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Submission to the Strengthening Australia's Trade Remedies System

"KEEPING AUSTRALIA'S INTERNATIONAL TRADE MOVING"



Australian Peak Shippers
Association Inc. (APSA)

ABOUT THE ALLIANCE

Freight & Trade Alliance (FTA) is the peak body for the international trade sector with a vision to establish a global benchmark of efficiency in Australian biosecurity, border related security, compliance, and logistics activities.

FTA represents more than 500 businesses including Australia's leading customs brokerages, freight forwarders and major importers.

On 1 January 2017, FTA was appointed the Secretariat role for the Australian Peak Shippers Association (APSA). APSA is the peak body for Australia's containerised exporters and importers under *Part X of the Competition and Consumer Act 2010* as designated by the Federal Minister of Infrastructure and Transport.

APSA is also a member and has board representation on the Global Shippers Forum (GSF) that represents shippers' interests and that of their national and regional organisations in Asia, Europe, North and South America, Africa and Australasia.

FTA / APSA represent leading import and export businesses including world class manufacturers and producers, supported by skilled customs brokers and freight forwarders. A list of all members and further information about FTA / APSA is available at www.FTAlliance.com.au

Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) appreciate the opportunity to contribute to this important review. This submission reflects the priorities and operational realities raised by our diverse membership across the international trade, logistics, and supply chain sectors. We remain committed to constructive engagement with government and industry partners to support practical, efficient, and globally competitive regulatory outcomes.

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Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) welcome the opportunity to provide comment on the Department of Industry, Science and Resources' consultation paper *Strengthening Australia's Trade Remedies System*.

FTA/APSA represent importers, exporters, licensed customs brokers, freight forwarders and major shippers across the country. Our advocacy centres on a competitive, rules-based trading system that provides clarity, certainty and fairness for all participants while supporting Australia's sovereign capability objectives.

The consultation paper outlines the increasing complexity of the global trading environment, greater use of trade remedies internationally, and the need to modernise Australia's system to improve effectiveness, timeliness, and accessibility. FTA/APSA support this direction.

1. Improving Effectiveness

1.1 Allowing goods descriptions to be amended

The consultation paper highlights that goods descriptions cannot be amended once an investigation has commenced, even where confusion or ambiguity becomes evident.

Members report that rigid descriptions have resulted in:

- uncertainty about whether particular goods fall within scope
- inconsistent interpretations across industry
- difficulties for customs brokers in advising clients
- unnecessary withdrawal and resubmission of applications

FTA/APSA support providing the Commissioner with limited, transparent powers to amend goods descriptions during early stages of an investigation, with appropriate consultation and procedural safeguards.

However, FTA/APSA oppose amendments to the goods description once an investigation has progressed past its initial stages. Allowing late expansions would undermine certainty regarding what goods may be captured by potential measures, restrict legitimate trade, and risk rendering significant work by exporters and importers redundant. It would also trigger additional importer and exporter questionnaires, duplicating effort already undertaken.

Where doubt exists regarding scope, FTA/APSA recommend that the ADC publish an issues paper seeking submissions from interested parties rather than amending descriptions mid-stream.

1.2 Addressing cross-border subsidies

Modern global investment structures increasingly involve subsidies provided by governments outside the country of export.

FTA/APSA support further exploration of this issue, noting:

- alignment with World Trade Organisation principles is essential
- evidentiary requirements must be clear and predictable
- reforms should not create uncertainty for legitimate trade

1.3 Updating duties more efficiently

Duty rates set using historical data can become outdated quickly as international prices shift. Members support exploring more regular or automatic updating of variable factors, provided the mechanism:

- is predictable
- reduces—not increases—administrative burden
- maintains transparency for importers and exporters

FTA/APSA oppose any retrospective amendment of duty rates that would require the collection of additional duties after importation. Commercial certainty must be maintained by ensuring that the maximum payable duty is known at the time of entry.

1.4 Treating related exporters as a single group

The consultation paper's case studies illustrate how treating related exporters separately can undermine the effectiveness of measures.

Members support legislative change enabling the Commissioner to “collapse” closely related entities where evidence demonstrates coordinated behaviour, consistent with international practice.

2. Improving Timeliness

2.1 Delegating routine or technical decisions

Delays in ministerial decision-making significantly extend investigation timeframes.

FTA/APSA support exploring increased delegation to the Anti-Dumping Commissioner for technical or procedural decisions, while retaining appropriate ministerial oversight and accountability.

Where Ministerial decisions are delegated to the Anti-Dumping Commissioner, equivalent review rights must continue to apply to preserve procedural fairness.

2.2 Refining the scope of merits review

Anti-Dumping Review Panel (ADRP) review timeframes have expanded significantly in recent years, driven in part by the introduction of new information and broad reinvestigations.

FTA/APSA recommend that before narrowing the scope of review, a detailed assessment be undertaken into the extent to which ADRP decisions are overturning original determinations.

