



Australian Government

**Australian Customs and
Border Protection Service**

AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2012/34

Where Securities have ceased – Goods on the Water

Introduction

This Australian Customs Dumping Notice (ACDN) is published to provide clarification to interested parties to investigations by the Australian Customs and Border Protection Service (Customs and Border Protection) into the alleged dumping and/or subsidisation of goods exported to Australia.

Following the conclusion of recent investigations and the Minister's recent publishing of dumping duty and countervailing duty notices on various goods, where previously securities had been required, Customs and Border Protection has received a number of queries regarding the rate of duties applicable to goods that were in-transit to Australia before the date of imposition of interim dumping and/or countervailing duties.

This advice incorporates and expands on elements of ACDN No. 2012/02 Operation and Conversion of Securities issued on 18 January 2012.

Background – dumping and countervailing securities

Customs and Border Protection may require and take provisional measures in the form of dumping and/or countervailing securities under section 42 of the *Customs Act 1901* (the Act), where the Chief Executive Officer (CEO) of the Customs and Border Protection is satisfied that it is necessary to do so in order to prevent material injury to an Australian industry occurring while an anti-dumping and/or countervailing investigation continues.

Securities may be taken by Customs and Border Protection on the date of, or at any time after, the CEO makes a preliminary affirmation determination (PAD) under section 269TD of the Act in relation to that investigation. A PAD may be made at any time not earlier than 60 days after the initiation of an investigation, where the CEO (or his or her Delegate) is satisfied that there is, or it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

Recently there have been various inquiries by stakeholders on what is Customs and Border Protection policy position on the imposition of anti-dumping measures and securities on goods which are in transit (aka 'goods on the water').

Imposition of securities

When securities are imposed, Customs and Border Protection takes securities for all subject goods entered for home consumption on or after the date securities are commenced (as notified by Customs and Border Protection when imposing the

securities). Goods are considered to be entered for home consumption in accordance with section 71A of the Act.

Conversion of securities

If, at the conclusion of an investigation, the Minister decides to publish a dumping duty notice and/or a countervailing duty notice, securities imposed during the investigation may be converted by Customs and Border Protection to interim dumping and/or countervailing duty.

Securities are converted at the rate of duty applicable to the Minister's dumping duty notice and/or countervailing duty notice up to the amount of the security. The amount of duty converted to interim dumping and/or countervailing duties cannot exceed the amount of the security taken.

When securities are converted to interim duty, securities are converted only for goods the subject of the dumping duty notice and/or countervailing duty notice that were exported to Australia on or after the date that the CEO made a PAD.

Consequently, securities taken for goods that were entered for home consumption on or after the date of imposition of the securities, but exported before the date of the PAD, will not be converted to interim duty and will be cancelled.

Where securities have ceased

When the Minister publishes a dumping duty notice and/or a countervailing duty notice imposing interim duties this will result in securities no longer being required on entry for home consumption into Australia.

For goods on the water, where securities have been imposed by the CEO, and the goods were exported to Australia before the date on which the Minister published a dumping duty notice and/or a countervailing duty notice, the duty rate for those goods when they enter Australia for home consumption will be the rate notified in the notice establishing the securities.

For such goods on the water, the importer must establish that the goods left the country of export after the imposition of securities and before the Minister published the dumping duty notice and/or a countervailing duty notice.

For clarity, all goods exported after the date on which the Minister published the dumping duty notice and/or countervailing duty notice will be subject to the rate notified in that notice or notices.

Enquiries concerning this notice may be directed to International Trade Remedies Branch by e-mail to itr@customs.gov.au, by telephone on (02) 6275 6066 or by fax on (02) 6275 6990.

Kim Farrant
National Manager
International Trade Remedies Branch
CANBERRA ACT

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