

The Coalition's Plan to  
**Strengthen Australia's  
Anti-Dumping Regime**

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# **The Coalition's Plan to Strengthen Australia's Anti-Dumping Regime**

## **Executive Summary**

Australian industries and businesses don't want government hand outs – they want a fair go and a level playing field with their international competitors.

The Coalition will set about ensuring a level playing field for Australian industry by repealing job destroying taxes, providing competent government and giving industry policy certainty.

Our first order of business will be to rescind Labor's carbon tax. This will ensure our industries will not pay an additional cost that no other country imposes on all of its own industries.

We will reform Australia's anti-dumping regime to ensure our industries are not unfairly disadvantaged by foreign competitors either dumping imports at below production cost or using unlawful subsidies from other governments.

The current anti-dumping regime is flawed and disadvantages Australian industries and businesses.

It is too cumbersome, slow and prohibitively expensive for many of our businesses to utilise. When rulings are made they are often too late and do nothing to address damage to a business or industry.

The Coalition will introduce a more effective anti-dumping regime – a regime that ensures good Australian businesses get a fair go.

The Coalition's Plan to Strengthen Australia's Anti-Dumping Regime involves the following initiatives:

### **1. Transfer anti-dumping responsibilities from Customs to the Department of Industry**

We will make the Department of Industry responsible for Australia's anti-dumping regime.

### **2. Reverse the onus of proof in anti-dumping investigations**

Provided the Department of Industry has sufficient evidence to show dumping is reasonably likely to have occurred, we will require foreign businesses subject to an anti-dumping action that has lasted for at least 60 days to demonstrate that they are not dumping goods into Australia.

### **3. Commit more funding for anti-dumping investigations**

We will provide an additional \$2½ million per year to the Department of Industry so that more resources are available to improve the number, quality and speed of anti-dumping investigations.

### **4. Hire an additional 20 specialist anti-dumping investigators**

We will provide at least an additional 20 specialist personnel within the Department of Industry over and above the number of personnel currently working in Customs so that more anti-dumping investigations are pursued.

### **5. Introduce more stringent and rigorous enforcement of deadlines for submissions**

We will make anti-dumping investigations faster and more effective by mandating a 40 day time limit for parties to lodge submissions with the Department of Industry.

### **6. Crack down on overseas producers who don't cooperate with anti-dumping investigations**

We will apply stricter sanctions against producers who fail to adequately cooperate with requests to provide information about their export of goods under anti-dumping investigation.

### **7. Strengthen enforcement of the provisions of the WTO Agreement on subsidies and countervailing measures**

We will enhance enforcement of the provisions under the WTO Agreement on Subsidies and Countervailing Measures.

## Labor's Record

The Labor-Greens Government wants to make our industries less competitive by imposing an economy wide carbon tax that no other country has introduced.

This toxic job-destroying tax will punish successful and hard-working Australian businesses, particularly trade exposed businesses.

A carbon tax will only cause jobs and emissions to be exported overseas. The carbon tax means:

- a \$9 billion a year new tax;
- a 10 per cent hike in electricity bills in the first year alone;
- a 9 per cent percent hike in gas bills in the first year alone;
- higher marginal tax rates for millions of low and middle income earners; and
- a \$4.3 billion hit on the budget bottom line.

On top of its carbon tax hit, the Labor-Greens Government has failed to ensure an effective anti-dumping regime to give Australian industries and business a level playing field.

Labor indicated in 2008 that it wanted revisions to the anti-dumping system. But it then embarked on a long period of inaction – first by commissioning a Productivity Commission review of Australia's anti-dumping regime in 2009, then taking 18 months to respond.

When it finally made some changes in June 2011, it again failed to show the political will necessary to deliver the more meaningful reforms that are required.

For every year in office, Labor has not only cut funding to Customs (the agency that administers Australia's anti-dumping system), but done so at a time when the organisation has been under ever-increasing pressure in the area of border protection.

