

We'll make a very brief opening statement given we have provided a detailed submission and we have limited time and- also due to the fact that we would like to take the opportunity to clarify and expand on some elements of the evidence that we have provided in our submission which by necessity will take some time.

Dr Skladzien is from the Australian Manufacturing Workers Union (the AMWU) Mr Zelinsky is from the Australian Workers Union (the AWU) and I am from the Construction, Forestry Mining and Energy Union (the CFMEU)- thank you to the committee for the opportunity to appear today. A distinguishing feature of our unions' combined membership is the number of workers we represent who are employed by firms in industries where their jobs and income security depend on successfully exporting or competing against imports. This is why productivity, international competitiveness and fair trade have always been core business for our unions. Maintaining and improving the integrity of Australia's antidumping system is very much a part of that core business.

For this reason we were very pleased when in November 2011 Mr Abbott made claims which suggested that if the Coalition got into office they would not wind back the reforms the Government had committed to, to improve the Anti-Dumping system.

"We support a competitive, open market but it's also very important that Australian businesses are competing on a level playing field" said Mr Abbott when releasing the Coalition's policy. Mr Abbott said the policy would "Give Australian manufacturing a fighting chance to compete against the rest of the world."

Our unions have worked together with the ACTU, industry and Government for a number of years to improve the Anti-Dumping system including in the formal consultative committee established in 2011 which is the International Trade Remedies Forum.

The Forum has not reconvened since the Abbott Government was elected in 2013 despite a requirement in the Customs act for the Forum to be convened by government twice every year- , a situation which has reduced stakeholder confidence in the Anti-Dumping system, seen important reform stagnate, resulted in businesses closing in the face of unfettered and remedied unfair trade and costed our members their jobs.

The proposal to abolish this Forum formally, as this bill intends, is a further backwards step and that proposed abolishment is the focus of our submission to this inquiry.

We argue that the bill must be opposed whilst ever it includes the abolishment of the Forum.

In addition we call on the Government to reconvene the forum as they have been obligated to under the piece of the Act that they are proposing to repeal- for the benefit of jobs, business and the economy and the workers, families and communities who's those jobs support.

The issue which we would like to expand upon is extremely serious:

By way of context our submission (on page 33 and 52) points to the fact that the Coalition policy on Manufacturing and Anti-Dumping taken to the 2013 election stated that it would:

“Strengthen the enforcement of the provisions of the WTO Agreement on Subsidies and countervailing measures.”

On page 52 we have highlighted that the proposed amendments which would change one of the circumstances where the Minister is not required to have regard to the lesser duty rule appears to be inconsistent with the Government’s election policy:

As we read the current legislation “mandatory consideration of the lesser duty rule is not required when the government of the country of export has not complied with Article 25 of the Agreement on Subsidies and countervailing measures for the compliance period.”

The compliance period is defined by Legislative Instrument, and on the 18th of December Minister Macfarlane outlined that it is:

“The two most recent biennial periods, ending prior to the date of initiation of a countervailing investigation, in which a World Trade Organization (WTO) Member is obliged to make new and full notifications of subsidies to the WTO in accordance with the procedures adopted by the WTO Committee on Subsidies and Countervailing Measures.”

There are two issues with the proposed amendment which would replace the current provision by saying “mandatory consideration of the lesser duty rule is not required when the government of the country of export has not submitted notification of its subsidies, as mentioned in paragraph 1 or Article 25 of the Agreement on Subsidies and countervailing measures, at least once in the compliance period”

1. Why should compliance with one of the two most recent biennial periods be considered sufficient compliance?
2. As stated by AUSVEG in their submission Article 25 covers more ground than simply the notification of subsidies, indeed we point out in our submission:

25.9 Which states:

“Members so requested shall provide such information as quickly as possible and in a comprehensive manner, and shall be ready, upon request, to provide additional information to the requesting Member.”

We’d like to finally point out in our statement that we find:

- a. This proposed amendments (combined with its clear inconsistency with the Government’s 2013 election commitment regarding subsidies)...
- b. the fact that the Forum has not met despite the requirements in the Act and now its proposed abolishment- and as a result:
- c. the promised and scheduled subsidies briefing not occurring and the promised subsidies working group not being formed and
- d. the other important recommendations of the MSWG not proceeding-

All the while as Australia is negotiating a Free Trade Agreement with the People’s Republic of China, very, very suspicious indeed.

In response to written questions tabled in Senate Supplementary Estimates in the Infrastructure and Regional Development Committee, the Government was insistent that:

1. Through the China Free Trade Agreement, we have preserved Australia's existing rights and obligations under the World Trade Organization (WTO) to address injuriously dumped or subsidised imports. And:
2. Australia's rights on Anti-Dumping and/or countervailing measures are not changed under the Agreement.

This answer was reiterated in additional budget estimates in February where Senator Wong asked the Department of Foreign Affairs and Trade to confirm the position, that there is nothing in the agreement which modifies in any way our rights in relation to antidumping and/or countervailing duties and in which the answer provided was: "That is right."

However the Department of Foreign Affairs had months earlier conceded in a written response to Senator Carr in Supplementary Estimates that there had indeed been discussion of a chapter on Trade Remedies in the agreement's negotiations.

Our unions acknowledge that due to the secretive nature in which trade agreements are conducted we may never know the content of those discussions-but if there is an accusation that elements of these bill in relation to subsidies were a condition of China signing a trade agreement with Australia, it would not be the first time that this Government was accused of agreeing to a secret side deal in order to secure a trade agreement with a trading partner- which like these proposed amendments might, would have the effect of decimating thousands of Australian manufacturing jobs.

Two other matters to flag on this topic:

As we state in our submission on page 33; on the 15th of December 2014, after the Chinese Free Trade deal was apparently struck, in the Government's announcement of its Anti-Dumping policy there appeared to be a moderation on its election commitment about strengthening enforcement with it simply stating:

"The Government will take a stronger stance in WTO forums on the transparency of foreign subsidies, which will assist in ensuring that Australian producers and exporters are able to compete fairly."

In regards to this commitment perhaps, Senator Wong tabled a question following additional Senate estimates to DFAT regarding whether the transparency of foreign subsidies is a matter of concern to the Government and asking what action the Government has taken, including in WTO fora, to address this issue.

Given our interest in what the Government is doing (or not doing in this area), our unions have been awaiting the response to this answer and were hoping that it might be provided for the consideration of the committee inquiring into this Bill.

However, despite answers to questions on notice been due for the Committee on the 17th of April, there has been no publication of any answer from the Department on this issue as of today.

It is hoped this policy commitment, in addition to the amendment in this Bill to clarify the circumstances in which the Minister does not have to consider the lesser duty rule is not the sum total of the Coalition's election policy with regard to strengthening enforcement to prevent unfair subsidies injuring Australian industry.

Senator Carr tabled a question in the economics committee to the department of industry about the same topic asking:

Where it says “The Government will take a stronger stance in World Trade Organization forums on the transparency of foreign subsidies, which will assist in ensuring that Australian producers and exporters are able to compete fairly” – Is this the extent of the Government’s plans in implementing its election commitment, which was to “Strengthen enforcement of the provisions of the WTO Agreement on Subsidies and Countervailing Measures”?

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The Department stated:

This reform is part of a broader suite of Anti-Dumping measures aimed at assisting Australian businesses to compete on a level playing field. The Australian Government is committed to ensuring Australia is represented at international fora, including participation in World Trade Organization dispute resolution processes, to advance Australia’s interests.

This answer provides little comfort for our unions.

We are now pleased to take questions...from the committee.

Travis Wacey