



## International Trade Remedies Forum 5 July 2021 Meeting Minutes

### Agenda Item 1 – Introduction and Welcome

Dr Bradley Armstrong PSM, Commissioner of the Anti-Dumping Commission (Commission), opened the meeting and thanked members for attending. Commissioner Armstrong welcomed and introduced the Hon Christian Porter MP, Minister for Industry, Science and Technology.

### Agenda Item 2 – Minister’s Opening Remarks

Minister Porter discussed the package of anti-dumping reforms included in Budget 2021-2022 to improve the efficiency and effectiveness of trade remedies. The Minister thanked ITRF members for their contributions to this work and their advice on how the system works for businesses.

He noted that the COVID-19 pandemic had disrupted global supply chains and that the anti-dumping system must be agile and responsive to rapidly changing global circumstances.

### Agenda Item 3 – Department of Industry, Science, Energy and Resources (DISER) Update

**Implementation of the current package of reforms:** Alison Drury, General Manager, Trade and International Branch (DISER) advised that DISER is drafting legislation to implement the reforms as soon as possible. She thanked ITRF members for their contributions to the reforms to date. DISER will seek stakeholder feedback around October 2021 if it obtains approval to release an exposure draft.

**International Trade Remedies Forum (ITRF) evaluation:** Michael Amon, Acting General Manager, Evaluation and Research Branch (DISER) advised that the department expects to provide the ITRF evaluation report to Minister Porter shortly.

**Consultation on future system improvements:** the Department noted it had distributed a discussion paper to ITRF members to identify opportunities for future system improvements. ITRF members can provide initial feedback by 30 July 2021. Further consultations will follow through the Department’s Consultation Hub.

- Travis Wacey, representing the Construction Forestry Maritime Mining and Energy Union, said he would welcome an opportunity to provide feedback. Ms Drury affirmed the Department’s desire to be as consultative as possible.
- Matt Condon, representing InfraBuild, asked if the discussion paper had been shared beyond the ITRF, and noted it referred to 33% higher number of Anti-Dumping Review Panel (ADRP) decisions than on the public record. He also noted the paper didn’t include a number of recommendations already put to the ITRF but included a proposal on increasing de minimis thresholds which InfraBuild considers are outside the World Trade Organization (WTO) rules and had not been raised in the ITRF forum or its subcommittees.

Ms Drury advised that the discussion paper had only been circulated to ITRF members but broader feedback would be sought on any specific reforms developed. The Department noted

confidential duty assessments are not included on the public record but they are willing to discuss how affected parties could, where possible, remain informed of these decisions.<sup>1</sup>

The Department noted the discussion paper sought views on the level of remedy provided by de minimis thresholds in a review, and advised that WTO consistency remained a priority for government when considering changes to the system.

#### Agenda Item 4 – Commission Update

**Meeting minutes:** Members endorsed the minutes of the last meeting. Commissioner Armstrong said he would like the ITRF minutes to be published on the Commission website four weeks after the meeting. Draft minutes would be distributed to members within two weeks of the meeting, and members would have one week to comment.

**Case load:** Paul Sexton, General Manager, Investigations (Commission), advised that the Commission has 54 cases on hand as well as 2 reinvestigations.

- Almost 50 per cent of cases relate to steel products, 20 per cent to aluminium products and around 12 per cent to A4 copy paper.
- The caseload had declined since the last ITRF meeting but remains high by historical levels. The Commission initiated 72 cases in 2020, down from 131 in 2019.

**Continuations:** Mr Sexton advised members that continuation inquiries were increasingly complex and attracting more submissions. Accordingly, the Commission will now invite an application 14 months prior to the measures expiring, instead of 12 months.

**Manual update:** Mr Sexton also advised that proposed updates to the manual will be released to ITRF members for feedback shortly. The updates reflected the Commission's current practices.

**Verification of exporters' data:** Mr Wacey asked if the Commission has applied for permission to travel overseas for verifications. Mr Sexton advised the Commission had not applied for travel exceptions. He noted offsite verification had initially been slow via email but that the virtual verification process was much quicker.

- Matt Decarne, representing Opal Specialty Packaging, asked if the Commission will continue to issue extended exporter questionnaires once on-site verification resumes. Mr Sexton noted that extended questionnaires generally do not relate to offsite verification, and instead seek information for analysis in line with the WTO decision on A4 copy paper.

**Online application form for dumping and subsidy investigations:** The proposed new online smart form aims to streamline the application process, reduce the burden to perform calculations and facilitate joint applications. Feedback from ITRF members has been sought, with a broader round of public consultation to follow. The Commission expects the form to go live early next year, with a grace period for submission of the previous form.

- There was agreement that an iterative consultation process through a roundtable or similar forum would be useful. The Commission undertook to come back to members with a proposed approach. Mr Gibbs noted the number of issues currently before ITRF members and asked the Commission to take this into account. Commissioner Armstrong supported this request.

