



**Australian Government**  
**Australian Customs and  
Border Protection Service**

PUBLIC  
FILE  
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Customs House  
5 Constitution Avenue  
CANBERRA ACT 2600

Mr Patrick Gay  
Partner – Freehills  
GPO Box 4227  
SYDNEY NSW 2001

Dear Mr Gay

Thank you for your letter of 27 January 2012.

I appreciate the points you make about ensuring any expert consultant(s) engaged have a breadth of knowledge in the timber industry that affords expertise in both the manufacturing process and the business financials.

Indeed, to this end, Customs and Border Protection has commenced discussions with an additional independent consultant, Mr Peter Zed, who has extensive operational experience in the timber industry. Customs and Border Protection believes Mr Zed's expertise will complement the commercial experience in the timber industry of Mr Morse, and together the consultants will bring a genuinely 'expert review' of our findings.

The scope of the review is outlined in the attached document.

If you have any further queries about this matter please contact Geoff Gleeson on (02) 6275 6134 or at [geoff.gleeson@customs.gov.au](mailto:geoff.gleeson@customs.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Justin Wickes'.

Justin Wickes  
Acting National Manager International Trade Remedies – Operations

31 January 2012

## **Advice required from independent expert(s)**

### **Investigation into alleged dumping – structural timber**

#### Background:

The Australian Customs and Border Protection Service (Customs and Border Protection) is conducting an investigation into allegations that certain structural timber has been exported to Australia at dumped prices and that this dumping has caused material injury to the Australian manufacturers of like goods.

As part of the investigation, Customs and Border Protection gathers cost and price information from exporters which are critical information elements for calculations of whether the export prices are dumped.

In the case of structural timber, Customs and Border Protection teams have returned from on-site exporter visits where those teams verified the cost and price data submitted by exporters in verification meetings at the premises of the exporters. In broad terms, its verification exercise sought to link the cost and sales data to management reports and audited financial statements, and also to source documents.

It is important to establish complete, relevant and accurate calculations of unit costs, which must include all relevant production costs and selling, general and administrative expenses. However, Customs and Border Protection recognises that the calculation of unit costs for any manufactured product can be done in a number of ways, especially where various products are made from one common raw material.

It is also important that Customs and Border Protection identify which structural timber products sold domestically in the country of export can be regarded as like goods to the structural timber exported to Australia. Like goods may comprise products that are identical to, or are closely resembling, the exported goods.

**It is in this context that Customs and Border Protection is seeking independent cost accounting and timber industry expertise. It is envisaged that a team of cost accounting and timber industry experts (Experts) could, in relation to structural timber, assess whether the cost data verified by Customs and Border Protection is reasonable and reliable for the purposes of determining dumping margins. It is also envisaged that the Experts can provide an opinion as to whether Customs and Border Protection has made reasonable assessments of which goods sold domestically by the exporters, if any, can reasonably be regarded as like goods to the structural timber exported to Australia.**

statements to establish completeness and relevance. The teams also traced the detailed data 'downwards' to source documents to establish accuracy<sup>7</sup>.

The verification reports provide detail of all aspects of the verification visit including cost verification process and results and like goods findings. The supporting commercial-in-confidence documents for cost verifications will typically include profit and loss statements, ledgers, log invoices, asset registers and other working papers. The supporting data sets for cost calculations will typically comprise breakdowns of cost by raw materials, direct labour, manufacturing overheads, and selling, general and administrative expenses. Supporting documents for like goods findings will include product brochures and specifications.

The verification exercise aims to establish the completeness, relevance and accuracy of the cost and price data submitted. In relation to costs, it is also important to recognise that our regulations provide that the costs must be worked out using the exporter's records if those records:

- are in accordance with generally accepted accounting principles in the country of export; and
- reasonably reflect competitive market costs associated with the production and sale of the like goods<sup>8</sup>.

The second provision above has, on rare occasions, been utilised as a basis for determining that a particular cost allocation method is unreasonable. In other rare cases it has been used as a basis for replacing what were found to be distorted costs (eg, distorted by government intervention in the market for a raw material) with costs considered to be a more reasonable reflection of competitive market costs.

### Task

Having regard to the legislative and policy parameters outlined above, experts should examine the verification reports and supporting papers/data to assess whether the cost data is reasonable and reliable for the purposes of assessing normal values and dumping margins. Experts should also provide an opinion as to whether the teams' like goods findings were reasonable, and if not, why not. It is expected that the experts' skills and experience in the timber industry will underpin these assessments.

Initially, it is envisaged that the Experts can focus on the cost data verified and like goods findings in respect of at least two exporters. This may be extended to an additional sample of exporters. While difficult to estimate accurately, it is possible that thorough examination and analysis of the relevant papers/data, and the visit reports, in relation to two exporters, could take 3 to 4 days, or more.

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<sup>7</sup> Customs and Border Protection has a set of verification guidelines (Customs-in-confidence) which outlines the expectations of verification planning and conduct.

<sup>8</sup> Customs Regulations 180 (production costs) and 181 (selling, general and administration expenses).