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Director – Investigations 1
Investigations Branch
Anti-Dumping Commission
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By email

PUBLIC RECORD

Dear Director

LINEA Facades – response to Statement of Essential Facts No 691 Aluminium windows and doors from China

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A An irregular anti-dumping case at an irregular moment

We have been asked by LINEA Facades[1] to provide our opinion about the appropriateness of Investigation 691 and its preliminary findings from a *process* and *outcome* perspective. It may be that this is a different approach to that of others who come forward with their own responses to SEF 691.

From a process perspective, we offer the comment that the application of anti-dumping principles as a means of protecting the domestic aluminium windows and doors ("AWD") is not ideally conducive to its structural adjustment.

From an outcomes perspective, we urge the Commission to recommend to the Minister that any measures imposed should be moderate, consistent, non-discriminatory, and precise, and not extreme, inconsistent, and discriminatory. If the domestic industry is minded to seek investment in order to compete with exporters that have made much greater and more contemporary investment in the automation and technology of AWD fabrication, then the best encouragement would be a duty system that is carefully designed and implemented. Exclusion of imports and a "sugar hit" of higher prices is not the answer, either in industry terms or in the national interest.

This submission does not question what the Commission *may* be able to recommend to the Minister, in the context of its standard application of anti-dumping and countervailing concepts to the facts identified and assumptions made by the Commission. This submission asks the Commission to broaden its perspective and to instead provide innovative options to the Minister that inflict minimal "collateral damage" on the Australian companies and members of the public that engage with residential housing and commercial buildings, whether personally or in their businesses, on a daily basis..

We submit that this investigation is an irregular usage of the anti-dumping system, because of the circumstances of the industry. What is the irregularity?

The irregularity is twofold. The first is that outsized and indiscriminate dumping duties will cause more significant harm to the "aluminium windows and doors" industry, and to the economy more broadly, than the "injury" that is somewhat frailly presented in SEF 691. That said, anti-dumping action can be taken, if the Minister has that objective, and it can be taken in a way that does not however transgress against trade measures rules. We believe this can be achieved by a nuanced exercise of the discretions available to the Minister in deciding to impose dumping duties, and how and at what level to do so.

A blunt application of the anti-dumping rules as foreshadowed in SEF 691 would have a deleterious impact on building and construction costs. Very poor economic indicators leap out from news broadcasts on a daily basis, and significant financial hardship is being suffered by individuals and small to medium sized businesses. Consumer sentiment, business confidence, and productivity are at historic lows, while inflation, interest rates and unemployment are at historic highs. Higher costs will make affordable

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1 LINEA Facades Pty Ltd, previously named "Brightway Commercial Pty Ltd", provides façade systems for commercial and residential projects, integrating design, engineering, manufacture and installation, alongside bespoke architectural metalwork. See 'LINEA Facades | Façade Systems', *LINEA Facades* (web page) https://lineafacades.com.au/. LINEA has a collaborative supply arrangement with Chinese exporter Foshan Sid Facades Co., Ltd, which is presently subject to the residual exporter provisional measures rate.

housing for individuals unaffordable housing for no one, and commercial projects will be held back or downgraded.[2]

Which leads to a discussion of the second irregularity. We (Moulis Legal) have never had as many individual, sudden inquiries for legal assistance in an anti-dumping matter than we have had with respect to the publication of SEF 691. Nor have we had anywhere near the diversity of persons operating in an "industry" contact us, as in this case. In anti-dumping matters, exporters and importers are the standard client. But in this case the interested party crowd includes property developers, development managers, sustainability/standards consultants, architects, designers, façade engineers, procurement managers, builders, constructors, Australian companies that have invested in China, and Chinese companies that have invested in Australia.

We have asked ourselves why this is the case. It seems to us it is because the Australian industry "producing like goods" is not a single manufacturer or small number of manufacturers making an STM ("simply transformed manufacture"). Although the target of anti-dumping investigations is not limited to STMs, it is the dumping of STM products that anti-dumping rules are best at addressing. Items such as steel items that are smelted, rolled or cast into uniform shapes; primary chemical compounds and synthetics; processed leather; bulk paper and paperboard, and sawn timber are examples. In those instances, the commercial relationships involved are of a binary nature, such as steel manufacturer/ exporter to importer, and steel manufacturer/importer to downstream user.

