



**AUSTRALIAN  
CUSTOMS SERVICE**

**Australian Customs Dumping Notice**  
**No.2000/32**

**CUSTOMS ACT 1901 - PART XV B**  
**Section 269ZJ**

**INTERESTED PARTIES RESPONSIBILITIES IN RELATION TO THE  
PUBLIC RECORD**

**PROVISION OF NON-CONFIDENTIAL VERSIONS OF SUBMISSIONS**

Customs reminds parties lodging submissions to dumping and countervailing investigations that they must also provide a non-confidential version of that submission for the public record.

Parties should ensure that non-confidential versions enable a reasonable understanding of the substance of the information submitted in confidence. In some circumstances where a party claims, and the CEO accepts, that information is confidential and would adversely affect that person's business or commercial interests even if published in a non-confidential manner, a party may give a summary of the information. It is only in exceptional circumstances that a party is not required to submit such a summary.

Parties' present practice of simply deleting information in relation to costs or prices does not meet non-confidential requirements. In such circumstances the party should provide a non-confidential version which gives broad indicators of the information that has been provided.

An example would be to provide figures within a specified range (e.g. 10 per cent) of actual figures. Alternatively a party can use figures (or chart or other diagrammatic form) that express proportional increase or decrease in costs and or prices.

The same considerations also apply when a party is submitting to or responding to a question of material injury. The basis of the claim or rebuttal of the claim should be in a form that enables the other party to be aware of the particular areas of dispute.

Customs may disregard confidential information in its consideration of a case if a non-confidential version is not provided.

Where a party questions the process (ie. Customs conduct of the case), such comments are not of themselves confidential. Customs will place these comments on the public record.

As a matter of administrative convenience, Customs does prepare non-confidential versions of its reports of visits to local industry, importers and exporters. In these circumstances the company the subject of the report is obliged to either accept Customs version or submit its own version.

## **Background**

The CEO is required to make all the decisions under s. 267ZJ of the Act in relation to the question of accepting claims of confidentiality and of non-confidential summaries.

Sections 269ZJ (5) and (6) of the Act provide that if the CEO disagrees with the party's claim of confidentiality and the party refuses either to include the information in the public record or to prepare a summary, the CEO may disregard the information, unless the information is demonstrated to be correct.

Australia's legislation is consistent with the World Trade Organization's Dumping and Subsidies agreements.

A list of what is regarded as confidential and non-confidential information is attached.

Paul O'Connor  
National Manager  
TRADE MEASURES BRANCH

24 August 2000

**What does non-confidential mean?**

All information submitted by parties to a dumping or countervailing investigation is treated as publicly available (and hence, non-confidential) unless it is accompanied by a request to be treated as confidential.

The type of information regarded as non-confidential is:

- a) factual information of a type that has been published or otherwise made available to the public by the person submitting it;
- b) factual information that is not designated as business proprietary by the person submitting it;
- c) factual information which, although designated as business proprietary by the person submitting it, is in a form which cannot be associated with or otherwise used to identify activities of a particular person;
- d) publicly available laws, regulations, etc; and
- e) written argument relating to the proceeding that is not designated as business proprietary.

Business propriety information that may be regarded as confidential is:

- a) business or trade secrets;
- b) production costs;
- c) distribution costs;
- d) terms of sale;
- e) prices of individual sales, likely sales, or other offers;
- f) names of particular customers, distributors, or suppliers;
- g) the exact amount of the dumping margin on individual sales;
- h) the exact amount of the benefit in respect of countervailing investigations;
- i) the names of particular persons from whom business proprietary information was obtained; and
- j) any other specific business information the release of which would cause substantial harm to the competitive position of the submitter.