The impact on manufacturing has been devastating:

- 136,000 manufacturing jobs have been lost during the past three-and-a-half years (at an astonishing average of nearly 750 jobs per week);
- manufacturing activity has contracted for each of 28 separate months; and
- a string of iconic manufacturing companies have either closed or scaled back their Australian operations (such as BlueScope Steel, Mitsubishi, Pacific Brands, Heinz, Bosch, Golden Circle and Bridgestone).

## **Our Plan**

The Coalition wants Australian industries and businesses to have a fair go and compete on a level playing field with their international competitors.

We will reform Australia's anti-dumping regime to ensure our industries are not unfairly disadvantaged by foreign competitors either dumping imports at below production cost or using unlawful subsidies from other governments.

The current anti-dumping regime is too cumbersome, slow and prohibitively expensive for many of our businesses to utilise. When rulings are made they are often too late, after the harm has already been done, not just to the firms directly affected but also down through their supply chains. Often, they then do little to address the damage to a business or industry.

Unlike in many developed countries, the current anti-dumping regime also disadvantages Australian industries by placing the onus of proof on domestic businesses rather than on their competitors.

The Coalition will introduce a more effective anti-dumping regime – a regime that ensures good Australian businesses get a fair go.

### **1. Transfer anti-dumping responsibilities from Customs to the Department of Industry**

The Coalition will make the Department of Industry responsible for Australia's anti-dumping regime.

Anti-dumping is currently administered by Customs. This agency is already under pressure dealing with large numbers of illegal boat arrivals – pressures that have only been exacerbated thanks to cuts to Customs' budget by the Labor-Greens Government.

Industry possesses the superior economic and industry knowledge and experience that is often needed to successfully investigate and pursue anti-dumping actions.

This move is similar to the decision in the United States three decades ago to transfer anti-dumping responsibilities from Treasury and the Tariff Commission to the International Trade Commission and the Department of Commerce.

By transferring anti-dumping responsibilities to the Department of Industry, Customs can better focus on border protection while the Department of Industry can bring its expertise and resources to enforcing a more effective anti-dumping regime.

## **2. Reverse the onus of proof in anti-dumping investigations**

Provided the Department of Industry has sufficient evidence to show dumping is reasonably likely to have occurred, we will require foreign businesses subject to an anti-dumping action that has lasted for at least 60 days to demonstrate that they are not dumping goods into Australia.

The Department of Industry will make 'preliminary affirmative determinations' where appropriate in anti-dumping cases that have lasted beyond 60 days. Preliminary affirmative determinations are expressly allowed under Article 7 of the WTO Anti-Dumping Agreement and do not breach Australia's free trade obligations.

Under the current system, it is incumbent on Australian businesses to prove that rival imported products are being sent to Australia at below cost price. This disadvantages local firms by forcing them to mount often complex, onerous, expensive and time-consuming actions if they want to demonstrate that they have been adversely impacted by dumping.

There is a significant imbalance in the obligations faced by local businesses. Cases can last for years and cost hundreds of thousands of dollars.

Our competitors have better and more effective anti-dumping regimes.

The USA and European Union, for example, adopt a more active and literal interpretation than Australia of some of the discretionary provisions of the WTO Anti-Dumping Agreement. These include Articles 7.1, 7.3 and 12.2, which allow countries to impose duties on foreign producers as soon as 60 days after the commencement of the case, where there is a threat to local industry

Under these Articles, our competitors typically react quickly to instances of dumping and potential injury by resorting to making so-called 'preliminary affirmative determinations.'

By reversing the onus of proof, the Coalition will make Australia's anti-dumping regime more effective, more responsive to the interests of Australian businesses and jobs, and better aligned with anti-dumping systems adopted by other nations.

## **3. Commit more funding for anti-dumping investigations**

The Coalition will provide an additional \$2½ million per year to the Department of Industry so that more resources are available to improve the number, quality and speed of anti-dumping investigations.