What the Commission will have discovered in its Investigation 691 is that "AWDs are not AWDs", in a likeness sense; that AWDs are fabricated using aluminium profiles, for which there is an Australian industry, and glass, for which there is no Australian industry; and that the Australian aluminium windows and doors industry is not merely "product-transactional". Design, architectural, procurement, fabrication, property and construction entities all collide and collaborate in the fabrication and sale of aluminum windows and doors. All of these other professions and industries are drawn into and dependent upon the proper functioning of the market for aluminum windows and doors in terms of investment, cost, price, and "making it happen".[3]

Further, the Chinese and Australian AWD industries, described in the multi-disciplinary way referred to in the previous paragraph, have become cross-investors in each other. Chinese investment in the Australian AWD market has been directed towards design, tendering, sales and logistics, and Australian investment in the Chinese AWD industry has been directed towards research, development, and factory automation. The reality is that there is now an "split" in supply type, which may be irretrievable in the short term, whereby AWD fabrication in China is quality conscious, large scale, and accustomed to

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2 Examples of increased costs for building and construction projects by way of anti-dumping measures, in this year alone, are as follows: Australian Trade Remedies Commission, *Glass Wool Insulation Batts Exported to Australia from China and Malaysia* (Trade Remedies Notice No 2026/152, 23 October 2026); Australian Trade Remedies Commission, *Certain welded steel mesh sheets from China, Malaysia* (Trade Remedies Notice No 2026/146, 30 September 2026); Australian Anti-Dumping Commission, *Light Gauge Steel Stud and Track from China* (Anti-Dumping Notice No 2026/119, 15 September 2026); Australian Anti-Dumping Commission, *Steel corner beads and angles from China* (Anti-Dumping Notice No 2026/045, 4 May 2026); and Australian Anti-Dumping Commission, *Ceiling steel framing members from China* (Anti-Dumping Notice No 2026/008, 3 February 2026). These additional input costs, together with existing construction-cost and capacity pressures, risk compounding affordability and delivery challenges across housing, commercial buildings and fit-outs, and major public building programs, including Brisbane 2032.

3 Australian Trade Remedies Commission, *Statement of Essential Facts No 691* (14 October 2026) 15–16, 38–39; Anti-Dumping Commission, *Aluminium Windows & Doors — Exporter Verification Report: Broad Windows and Doors and Curtain Wall System Co., Ltd* (Investigation No 691) 14–17. Note also that disparities between dumping margins for selected exporters could be due in part to different service levels included in SG&A overheads with respect to tender, procurement, and sale consummation procedures.

complexity and the handling of large volume orders, and AWD fabrication in Australia has remained at a lower level in terms of scale, efficiency, investment and innovation.

A consideration of all of these cross-cutting factors in a trade protection and national interest context would have been best suited to a safeguards inquiry, and the predictable tariff measures that can result from such an inquiry. Such measures are consistent and non-discriminatory, and can be given precision through statistical codes, thereby providing a better level of predictability for structural adjustment, whether propelled by more confidence in capital investment, or by facilitating a transition towards industry consolidation or orderly closure.

In view of these irregularities and implications, we submit that any dumping duties be moderate, consistent, non-discriminatory, and precise. We believe that such an approach is available, without infringing the wording of the relevant WTO agreements and without exceeding the administrative discretions offered by Australia's anti-dumping laws. We deal with this in C below.

Before doing so, we wish to set out our client's four main concerns, which our suggestions in C seek to obviate.

B LINEA's concerns are the concerns of all importers

1 Harsh and immediate financial impact on those caught with fixed price contracts

Our client advises us that façade contractors simply do not have the margins or cashflow to absorb extraordinary additional costs ranging from 24.4% to 70.4% depending on export source. Imposing these costs retrospectively, on projects to which suppliers have already committed, risks causing irreparable financial damage to otherwise viable Australian businesses, including LINEA.

Shipments for projects that were priced, negotiated and contracted long before the PAD 691 anti-dumping securities were announced are arriving in the security collection period. Linea has materials already on the water, and other materials committed to design and manufacture, with no contractual allowance for these additional charges.

