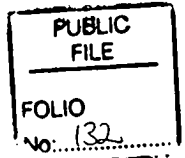


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Mr Geoff Gleeson
Director - International Trade Measures Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

16 February 2012

Our ref 11276/80125566

Dear Mr Gleeson

ITRB Report No 176 Certain Structural Timber Exported from Austria, Canada, Czech Republic, Estonia, Germany, Lithuania, Sweden and USA

We refer to Customs' Exporter visit report relating to Egger Sagewerk Brilon GMBH (**Egger Report**) which has been recently placed on the public record.

At part 7 (page 42) of the **Egger Report** Customs deals with the concept of "normal value". Notably, it is said that "*there are numerous other major producers of structural timber that sell the goods domestically. Co-operation by other producers is the subject of separate verification exercises by Customs...*".

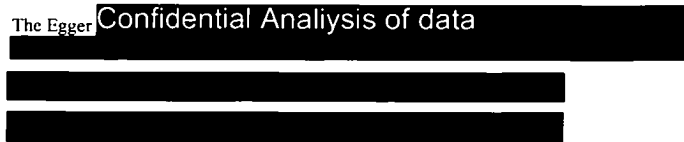
After setting out regulation 181A(3) of the *Customs Regulations, 1926* (Cth), Customs addressed all 3 methods of profit derivation. It was said that the calculation utilising:

- (a) the **Actual Profit of Exporter Method** (regulation 181A(3)(a)) was "*unable to be determined*";
- (b) the **Profit of other Producers in Export Country Method** (regulation 181A(3)(b)) could not be performed "*at this time*" because no information regarding the profit margin of other German producers was available; and
- (c) **Any other Reasonable Method** (regulation 181A(3)(c)) was not applied for (what appears to be) policy reasons and no profit margin should be added pursuant to this sub-regulation.

At part 8 (page 48) of the **Egger Report** the conclusion reached is that the dumping margin was negative 4.43% but this excluded any profit component.

In our respectful opinion Customs must add a profit figure to Egger's normal value utilising:

- (a) the **Profit of other Producers in Export Country Method** on the basis of the profit figure calculated for Ilim Timber HWN Holz Werk Nord GMBH Germany (**Ilim Report**);¹ or
- (b) Any other Reasonable Method using the following bases:
 - (i) The Egger **Confidential Analysis of data**



¹ It is evident from the **Ilim Report** at page 32 that a positive profit margin was calculated.

² The **Egger Group's** financial year commences 1 May and ends 30 April.

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Mr Geoff Gleeson, Australian Customs and Border Protection Service

16 February 2012

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- [REDACTED]
- (ii) Customs acknowledged in the Egger report at page 43 that the profit margin on sales of the "*kiln dried, dressed timber on the German domestic market*" can provide an "*indication of profit*". This statement clearly conveys that a positive profit margin was calculated. Customs could, but did not use this figure.

For the above reasons, we are instructed that Customs ought to complete the exercise of its jurisdiction by adding profit to Egger's normal value with reference to:

1. regulation 181A(3)(b), noting the profit figure derived from the Ilim Report;
2. regulation 181A(3)(c), being [REDACTED]

Yours sincerely

Zac Chami, Partner
61 2 9353 4744
zchami@claytonutz.com