If lengthy reviews are resulting in variations of original decisions, this may indicate issues in the initial investigation, not the review mechanism.

Given the complex factual and legal issues inherent in trade remedies, a specialist panel remains the appropriate body for merits review. Narrowing the scope of review or limiting the information that may be considered risks driving parties toward the Federal Court, where proceedings are more costly, slower, and less transparent for non-participants.

2.3 Aligning overlapping case types

Duty assessments, continuation inquiries and reviews of variable factors can occur simultaneously, creating duplication and inefficiency.

Members support reforms that:

- consolidate overlapping inquiry types
- align timeframes
- reduce double-handling
- simplify the application pathway for businesses

However, FTA/APSA do not support a system of annual reviews in which the final duty payable on imported goods remains unknown until after importation. Such uncertainty would place untenable risk on trade and supply chain planning.

2.4 Increasing flexibility in accelerated reviews

Accelerated reviews are essential to ensure new exporters are not excluded from the Australian market.

While the 100-day timeframe places pressure on ADC resourcing, FTA/APSA are concerned that statutory fairness may be compromised if timelines or processes are weakened solely due to capacity constraints. Members do, however, support providing new exporters the option to elect residual rates.

3. Improving Accessibility

3.1 Supporting Small to Medium-sized Enterprise access

Small to Medium-sized Enterprises face the greatest difficulty navigating the system due to the complexity of application requirements.

FTA/APSA support:

- simplified application forms
- clearer guidance on evidentiary expectations
- co-located information on tariffs, tariff concessions and trade remedies
- enhanced resourcing of the International Trade Remedies Advisory Service

3.2 Digital transformation

Members strongly support the development of a modern digital platform with:

- structured data intake
- online lodgement
- real-time case tracking
- automated notifications

A digital portal would significantly reduce administrative burden and improve transparency.

3.3 Streamlining refunds and Tariff Concession Order (TCO) linked exemptions

Members support initiatives to:

- speed up the refund process
- explore automatic TCO-based exemptions where no substitutable local production exists
- reduce complexity for customs brokers and importers

FTA/APSA strongly believe that where a TCO is in place, no dumping duty should be payable. This would be far more efficient than the current exemption model and can be competently administered by customs brokers and the Australian Border Force (ABF). A TCO-based exemption system is also likely to reduce the volume of exemption applications lodged with the ADC.

4. Additional FTA/APSA Commentary – Need for a Formal Ruling Mechanism

While not presented as a standalone proposal in the consultation paper, the absence of a reliable, official method to determine whether goods are subject to anti-dumping or countervailing duties remains one of the most significant issues raised by members.

This directly relates to the International Trade Remedies Forum's "Early Harvest" Proposal #5, which calls for a mechanism to provide advice on whether goods are subject to dumping or countervailing measures.

FTA/APSA believe this should be developed into a formal, binding ruling mechanism.

4.1 Strong industry call for a formal ruling mechanism

Members consistently describe the current environment as:

- uncertain
- opaque
- difficult to navigate, even for experienced licensed customs brokers

Unlike Tariff Advice (TA) or Origin Advice provided by the ABF, there is no definitive pathway for industry to obtain binding advice regarding the application of trade remedy measures.

Member feedback includes:

- *"Wholeheartedly agree and support a ruling mechanism... there is no clear path for importers to have definitive advice which seems odd considering the TA and Origin Advice schemes in place."*
- *"This type of scheme would be a very positive step forward and ultimately eliminate confusion and conflict down the track."*
- *"As a licensed customs broker it has always been a problematic system... an improved system would provide certainty to Australian business."*

4.2 Benefits of a ruling mechanism

A formal ruling mechanism would:

- reduce inadvertent non-compliance
- provide early commercial certainty
- minimise disputes and refund claims
- support accurate, defensible advice from customs brokers
- facilitate efficient border clearance
- better align trade remedy processes with existing ABF ruling frameworks

4.3 Suggested model

Members favour a structure similar to the tariff advice scheme:

- importer or customs broker submits a request with supporting evidence
- ABF (appropriately trained) or ADC assesses scope and applicability
- a binding ruling is issued
- where necessary, ADC provides “sign-off” on technical matters

FTA/APSA do not support third-party involvement in the ruling system. A ruling is a request for guidance on the application of a Commonwealth tax to a taxpayer’s imports. This should remain a matter between the Commonwealth and the applicant, without local industry engagement.

Making rulings public or contestable would create delay, increase cost and undermine the core purpose of providing certainty.

A ruling mechanism modelled on the current tariff and TCO systems would deliver clarity without introducing unnecessary administrative burden.

5. Conclusion

FTA/APSA welcome the government’s commitment to strengthening and modernising Australia’s trade remedies system. Members strongly support reforms that deliver greater clarity, faster decisions, streamlined processes, and modern digital capability.

We look forward to continued engagement as reforms progress.

Submitted by: Freight & Trade Alliance (FTA) and Australian Peak Shippers Association (APSA)