Our client requests that reasonable transitional arrangements be put in place, to protect existing contractual commitments and give the industry sufficient time to adjust. Of particular concern is the immediate cashflow required simply to collect materials from the wharf. If businesses cannot fund these unexpected securities, they cannot release their goods, fulfil their contractual obligations, or maintain their construction programmes.

Unless fairly addressed, this could have devastating consequences for subcontractors and the builders relying on them, all of whom consider themselves to be part of and dependent upon the industry that the measures would seek to protect. This is an irony that should not go unnoticed by the Commission.

2 Dumping duty rates disparities have needless anti-competitive consequences

Our client submits that imposing vastly different rates on individual Chinese manufacturers is fundamentally unfair, not only on them but also so on importers and projects that have become random "winners" and "losers" without any wrongdoing on their part and without any difference in their state of knowledge or preparedness for what has occurred.

By effectively handicapping certain overseas factories while allowing others to operate with significantly lower or no duties, a substantial competitive imbalance has been created and will continue unless the playing field is levelled up. Concentrating fabrication and procurement among a small number of favoured suppliers, distorting competition and penalising Australian businesses simply because of their

existing manufacturing relationships will force prices up even more than the duties suggested by SEF 691.

A consistent rate across manufacturers supplying comparable products, modelled on an MCC basis and policed by stringent documentary requirements at the border, will benefit the AWD econosystem. Substantial disparities in treatment will reduce the level of competition that is necessary to keep prices realistic rather than extortionate.

3 The entire AWD industry is concerned about construction affordability

Concern about construction affordability is both a corporate concern and a government concern. The additional costs of an increase in border taxes will ultimately flow through to developers and homebuyers, increasing the cost of delivering new housing. Our client has operated for over 16 years in commercial building, and four years in façades, and has a practical ground-level understanding of how construction costs directly influence developers' financial feasibilities.

Measures of the blunt nature referred to in SEF 691 will not simply affect façade subcontractors and builders. They will directly contradict the government's ambition to increase housing supply and improve housing affordability. Without affordability, market players and the service industry retinue that surrounds them are likely to go out of business. Without affordability, the government will be unable to meet its national housing objectives. Where cost increases push construction costs beyond a project's feasibility, developments will be delayed, shelved or cancelled altogether.

4 Well developed, quality, standards-compliant product supply chains will be lost

The Australian AWD industry, in its broadest sense, is not only in Australia. It is in China too. Sino-Australian cross investment in production facilities, research and development, design, and logistics has created familiarity and trust between entrepreneurs in both countries.

There is a genuine risk that the disruption of import ban-level duties will sever those ties and cause Chinese exporters to concentrate their production and sales efforts on other markets. Manufacturing would then be transferred to factories without the same experience, proven production systems or established quality controls for these particular products. Such an interregnum in the AWD trading relationship could invite these inferior suppliers from other countries, untrained in Australian standards and conditions, to fill the void. This could compromise the consistency and performance of complex façade systems, potentially increasing the incidence of water penetration, façade defects, compliance failures and costly rectification works.

Rejecting proven, reliable, quality Chinese manufacturers could thereby inadvertently increase building quality risks for Australian homeowners, builders and developers. Measures intended to protect Australian manufacturing would then prove to have been a lot more costly than the price increase to cover dumping margins.

The Australian Government's objective should be to encourage safe, compliant and competitive construction, not create financial pressures that incentivise manufacturers and contractors to abandon established, tested and proven supply chains.

C Moderate, consistent, non-discriminatory, and precise implementation

1 Introduction to concept

The conventions regarding the justification for anti-dumping and countervailing action under the relevant WTO agreements and the manner of implementation of measures intended to take such action are being

looked at anew by WTO Members, through the looking glass of national interest and economic and environmental security.

That is not to say that any "new way" of justifying and implementing measures would inevitably be WTO-illegal, simply because it is not something that has been done before by an investigating authority, or has not been specifically ruled upon by the Dispute Settlement Body. What is being better realised by WTO Members today is that national and indeed international interest considerations were not alien to the drafters of the WTO agreements, and can be given voice under those agreements.

