

**Gross & Becroft**  
**L A W Y E R S**  
**International Trade • Customs • Commercial Law**

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**PUBLIC FILE VERSION**

22 February 2012

Mr Justin Wickes  
National Manager  
International Trade Remedies Branch  
Australian Customs & Border Protection Service  
Customs House  
5 Constitution Ave  
CANBERRA ACT 2601

Dear Mr Wickes

**Re: Trade Measures Enquiry No 176 – Structural Timber Exported from Austria, Canada, the Czech Republic, Estonia, Germany, Lithuania, Sweden and the USA**

We act for Ilim Timber HWN Holz Werke Nord GmbH ('Ilim Timber') being an exporter of structural timber from Germany to Australia.

We refer to our written submission dated 7 February 2012.

The purpose of this letter is to provide you with a more appropriate basis to determine a profit margin for our client's domestic sales and further information on its cost to make and sell of construction timber products.

Customs has to date used the profit margin for a premium spruce construction timber sold in Germany to formulate the normal value calculation. Ilim Timber submits that this is an artificially high profit margin to use given that it is not a like product compared with the products exported by Ilim Timber to Australia. This is a premium product which has a much higher profit margin than almost any other product sold by Ilim Timber. This is illustrated by the very high average sales price during the investigation period of [TEXT DELETED – FIGURE DELETED] per cubic metre (refer to Appendix 2 – Ilim Visit Report).

Due to the above errors in the approach of Customs, the dumping margin established of 15.7 percent is not correct, and without this profit margin the dumping margin would be [TEXT

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**DELETED PERCENTAGE FIGURE] percent.**

**Profit Margin on Domestic Sales**

Our client has reviewed its domestic sales for the investigation period and has not changed its view that there are no like domestic sales to use for a profit calculation (given the inappropriateness of using the premium spruce product) and that any profit calculation must be based on our client's total domestic German construction timber sales.

We note that Customs, in the Visit Report of Egger, has relied upon the total domestic sales of construction timber made by Egger in Germany, rather than on any specific product (see page 43 of the Egger Visit Report).

Based on the CTMS calculation of Customs, the average domestic sales profit margin would be **[TEXT DELETED – VALUE DELETED]**. This is discussed in section 1 of our submission dated 7 February 2012.

However, absent a **[TEXT DELETED – VALUE DELETED]** profit margin being accepted by Customs, our client proposes that Customs apply a fair and reasonable profit margin of **[TEXT DELETED – PERCENTAGE FIGURE]** which is based upon the following factors:

- the difficult business trading conditions in Germany;
- the fact that Ilim Timber is a start-up company;
- that the timber industry as a whole is a high-volume low-margin business;
- that some products are more profitable than others;
- that current German borrowing costs are approximately 2 percent per annum; and
- that the CTMS calculation already includes interest funding costs.

The profit margin of **[TEXT DELETED – PERCENTAGE FIGURE]** applied by Customs is simply too high and arbitrary.

**Cost to Make and Sell Calculation**

In our client's earlier submission, we highlighted the issue of the re-sorting costs between INT and HWN.

In order to independently verify this recharge, Ilim Timber has commissioned a report from the accounting firm, Deloitte.

We now **attach** a copy of the report from Deloitte dated 17 February 2012 which is marked 'Confidential Attachment 1'. This report verifies the recording of the relevant charge in the accounts of INT and HWN and confirms the level of the actual re-sorting recharge.

The effect of the recharging is to increase the costs in INT by an average of **[TEXT DELETED – FIGURE DELETED]** per cubic metre and to decrease the costs in HWN by an average of **[TEXT DELETED – FIGURE DELETED]** per cubic metre.

This means that the CTMS figure constructed by Customs should be reduced by on average **[TEXT DELETED – FIGURE DELETED]**.

As a separate matter, we note that the appointed experts, in their report to Customs dated 10 February 2012 have not reviewed Ilim Timber's costs data. In section 2(b) of their report, they

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refer to a Global Benchmarking Report which may assist with determining CTMS calculations. It would be open to Customs to use such data to provide further verification of Ilim Timber's revised CTMS figures.

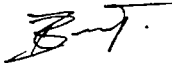
**Conclusion**

In conclusion, the above additional information would provide Customs with a legitimate basis on which to establish a more accurate profit margin and CTMS from which normal values for domestic sales may be determined.

Ilim Timber is strongly of the view that it is not selling construction timber to Australia at dumped prices. We note that Egger was found to have a dumping margin of -4.43 percent for exports from Germany to Australia, and there have been no other positive dumping margins established to date in this investigation.

Please do not hesitate to contact the writer should you have any further queries regarding the above.

Yours faithfully  
**GROSS & BECROFT**



**Dr. Ross Becroft**  
Principal

Encl.