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<sup>1</sup> The Department has subsequently clarified that with regard to the ADRP's public record, in the period covered by the discussion paper statistics (i.e. reviews initiated from 1 January 2016 and finalised by 30 June 2021), there were 26 confidential duty assessments, 2 reviews were captured on the same ADRP webpage and 3 reviews were located on a separate part of the ADRP website as they were subject to judicial review proceedings.

## Agenda Item 5 – Australian Border Force (ABF) Compliance Update

Brett Cox, Assistant Secretary, Trusted Trader and Trade Compliance Branch (ABF), noted the Customs Tariff Amendment Act would ensure Australia's classification practice conforms to international practice, and that anti-dumping measures continue to apply to certain goods as intended. The ABF is also rolling out a new benefit to help trusted traders manage cash flow.

Mr Cox advised the ABF conducted 69 compliance activities on trade remedy measures in 2020-21. The reduction in understatements since 2019-20 could be attributed partly to the ABF's success in targeting evasion of duties. Mr Cox noted he is keen to engage with anti-dumping system stakeholders and further strengthen the relationship between the ABF and the Commission.

- Mr Wacey suggested collaboration between the ABF and the Commission could extend to consultation on penalties for non-compliance. Andrew Hudson from the Food and Beverage Importers Association commented that the ABF was responsible for the infringement notice scheme, and that non-compliance is often inadvertent. He said the impact of penalties on brokers and end users should be considered. David Buchanan from the Australian Steel Association and Bryan Clark from the Australian Chamber of Commerce and Industry agreed with Mr Hudson and stated their support for education initiatives in this area.
- Mr Cox outlined that total understatements for 2020-21 would be provided in the next Goods Compliance Update, and that he would seek advice on the coverage of the Trusted Traded program.

## Agenda Item 6 – Department of Foreign Affairs and Trade (DFAT) Update

David Brightling, Assistant Secretary, Trade Disputes Branch (DFAT), provided an update on the WTO disputes relating to China's anti-dumping and countervailing measures on Australian exports of barley and wine. In May 2021, a WTO Panel had been established to consider Australia's claims on barley. On 19 June 2021, the Government announced it would request WTO consultations with China on measures imposed on Australian bottled wine exports. Mr Brightling noted the Government stood ready to engage with China to resolve these issues bilaterally.

DFAT also advised that on 24 June 2021 China initiated dispute proceedings regarding Australian anti-dumping and countervailing duties on wind towers, deep drawn stainless steel sinks and railway wheels. DFAT would engage in the consultations in good faith to attempt to resolve the concerns before they proceed to a Panel.

- Mr Condon asked how WTO Panel members are chosen. DFAT advised it will seek to reach agreement on the Panel members with China, and that it assesses potential candidates before expressing preferences.
- Mr Wacey asked if the Government had utilised any consultation mechanisms in the China Australia Free Trade Agreement in relation to the disputes, noting previous advice that the High Level Dialogue on Trade Remedies had been held up due to COVID-19. DFAT advised that the WTO was considered the most effective avenue for resolving these issues and confirmed that the High Level Dialogue had not been held despite an invitation from China in November 2019. In response to a further query from Mr Wacey, DFAT advised the concerns raised by China in regard to Australia's measures were slightly different to those in the A4 copy paper dispute.
- Commissioner Armstrong outlined that the Commission and DFAT would work closely together.

## Agenda Item 7 – Sub-Committee Update

**Compliance and Anti-Circumvention Sub-Committee Update:** Mr Condon welcomed the ABF’s Goods Compliance Update as a valuable tool to inform stakeholders and improve compliance. He noted the sub-committee had discussed possible reforms to two aspects of anti-circumvention inquiries on the avoidance of the intended effect of duty:

- That an application cannot be made until the final duty payable has been determined.
- That the current test focuses on the activity of an importer and not the exporter.

Mr Condon noted the sub-committee’s recommendation of reforms to transshipment inquiries to enable measures to be extended to an entire country. He advised the sub-committee was also considering options to improve the effectiveness of measures, including the recommendation of minimum level of profit in the calculation on the non-injurious price similar to that adopted by the European Commission.

**Access to Import Data Sub-Committee:** Mr Wacey noted that non-government members of the sub-committee had tabled a discussion paper in 2020 with several proposals to increase information available prior to lodgement of an application. Preliminary feedback from the Commission was that many of them were not considered feasible. Sub-committee members are therefore looking at alternatives including if the terms of reference could be reviewed, or whether the sub-committee’s work should conclude.

- Commissioner Armstrong acknowledged the work of the sub-committees.

## Agenda Item 8 – Other Business

Commissioner Armstrong asked members for feedback on their preferences for the length of the meeting, and whether it is held in person or virtually once travel is possible.

## Agenda Item 9 – Next Meeting and Closing Remarks

Commissioner Armstrong thanked members for their participation, and said the Commission would notify members of the date for the second meeting for 2021.