"Exhibit 1" in this regard is the first recital in the preamble to the *Marrakesh Agreement Establishing the World Trade Organization* which provides as follows:

> *Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development…*[4] [underlining supplied]

The existing WTO rules have certain flexibilities built into them, both expressly stated and as reasonably interpreted in light of their context.[5] These flexibilities have been carried through to certain mechanisms that are to be found in Australia's implementation of the anti-dumping and countervailing laws under Part XVB of the *Customs Act 1901* and in the administrative procedures intended to support those laws, as we now wish to explain.

2 Applying moderate, consistent, non-discriminatory and precise treatment

Anti-Dumping Agreement Article 6.10 provides as follows:

> *The authorities shall, as a rule, determine an individual margin of dumping for each known exporter or producer concerned of the product under investigation.*

Granted, there is a controversy about the application of this Article. In *EC – Fasteners*[6] the Appellate Body accepted the dictionary definition of *"as a rule"* as meaning *"usually"* and *"more often than not"*. However the openness with which an investigating authority might use the discretion that would otherwise be accorded by *"usually"* and *"more often than not"* was then limited by the Appellate Body, to three express exceptions within the Anti-Dumping Agreement it identified. Each of these exceptions allow an assessment of a single margin with respect to a group of *"known exporter[s] or producer[s]"* rather than individual treatment of them.

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4 *Marrakesh Agreement Establishing the World Trade Organization*, opened for signature 15 April 1994, 1867 UNTS 154 (entered into force 1 January 1995) preamble para 1.

5 *Vienna Convention on the Law of Treaties*, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980) art 31(2): *"[t]he context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes…"* [underlining supplied].

6 Appellate Body Report, *European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China*, WTO Doc WT/DS397/AB/R (15 July 2011).

Nonetheless, a WTO Member may have a different view of "individuality", and be prepared to argue, in the Dispute Settlement Body, that there can be cases where individuality does not best-serve either the industry or the market circumstances of a particular case, including the national interest considerations that arise in the case. The likelihood of such a challenge, in circumstances where the impact of dumping duties is alleviated by not treating each known exporter or producer differentially, and where the right of challenge is that of a WTO Member and not that of an exporter (an exporter who would have been ascribed a lesser margin than the one it ended up with), would be low.

We also note that Article 9.1, which we refer to in C.3 below with respect to the removal of injury, expresses an investigating authority's ability to determine a lesser duty rate than the full margin of dumping as being *"a decision[ ] to be made by the authorities of the importing Member"*. The wording does not confine a lesser duty rate decision to cases where *"such lesser duty would be adequate to remove the injury to the domestic industry"*.

How is this of use to the Commission in making its recommendations to the Minister? Under Australia's implementation of "sampling", there is no express requirement for individual treatment of the sampled exporters.[7] What is said with respect to sampling is that *"the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters"* [underlining supplied]

Thus, we respectfully suggest that the Commission, as the investigating authority, consider its ability to declare an exception to the Article 6.10 *"rule"* so as to take account of national interest and structural adjustment considerations. Implementing a dumping duty measure for sampled exporters, by way of a single non-injurious floor price ("NIP floor") that is fixed, consistent and non-discriminatory, and allows a minor (given the AWD industry is already profitable) profitability uplift, would in our view accord with the available discretions with respect to national interest considerations, the non-injurious price concept, and the *"moderate, consistent, non-discriminatory, and precise"* objective.[8]

3 Availability of non-injurious price floor, in the national interest, for all exporters

Article 9.1 provides as follows:

> *The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled, and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing Member. It is desirable that the imposition be permissive in the territory of all Members, and that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.*

The point here, using Australian identities, is that the Minister is not obliged to impose dumping duties at all, even when the Commission finds that *"all requirements for the imposition have been fulfilled"*. As we have submitted, this opens the door to national interest considerations.

Customary international law also provides justification for interpretations of the Anti-Dumping Agreement that would serve to lessen the impact of the imposition of a dumping duty to which a WTO Member may

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7 *Customs Act 1901* (Cth) s 269TACAA (1).

8 *Customs Act 1901* (Cth) s 269TACA(a); *Customs Tariff (Anti-Dumping) Act 1975* (Cth) ss 8(5), (5B), (5BAA), (5BB)–(5BE), (6)(b). The use of the term *"non-discriminatory"* as used here relates to non-discriminatory as to the impact on the Chinese AWD fabrication industry members, some of whom have been received investment from Australian investors, and by definition also non-discriminatory with respect to their Australian collaborators.

otherwise have a legal entitlement to impose. The principle applies where the countermeasure under consideration is argued or could be argued by the affected party to exceed a properly remedial level. This establishes a general proposition that imposing unreasonable countermeasures that do more than is required to remediate a situation is not supported by the international community, and that this proposition should be read into the application of the lesser duty rule.