Since coming to office, Labor has weakened Australia's anti-dumping regime by relentlessly cutting funding to Customs, the agency currently responsible for administering the anti-dumping regime.

In the 2011-12 Budget, for example, Labor axed a further 90 staff from Customs on top of the 250 cut in the 2010-11 Budget.

The Coalition's additional funding will make Australia's anti-dumping regime more effective.

It will provide Australian businesses and their workers with greater assurance that their products will not be unfairly undercut by subsidised imported goods.

#### **4. Hire an additional 20 specialist anti-dumping investigators**

The Coalition will provide an additional 20 specialist personnel within the Department of Industry over and above the number of personnel currently working in Customs so that more anti-dumping investigations are pursued. These will be new personnel devoted to anti-dumping enforcement.

Our commitment will increase the number of personnel investigating anti-dumping cases and provide more capability in gathering and interpreting evidence.

#### **5. Introduce more stringent and rigorous enforcement of deadlines for submissions**

The Coalition will make anti-dumping investigations faster and more effective by mandating a 40 day limit on party submissions to Industry.

Under the current system, submissions by all parties are due within 40 days of the start of an anti-dumping investigation. However, Customs currently offers a wide range of potential grounds for extensions to that deadline. This means Australian businesses can face lengthy and damaging delays resolving anti-dumping cases.

Our major competitors apply more stringent and rigorous standards on the deadlines for submissions.

In most European Union cases, for example, there are no exceptions to the rule that submissions must be lodged within 40 days or less.

The Coalition will tighten submission rules and grant extensions only in those situations where there is a compelling case for them to be allowed.

In a comparatively small economy such as ours, failure to take early action can potentially lead to extremely damaging consequences – not only for the domestic industries directly affected, but also for their wider supply chains.

Our commitment to mandate a 40 day limit on party submissions to the Department of Industry will make anti-dumping investigations faster – which means a more effective and responsive anti-dumping regime for Australian industries and business.

## **6. Crack down on overseas producers who don't cooperate with anti-dumping investigations**

The Coalition will more actively apply penalties against parties who fail or refuse to co-operate with investigations.

Our major competitors rarely tolerate non-compliance with investigations.

In the European Union, for example, strict sanctions are enforced against producers who fail to adequately cooperate with requests to provide information about their export of the goods under anti-dumping investigation.

The Coalition will more strongly enforce the provisions of Article 6.8 and Annex 2 of the WTO Anti-Dumping Agreement. Article 6.8 states that:

*“In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available.”*

The Coalition will ensure that in cases where parties fail or refuse to co-operate with investigations, this authority is used to make preliminary and final determinations quickly.

We will also ensure that the sanctions imposed on non-cooperating parties are substantially higher than those applied to other parties.

This will strengthen Australia's anti-dumping regime, more closely align it with those of other countries, and ensure our industries and businesses are not disadvantaged by recalcitrant foreign parties.

## **7. Strengthen enforcement of the provisions of the WTO Agreement on subsidies and countervailing measures**

The Coalition will enhance enforcement of the provisions of the WTO Agreement on Subsidies and Countervailing Measures (SCM).

This Agreement allows countries to seek various remedies through the WTO against the use of subsidies in foreign nations.

One of the greatest concerns among Australian businesses adversely affected by dumping is that their foreign competitors are receiving local subsidies from their governments. This has, however, traditionally proved extremely difficult for Australian authorities to pursue (let alone prove) with the relatively limited investigative resources at their disposal.

We do not want foreign goods to be sold at below production cost into Australia on the back of unlawful government subsidies as this unfairly harms Australian businesses and costs local jobs.

Where appropriate, we will seek to make greater use of SCM provisions and the associated dispute settlement procedures.

## Costs

	2012-13 \$ million	2013-14 \$ million	2014-15 \$ million	2015-16 \$ million	TOTAL \$ million
Anti-Dumping Policy	2½	2½	2½	2½	10