADC to develop guidance documents on exemptions and duty assessments. The ITRA Service advised that it would be happy to discuss additional outreach opportunities with ITRF members.

### [Agenda item 11 – Other business \(standing item\)](#)

Nil

### Agenda item 12 – Next meeting and closing remarks

The ITRF Secretariat will inform members of the date for the second ITRF meeting for 2019. The Commissioner thanked members for their participation and closed the meeting.