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Submission to:

The General Manager  
Trade and International Environment Branch  
Ministry for Business, Innovation and Employment  
PO Box 1473  
Wellington

Email: [traderem@mbie.govt.nz](mailto:traderem@mbie.govt.nz)

## **Introducing a Bounded Public Interest Test and Automatic Termination period into the Anti-Dumping and Countervailing Duties Regime (Supplementary Discussion Paper)**

### **WPMA, its members and sector value**

Thank you for the opportunity to make a submission on the above document.

WPMA advocates on behalf of a broad membership spanning the whole wood supply chain. WPMA represents one of New Zealand's biggest manufacturing sectors. Our sector epitomises the low carbon/high value manufacturing economy that the nation is striving towards. Our members turn a commodity – logs – into high value, end products marketed in New Zealand and internationally.

WPMA members handle in excess of 85% of the wood processed in New Zealand. We produce pulp, paper, sawn lumber, panels, laminated products and mouldings. Increasingly our members are producing, or have the potential to produce, new construction systems, biochemicals, biofuels, textiles and bio composite material.....protecting the environment and creating jobs simultaneously.

The wood processing and manufacturing sector in New Zealand:

- Delivers \$2 billion GDP.
- Is the 3<sup>rd</sup> biggest export sector at \$2.5 billion per annum.
- Provides 20,500 regional jobs directly and 10,000 indirectly.
- Is one of these most productive manufacturing sectors showing a 40% rise in output per worker over the last 10 years. This is twice as fast as all manufacturing and 2.5 times as fast as the whole economy.

Wood Processors & Manufacturers Association of New Zealand  
L9, 93 The Terrace, Wellington

PO Box 10937, Wellington 6143, New Zealand

Telephone: +64 4 473 9220 Email: [office@wpma.org.nz](mailto:office@wpma.org.nz) [www.wpma.org.nz](http://www.wpma.org.nz)

- Wood processors generate in excess of 70% of their own energy from residues avoiding an estimated \$1.1 billion per year in energy costs which means that this sector uses a higher proportion of renewable energy than any other manufacturing sector.

## Submission points

WPMA is concerned to learn through this Supplementary Discussion Paper that Cabinet has agreed, in principle, to introduce a bounded public interest test into the anti-dumping and countervailing duties regime. When consultation was carried out earlier this year on the notion of introducing this test there appeared to be widespread opposition to the proposal including opposition from WPMA.

MBIE appears to have not heeded the advice of manufacturers nor adopted the findings of the Australian Productivity Commission. In 2011, on the basis of these findings, the Australian Government decided that protections are required where injurious dumping or subsidisation can be shown. The time between reviews of individual protective measures may warrant debate but Australia has retained the fundamental principle that anti-dumping provisions are appropriate for as long as dumping continues. By contrast, the MBIE discussion document's proposition is that New Zealand manufacture should cease where dumped or subsidised goods and services are available. Given there is no analysis in the document to show any substantive differences between the Australian and New Zealand economies leading to the conclusion that either the Australian or NZ's proposed approach is correct, but not both.

The discussion document outlines MBIE's proposals for both a Bounded Public Interest Test and automatic termination of anti-dumping and countervailing duties. The motivation for these proposals is stated on page 6 of the discussion document, "*....that the current anti-dumping and countervailing duty regime did not take account of competition elements (including the need to improve housing affordability) and consumer welfare when a decision was made to impose duties.*" This motivation arose following an investigation into the contribution of materials costs as a component of housing affordability. There is no indication of a broader analysis of consumer welfare benefits arising from the proposed changes, with officials focus principally focused on "*the Government's objectives of improving housing affordability and assisting with the Christchurch earthquake rebuild*" (page 10).