Other available resources support such a discretion in the Australian idiom. In a 2016 Productivity Commission research paper it is stated that WTO rules do not *require* governments to act against injurious dumping or subsidisation.[9] And, in a similarly clear-cut description of the Minister's role, Federal Court judge Rares J has stated that:

> *Division 5 of Pt XVB contemplates that the contents of the report of the CEO will have been prepared following an ordered process to address the statutory criteria to which I have referred. Those contents are, however, information not directions as to the exercise of his or her discretion that the Minister must consider before making a declaration.*[10]

Further, this discretion also applies to the amount of the dumping duty, in the context of whether it should be *"the full margin of dumping or less".*

National interest issues have plainly emerged in Investigation 691. Stifling demand, as would occur if large increases in prices were to be forced onto the market, would debilitate the market into which residential and commercial buildings are sold. That debilitation will more likely exacerbate the Australian industry's injury than cause there to be an improvement in its condition.

The Commission is familiar with the adoption of non-injurious prices as triggers for the payment of interim dumping duty. In this case, in order to achieve the moderate, consistent, non-discriminatory and precise treatment that we submit would properly recognise both the AWD industry's desire for relief from imports, and serve as a platform for reinvestment, and the national interest considerations that are so pressing in the current economic environment, we submit that a single NIP price floor mechanism be adopted for sample exporters, and not an *ad valorem* "individual" rate, and that this NIP price floor is then also applied to all other exporters.

4 Countervailing measures are unnecessary, whether evidenced or not

We submit that no countervailing measures should be imposed and that the added complication of same is unnecessary.

The Commission has formulated its dumping decision based on benchmark costs, purportedly under Article 2.2.1.1 of the Anti-Dumping Agreement, and determined that no actionable subsidies were received by the sampled exporters. In our view the guestimate of 2.9% for uncooperative exports is unnecessary, should the non-injurious price mechanism suggested in this submission be taken up.

Further, and fairly, it would seem that the relevant information better supports a *de minimis* subsidy finding across the Chinese AWD industry, rather than supporting a higher subsidy rate for "all other exporters" based on no evidence.

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9 Productivity Commission, *Developments in Anti-Dumping Arrangements* (Research Paper, February 2016) 25.

10 *Siam Polyethylene Co Ltd v Minister of State for Home Affairs* FCA 837, 88 (Rares J).

5 Ability to delay and cancel existential business debt arising from PAD

We have already touched upon the implications for the many Australian AWD importers, developers and constructors who face direct and indirect cost consequences by reason of the severity of the securitised duty collection announced in the Preliminary Affirmative Determination ("PAD"), whether with respect to "residual exporters" (24.4%) or "all other exporters" (70.4%).[11]

No country in the world would put its own honest, taxpaying businesses under threat of extinction for engaging in business competition. Certainly, if dumping duties are imposed by the Minister, importers and the wider industry will have information before them that can inform their choices of export suppliers and allow them to factor duty costs into project feasibilities, RFTs and the like. That opportunity, however, has not been accorded to importers who entered into contractual commitments before the PAD was published and now find those shipments facing a large, unanticipated tax at the Australian border.

We submit that importers caught out by this impost, caused by no wrongdoing on their part whatsoever, and without any warning of which they could take advantage, should be relieved of both the anxiety that the threat that this retrospective duty is undoubtedly causing, and of the financial debt itself. This can be effected by the unilateral cancellation by Australian Border Force of securities collected on imports, on the condition (say) that the imports were contracted prior to the date of publication of the PAD.

That mechanism, however, would not be effective after the Minister makes a final decision, because interim duties are directly payable after such a decision and securities are not employed.[12] For post Section 269TG notice importations, a legal mechanism exists under section 63 of the *Public Governance, Performance and Accountability Act 2013* ("PGPA Act") for the remission, by the Finance Minister, of a debt due to the Commonwealth. The preconditions for this remission right to be exercised effectively would need to be carefully considered, including the Minister (for Industry) justifying the remission to the Finance Minister in advance and on behalf of all such importers, and ensuring importers do not unwittingly pay the dumping duty such that the remission falls into the more difficult to justify "act of grace" category under the PGPA Act.

