



**ANTI – DUMPING SPECIALISTS**

ACN 056 514 213

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24 February 2014

NON-CONFIDENTIAL

Mr John Bracic  
Director  
Australian Anti-Dumping Commission  
Customs House  
5 Constitution Avenue  
Canberra ACT 2600

Dear Mr Bracic,

**STATEMENT OF ESSENTIAL FACTS NO. 217**

Hereunder is a summary of the key injury/causation rebuttals per our submissions of 12,17 and 21 February 2014 in response to statement of Essential Facts No. 217 ("SEF 217").

1. The adjustment of retail prices of imports from Italy by 9% to remove the effects of dumping has no factual basis. It is incorrectly based on a weighted average margin of dumping which –
  - a) includes the hypothetical penalty dumping margin of 26.35% for uncooperative exporters; and
  - b) does not include the zero dumping margin applicable to 44% of imports.The actual effect of dumping on the export prices of the exporters investigated (the majority of exports) is <1% and overall, taking into account information available to the Commission in respect of the actual effect of dumping on the export prices of uncooperative exporters, about 2%.
2. The conclusion that removal of the effects of dumping from retail prices of imports would directly translate into a 9% increase in SPCA's profitability during the investigation period ("IP") is mere conjecture – it has no factual basis.
3. The FIS prices of undumped imports during the IP are significantly lower than SPCA's cost to make and sell.
4. The size of the dumping margin to be taken into account in the determination of material injury per s269TAE(1)(aa) of the Act is obviously to represent the effect of dumping on the export price of exports and therefore –
  - a) must not take into account the hypothetical penalty margin of 26.35% determined for uncooperative exporters; and
  - b) must take into account the zero dumping margin determined for 44% of imports.
5. The preliminary conclusion that dumped imports caused material injury is solely based on the "but for" principle, ie but for the dumped imports SPCA's profitability would have been 9% higher during the IP. Besides the 9% effect of dumping being

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grossly overstated (1 above refers), this investigation and the Productivity Commission's safeguards inquiry established that there were several other factors contributing to SPCA's reduced profitability during the IP (through price and volume effects). The "but for" principle applied by the Commission to reach its material injury conclusion is unsustainable because the investigation did not establish that without dumping SPCA would not have experienced material injury in the form of reduced profitability.

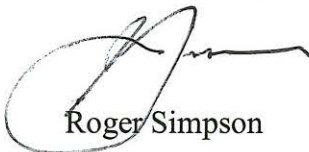
6. The Commission has incorrectly attributed SPCA's loss of sales volumes and reduced market share to dumping when –
- a) established facts show increases in volume and market share during the IP; and
  - b) the Commission established several other factors which contributed to loss of sales volume and reduced market share during 2010-2013.

It cannot be concluded that, but for dumping, SPCA would not have experienced loss of sales volume or reduced market share during 2010-2013. It follows that it cannot be concluded that SPCA suffered material injury in the form of reduced profitability through loss of sales volume.

7. The "but for" principle cannot be applied in circumstances where it is established that there are factors other than dumping making substantial contribution to material injury, unless it can be established that without dumping the cumulative effects of these other factors would not have been materially injurious. This has not been established by the investigation.
8. The Commission's consideration that the prices of undumped goods would have been higher but for dumping is mere conjecture and cannot be taken into account in the consideration of whether dumped imports caused material injury. Any injury caused by undumped imports cannot be attributed to dumping (acknowledged by the Commission).

The above points, being summaries of submissions of 12, 17 and 24 February 2014, provide compelling arguments against the Commission's preliminary conclusion of material injury by reason of dumping of itself and we expect them all to be addressed in the Commission's final report and recommendation to the Minister.

Yours sincerely,



Roger Simpson