



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

INSTRUCTIONS AND GUIDELINES

ANTI-DUMPING COMMISSION
INSTRUCTIONS AND GUIDELINES FOR APPLICANTS
on the
Application for continuation of measures
October 2018

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Availability:	Internal and external
Purpose:	To provide guidance to applicants preparing the application form for continuation of measures
Owner:	The Commissioner of the Anti-Dumping Commission
Contact:	Mail to: The Commissioner of the Anti-Dumping Commission GPO BOX 2013 Canberra ACT 2601 AUSTRALIA Phone: 13 28 46 Facsimile: (03) 8539 2499 Email: clientsupport@adcommission.gov.au

Introduction

These Instructions and Guidelines are available to assist applicants to prepare an application for the continuation of measures.

Applicants should read these Guidelines in conjunction with other publicly available documents on the Anti-Dumping Commission (the Commission) website, including the Dumping and Subsidy Manual.

The Guidelines cover the following topics:

- Background
- Assistance with the application
- The inquiry process
- Reasons for continuation (including will the dumping and subsidisation continue or recur; and will the material injury recur).

GUIDELINES FOR APPLICANTS

1. BACKGROUND

Anti-dumping measures expire five years after the date on which they were published. 'Anti-dumping measures' are defined to be a dumping duty notice, or a countervailing duty notice, or an undertaking.

The *Customs Act 1901* (the Act) provides an opportunity for certain parties to seek continuation of the anti-dumping measure. The Commission is required to advertise the expiry date of the measure on its website, and invite certain parties to apply for continuation of the measure. The notice must appear not later than 9 months before the expiry date.

Applications for continuation of the anti-dumping measure may be made by: the person whose application resulted in those measures; or persons representing the whole or portion of the Australian industry producing like goods to the goods covered by those measures. If no application is received within the 60 day period allowed, the anti-dumping measure automatically expires.

An application must be in writing and must meet the requirements of an "approved form". The Commissioner of the Anti-Dumping Commission (the Commissioner) must not recommend continuation unless satisfied that expiration of the anti-dumping measure would lead to a continuation, or recurrence, of the dumping or subsidisation, and of the material injury.

If the Minister responsible for the Commission (the Minister) decides, after consideration of the report, to continue the anti-dumping measure, the measure will continue for another 5 years after the specified expiry date, unless otherwise determined.

2. ASSISTANCE WITH THE APPLICATION

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

Phone: 13 28 46
Fax: (03) 8539 2499
Email: clientsupport@adcommission.gov.au

Information is available from the Commission website at www.adcommission.gov.au

Small and medium enterprises (i.e., those with up to 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the Corporations Act 2001), may obtain assistance, at no charge, from the International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit www.business.gov.au or telephone the ITRA Service Hotline on +61 2 6213 7267.

3. THE INQUIRY PROCESS

Where an application demonstrates reasonable grounds for continuation of a measure, the Commission must hold an inquiry and report to the Minister within 155 days from the date the initiation notice was published.

Once an application has been accepted a notice will be published on the Commission's website advising that an inquiry will be undertaken and inviting submissions from interested parties. The Commission may also contact known interested parties.

Submissions are required to be received within 37 days of the date of publication of the notice. The Commissioner may not have regard to submissions received after that period if doing so would prevent the timely preparation of a statement of essential facts (SEF).

Copies of the non-confidential application and non-confidential submissions will be placed on the electronic public record (available on the Commission's website).

At or before day 110 of the inquiry, the Commissioner must prepare a SEF on which it intends to base its recommendations to the Minister. Interested parties will be invited to make submissions within the following 20 days. The Commissioner may consider submissions received after that period, provided timely preparation of the report to the Minister is not prevented.

In addition to inquiries in Australia, the inquiry may include investigation and verification of information provided by overseas parties, including discussions with foreign governments.

4. REASONS FOR CONTINUATION

The application form seeks reasons for justifying continuation of a measure. An application must establish reasonable grounds for asserting that expiration of the anti-dumping measure might lead, or be likely to lead, to recurrence of the material injury that the measure is intended to prevent.

(i) Will the dumping or subsidisation continue, or recur?

Reasons must be given as to why dumping, or subsidisation, would be expected to continue were the anti-dumping measure to expire. When addressing continuation of dumping, relevant information may be:

- anti-dumping actions by other countries;
- relevant evidence as to the current normal values in the exporting country;
- whether exports have continued following imposition of the measure and estimates of export price;
- whether the exporter has retained distribution links in Australia;
- whether the exporter retains an excess capacity that may be directed to Australia.

Where exports have ceased after imposition of an anti-dumping measure, demonstrating why dumping is likely to recur is more difficult to establish – some of the factors listed above may be relevant.

(ii) Will the material injury recur?

Applicants must provide evidence that in the absence of the measures, the dumped or subsidised goods would cause, or be likely to cause, material injury to the Australian industry producing the goods in question. In considering this question applicants should provide information on key indicators such as profitability, price trends, and market share. The application should provide:

- Information on market trends for the goods in question for the last three years, addressing in particular:
 - volume and value of imports and sources of imports
 - sales and market shares of all suppliers
 - performance of the local industry, showing key indicators such as profits, price trends, investment, and employment.
- Information addressing the likelihood of material injury in the absence of the anti-dumping measures. Alternative sources of export supply that may have arisen following imposition of the measure, or production capacity in the country concerned, may be relevant.

Responses should be made as accurately and as comprehensively as possible. Supporting evidence should be attached wherever possible. It will not be sufficient to simply assert that the measure should remain in force. Applications relying primarily upon unsubstantiated allegations, or assertion, may be rejected.