Improving Australia’s Anti-Dumping Provisions for stronger manufacturing

Labor’s plan to keep trade fair

A Shorten Labor Government will protect jobs and take action to safeguard Australian manufacturers, producers and growers from unfair trade practices by strengthening Australia’s anti-dumping system.

A strong and effective anti-dumping regime is critical to Australia’s ability to safeguard our domestic industries from uncompetitive and unfair trade practices, which cause injury to Australian manufacturers, growers and producers.

Labor strongly supports free trade and recognises the importance of ensuring Australian industry does not fall victim to unfair and uncompetitive trade practices.

To achieve this, a Shorten Labor Government will:

- Increase funding for the Anti-Dumping Commission to improve its capacity to investigate breaches of trade rules;
- Transfer the responsibility for Safeguards investigations from the Productivity Commission to the Anti-Dumping Commission;
- Triple penalties for parties who circumvent Australia’s anti-dumping measures;
- Enable Australian businesses applying for anti-dumping protection to nominate the form of duty as penalty to be applied to the dumped good;
- Once anti-dumping measures are in place introduce a 30 day time limit for applications for a review. Reviews can occur 12 months after the initial imposition of anti-dumping measures but any application for review will need to be made in 30 days;
- Provide local firms with better access to trade and import data held by the Australian Bureau of Statistics.

Maintaining a strong anti-dumping regime provides confidence that the open international trading system will not be abused through subsidised products and that there is a level playing field for domestic industries to compete on.

Reform also ensures that our anti-dumping regime and available trade remedies do not lag behind that of other comparable nations, making Australia more attractive as a destination for foreign dumped goods.

Labors reforms will strengthen the protection for local firms and local jobs.

This Fact Sheet incorporates the Anti Dumping policies announced in March 2018 and July 30 2018
What’s the problem?

Local manufacturers, producers and growers can be threatened by the actions of foreign companies that export goods to Australia at a price that is below the normal value of the goods in the exporting country.

Action is needed to protect local business from the dumping of goods into the Australian market. The Australian Anti-Dumping Commission (ADC) is the key agency with the responsibility to take action in this area. In June 2018, the ADC reported that there are 88 anti-dumping and countervailing measures currently in place. These measures are being taken against businesses from 23 countries. There are a further 103 investigations in hand. (Australian Anti-Dumping Commission Performance Indicators 2017/18 Financial Year.)

Anti-dumping measures are being taken across a range of industries: paper, aluminium products, food, electrical equipment and chemicals and plastics. For the steel industry the issue of dumped goods is especially acute. Sixty two per cent of the measures currently in force are in the steel products sector.

Industry concern about dumping has increased since the Trump Administration’s announcement on 2 March 2018 of a 25 per cent tariff on steel and 10 per cent tariff on aluminum imported into the United States. This action and the response of other nations raise the threat that steel and aluminium products once destined for the US will be dumped into Australia instead.

Increasing the investigative capacity of the Anti-Dumping Commission

Labor will invest an additional $3.5 million per year into the Anti-Dumping Commission – boosting its current funding from $14.3 million per year to $17.8 million.

With the dumping of cheap foreign goods expected to rise, it is critical that Australia’s anti-dumping regime is adequately resourced to ensure Australian industry is not unfairly disadvantaged.

The Commonwealth must provide the Anti-Dumping Commission with enough resources to respond rapidly and complete investigations in a timely manner. This funding will strengthen the Commission’s ability to undertake investigations and remedy unfair trade practices that are damaging Australian manufacturers.

A Shorten Labor Government will increase the Commission’s budget. An additional 30 staff will be in place – the equivalent of at least one new investigative team.

This team will be tasked with investigating unfair trade practices relating to steel and aluminium and will prioritise rapid responses to injurious behavior by foreign exporters.

Strengthening Australia’s capacity to deal with surges in imported goods

Responsibility for trade remedies are split between the Anti-Dumping Commission, which deals with dumping and countervailing measures, and the Productivity Commission, which deals with safeguards investigations.

Safeguards are a trade remedy triggered in response to a sudden and large increase in the number of imports of a particular good, which may cause serious injury to a country’s domestic industry.

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Under Australia’s international agreements, safeguards actions may include temporarily restricting imports of a product until the domestic industry can adjust – and can consist of tariffs or quotas.

The Senate Economics References Committee inquiry into Australia’s Steel Industry heard evidence that other jurisdictions (such as the EU, US, Canada, Korea, China and South Africa) have a single body to deal with all trade remedies.

The inquiry also heard that industry views access to safeguards mechanisms largely inaccessible in its current location.

A Shorten Labor Government will align our trade remedy system with international best practice and bring the entire system under the umbrella of the Anti-Dumping Commission. This would mean Australian industry is afforded the same support as its competitors.

**Tripling penalties for circumventing dumping duties**

A Shorten Labor Government will triple penalties for exporters who attempt to circumvent Australia’s anti-dumping measures. Evidence from unions and manufacturers at the Senate Economics References Committee’s Inquiry into the Future of Australia’s Steel Industry revealed that penalties applied by Australia in response to dumping are weaker than other comparable countries.

Australia needs to ensure that its anti-dumping regime is effective at deterring anti-competitive behavior. Labor will increase penalties for attempting to circumvent dumping duties.

Increases in revenue from tripling penalties will be invested in Australia’s anti-dumping system.

**Enable Australian businesses applying for anti-dumping protection to nominate the form of duty as penalty to be applied to the dumped good.**

Currently there is no formal process allowing applicants to comment on the form of duty to be applied in the case that injury has been found and needs to be remedied by the Commissioner. Industry has raised concerns that sometimes the measures are ineffective or readily circumvented due to the form of duty proposed by the Commission. There are four forms of duty that can be applied and each has merits depending on market conditions.

This proposal would formalise the current process so that applicants are able to nominate the form of duty to be applied, which the Commissioner will be required to recommend to the Minister unless there is good reason not to (i.e. the form of duty nominated will not be effective in remedying injury or risks exceeding the dumping margin).

**Introduce a 30 day time limit for applicants for a review of measures taken**

Presently, affected parties can apply for a review of anti-dumping measures at any point after the 12 month anniversary of the notice for the imposition of duties by the Anti-Dumping Commission was made or amended.

Once complete, no further review can be initiated by any interested party –

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importer, exporter or Australian industry member – until 12 months from the amendment.

Industry is concerned that affected parties can align their request for a review of measures with favourable market conditions and game the price cycle, potentially securing reduced duties for a period of 18 – 24 months before industry is then able to apply for an additional review of measures.

Labor will limit the period that applications for a review of measures can be made to the 30 day window immediately following the 12 month anniversary of the imposition of duties.

If no application is made during this time then applicants will be required to wait until the next anniversary month the following year.

**Improve access to trade data for local business**

Access to import data from the Australian Bureau of Statistics (ABS) is vital for manufacturers and producers seeking the imposition of anti-dumping measures by the Anti-Dumping Commission.

It is also important for the assessment by Australian industry of the effectiveness of measures imposed by the ADC, particularly in enabling the identification of non-compliance or circumvention of those measures.

The ABS is overly conservative in how they interpret their enabling legislation in regards to confidentiality. They frequently grant confidentiality to import data on the request of foreign companies who are the subject of anti-dumping complaints.

Labor proposes to amend the Census and Statistics Act to improve access to trade and import data held by the ABS.