Our client seeks the support of the Commission for recommendations to be made and actions to be taken along the above lines, or otherwise, to avoid these extreme, debilitating, surprise costs being thrust upon Australian AWD businesses. LINEA has requested that we put forward this plea on its behalf:

> *The most significant issue for businesses like LINEA is that we have already committed to fixed-price, lump-sum construction subcontracts without any allowance for these additional costs.*
>
> *We simply do not have the margins or available cashflow to absorb a 24.4% increase on imported materials. I'm confident there will be many other façade contractors in exactly the same position.*

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11 Australian Trade Remedies Commission, *Preliminary Affirmative Determination No 691 (PAD 691) and imposition of securities* (Trade Remedies Notice No 2026/147, 14 October 2026).

12 One workaround, likely to be unpalatable but we will mention it nonetheless, would involve the Minister delaying the final decision, on the basis of *"special circumstances"* (*Customs Act 1901*, Section 269TLA(2)(b) refers), until the pipeline of pre-PAD orders is emptied, the securities given for their importation have been cancelled, and the liability for duty of the AWD's concerned has been removed.

This is not just about profitability. It creates a genuine risk of irreparable financial damage to otherwise viable businesses, particularly where contractors cannot afford to pay the additional securities required to release materials from the wharf.

If duties are ultimately introduced, I strongly believe there must be sufficient notice and transitional protection for existing contractual commitments, including materials already ordered, in design, under manufacture or in transit.

The industry needs adequate time to incorporate any future duties into new tenders and contracts, rather than having these costs imposed on projects already commercially committed.

6 Liberal consideration of exemption requests

Lastly, we urge the Commission to report to the Minister that it would intend to exercise its exemption recommendatory power with a view to better recognise that "AWD is not AWD". The quality, scale, and technology of Chinese supplied AWD is world leading. The types of AWD products available from Chinese manufacturers and their features are in very many cases simply not available from the Australian AWD fabrication industry.

China is generally regarded as having the most advanced AWD factories, and those factories are individually and collectively capable of producing enormous quantities of customised unitised aluminium building facades. Moreover, the technology employed in production, and incorporated into the window and curtain walls themselves, is rivalling that of the longer established German industry.[13]

Our client requests the Commission to recommend to the Minister that exemption requests be encouraged and that exemptions should be granted on good cause shown. The *Customs Tariff (Anti-Dumping) Act 1975* allows exemptions where *"like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade".*[14] This is itself a national interest provision, and we submit that it should be used liberally in these national interest threatening circumstances.

D Concluding comments

LINEA firmly opposes the imposition of dumping duties on Australian importers. That said, if it is the Commission's and the Minister's resolve to apply such border trade measures to AWD from China, the measures should be carefully engineered so that they are moderate, consistent, non-discriminatory and precise. And, as we believe we have demonstrated, it is open to the Commission and Australian Border Force to set up a duty imposition, collection, and refund system that matches that description.

Any WTO Member that thinks it is stuck with outcomes that cannot be engineered to meet national interest objectives, without breaching WTO rules, has not thought about it hard enough.

Public interest in anti-dumping implies that the measure should not be applied or should be applied in reduced amount if the negative effect of anti-dumping measures would be disproportionate to its positive effect. The ADA Article 9.1, second sentence, envisages that "[i]t is desirable that the imposition be permissive in the territory of all Members…". This gives a

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13 Yuanda China claims to employ more than 600 R&D specialists and over 1,500 technical personnel, and continual testing against Chinese, American, British and European AWD systems.

14 *Customs Tariff (Anti-Dumping) Act 1975* (Cth) ss 8(7)(a), 10(8)(a).

ground for, and even encourages, the implementation of public interest test in domestic anti-dumping legislation of WTO Members.[15]

Yours sincerely



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[15] Viktoriia Kotsiubska, *Public Interest Consideration in Domestic and International Anti-dumping Disciplines* (Master's Thesis, World Trade Institute, September 2011) 10.