It is a well-established fact that construction materials' costs (such as timber products) are not a big contributor to house-price inflation. As stated by Building and Housing Minister Nick Smith in the national media' "*The underlying part though is that it's the cost of land rather than the building materials that's having the biggest and most negative impact on housing affordability*". It is a concern then that this argument is being exercised again in this discussion document with no new or additional evidence that the cost of housing will be materially altered by the proposed changes

Altering current protections to enable building products to be 'dumped' on the NZ market could lead to lower product prices in the short term particularly if the removal of WTO-compliant protections coincided with a cyclically high exchange rate. Whether that lead to a long term reduction in building materials prices should be examined in more detail, with the risk of more volatile and or higher priced building materials depending on the strength of NZ's currency and the demand for the same materials elsewhere in the world.

The increased demand for certain goods and services at times of national emergency do not justify the 'dumping' of building materials or anything else, any more than they justify the relaxation of necessary protections under Health & Safety or environmental protection laws other than where completely unavoidable. Government has significant scope to respond in a genuine emergency up to, and including, the power to pass appropriate statutes. Such

'emergency powers' are logically circumscribed to apply in 'emergencies'. The reality is that the most immediate needs following an emergency can and are addressed by request for and receipt of aid interventions.

There is no discussion of the public interest in NZ retaining a WTO-complaint anti-dumping capability. Advantages of the current regime include the increased certainty afforded investors in NZ that egregious and potentially anti-competitive behaviour by overseas manufacturers can be responded to. There is undoubted 'public interest' in retaining and expanding competitive domestic manufacturing and associated high value regional employment.

The Government has a stated objective of doubling the value of the country's export earnings by adding value to commodity primary products. Whether all aspects of the public interest including high value and regional employment would be considered in a Bounded Public Interest test is not clear.

The Discussion Document does not make a compelling case for either a Bounded Public Interest test or automatic termination of anti-dumping and countervailing duties. New Zealand's anti-dumping regime forms part of New Zealand's wider trade policy. These forms of trade remedies are recognised by the WTO as being integral to the functioning of the global trading system. Their use is governed by WTO rules and they provide an avenue for domestic producers to seek a remedy from unfair trade practices (i.e. dumping and government subsidisation).

The NZ wood products industry is particularly exposed here as 85% of the world's forests are government-owned. These forests are harvested to provide highly subsidised raw materials to local processors and manufacturers. On the world market (and on the New Zealand market) these products are then aggressively priced to undercut NZ wood products. NZ wood processors and manufacturers on the other hand operate in a supply chain where they buy logs from private forest owners and pay full export parity price for those logs. WPMA would argue that many wood products being imported into New Zealand are already, in effect, being dumped on our domestic market with no countervailing tariff measures in place.

We note that WTO rules provide that duties can continue for periods of up to 5 years if a review of the duties concludes that a continuation of the duties is warranted. The discussion document reports that since 1 January 2010, five of the 11 anti-dumping duties set to expire on goods imported into NZ were continued following a sunset review, four have expired and two are currently being reviewed. The fact that industry has applied and been successful in having duties continue for a further five year period after their original imposition infers that there are valid reasons for retention of the current regime. WPMA does not support an Automatic Termination Period.

The intention of the proposed tests is to *"...provide the responsible Minister with discretion to not impose or defer the imposition of anti-dumping or countervailing duties, or to remove or suspend existing duties, where natural disaster has significantly impacted on users of the product concerned."* We believe that this Ministerial discretion will contribute to the 'added complexity', 'less certainty' and 'more subjectivity' identified in the discussion document as negative effects of the proposal.

## Conclusions

The Discussion Document does not make a compelling and well developed argument for the introduction of either a Bounded Public Interest Test or an Automatic Termination Period. It is also unclear what problem the Government is trying to remedy. If it is anticompetitive behaviour in the NZ construction sector then there are already provisions in the Commerce Act to address this.

There is no review of the wider economic and social impacts of the proposals and no analysis of the domestic economic costs. Discussion of fiscal and political considerations related to housing affordability and or the Christchurch earthquake create the impression that the proposal is motivated by a narrow and short term interests rather than the country's medium term and broader considerations.

Consequentially, WPMA opposes the proposed changes to introduce an automatic termination period and remains opposed to the original proposal to introduce a bounded public interest test in the anti-dumping and countervailing duties regime.

Yours sincerely



Dr Jon Tanner  
Chief Executive