

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

Question No. 71

Senator Xenophon asked the following question at the hearing on 8 February 2010:

Regarding the initial ACBPS investigation: *REP 138 – Toilet Paper Exported from the People’s Republic of China and the Republic of Indonesia:*

- a. Who made submissions?
- b. Were the business interests of the authors of the submissions taken into account in ACBPS’s assessment of whether or not dumping had caused material injury?
- c. How was this weighted against ACBPS’s independent assessment of the impact these imported toilet paper products were having on the Australian industry?
- d. Were/are the majority of the parties which made submissions in both reviews subsidiaries of the Indonesian company ‘Sinar Mas’ (an Indonesian paper company) or ABC (an Australian industry member)?
- e. Was this taken into account in ACBPS’s assessment?

The answer to the honourable senator’s question is as follows:

a. Who made submissions?

In the original investigation, 21 submissions in response to the initiation notice and statement of essential facts were received. Submissions were received from 19 parties including:

- Kimberly-Clark Australia Pty Limited;
- SCA Hygiene Australasia Pty Ltd;
- The Government of the People’s Republic of China;
- Ministry of Trade, Government of Indonesia;
- Woolworths Limited;
- Paper Force (Oceania) Pty Ltd;
- Gold Hong Ye Paper (Suzhou Industrial Park) Ltd;
- PT Pindo Deli Pulp & Paper Mills;
- Coles Supermarkets Australia Pty Ltd;
- Mr John Sheppard;
- Dr Richard Whitwell;
- Encore Tissue (Aust) Pty Ltd;
- Vinda Paper (Jiangmen) Co., Ltd;
- Vinda Paper Industrial (HK) Co., Ltd;
- Campbell’s Janitor Supplies Pty Ltd trading as “Rapidclean Perth”;
- John S. Hayes and Associates Pty. Limited;
- Midstate Pty Ltd;
- Pro-Clean Cleaning Supplies; and
- Whereabout Supply.

b. Were the business interests of the authors of the submissions taken into account in ACBPS's assessment of whether or not dumping had caused material injury?

“Business interests” could be referring to arms length, contractual relationships between entities or common/shared ownership.

None of the statutory tests expressly require the business interests of interested parties to be taken into account. However, the business interests of a submitter are a relevant factor in assessing the probative value of the submission received, as interested parties will generally be seeking to advance or protect those interests. Customs and Border Protection takes this into account in assessing the probative value of submissions and any evidence provided by interested parties in considering the statutory tests that it has to apply.

In this case, consistent with usual practice, the business interests of authors were taken into consideration in assessing the probative value of submissions received in determining whether dumping caused material injury to the Australian industry.

c. How was this weighted against ACBPS's independent assessment of the impact these imported toilet paper products were having on the Australian industry?

In determining the probative value of any submission from an interested party, Customs and Border Protection considers the extent to which it is consistent with, or, corroborated by, objective information available to Customs and Border Protection including the detailed financial records collected from interested parties and import data.

d. Were/are the majority of the parties which made submissions in both reviews subsidiaries of the Indonesian company 'Sinar Mas' (an Indonesian paper company) or ABC Tissue Products Pty Ltd (an Australian industry member)?

No. As previously advised, submissions of interested parties could be made in the original investigation and/or to the Trade Measures Review Officer. Submissions could not be made to, or considered in, the reinvestigation.

Customs and Border Protection understands that Sinarmas (Sinamars/Sinar Mas) has many subsidiaries including the Asia Pulp & Paper Group (APP Group). As stated in Trade Measures Report No. 138 for the original investigation, the APP Group of companies included:

- PT Pindo Deli Pulp and Paper Mills (Pindo Deli) from Indonesia; and
- Gold Hong Ye Paper (Suzhou Industrial Park) Co Ltd (GHY) from China.

Of the 19 submitters to the original investigation, two that were subsidiaries of Sinarmas (i.e. Pindo Deli and GHY) made submissions to the original investigation. Of the seven submitters to the review, two that were subsidiaries of Sinarmas (Pindo Deli and GHY) made submissions to the Review Officer.

Based on the information available to Customs and Border Protection, no parties which made submissions to the original investigation and to the Review Officer appear to be subsidiaries of ABC Tissue Products Pty Ltd.

e. Was this taken into account in ACBPS's assessment?

As noted in the response to question (c), in assessing the probative value of any submission from an interested party, Customs and Border Protection considers the extent to which it is consistent with, or, corroborated by, objective information available to Customs and Border Protection. Submissions made by related parties are similarly assessed.