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Mr Karl Brennan
Manager
Anti-dumping Policy Section
Department of Industry, Innovation and Science

via email: anti-dumping@industry.gov.au

Dear Mr Brennan

Anti-Dumping System Policy Consultation

Australian Pork Limited (APL) welcomes the opportunity to provide comments to the Department of Industry, Innovation and Science on proposed changes to Australia's anti-dumping system.

APL is the national representative body for Australian pork producers. APL is a producer-owned not-for-profit company combining marketing, export development, research and innovation and policy development to assist in securing a profitable and sustainable future for the Australian pork industry.

The Australian pork industry supports more than 35,000 jobs in Australia and contributes approximately \$5.2 billion in gross domestic product to the Australian economy. The pork industry comprises approximately 2.13% of total Australian farm production with roughly 1500 pig producers producing around 5 million pigs annually.

The Australian pork industry does not benefit from producer subsidies or domestic tariff barriers, despite pork production being heavily subsidised and protected by tariff and non-tariff barriers globally.

Access to Trade Remedy Measures

Australia's pork market is open to foreign competition, and has been for some time. Cheap imported pork now makes up the large majority – around 70 percent - of bacon and ham sold in Australia, and 45 percent of all pork consumed in Australia. The Australian pork industry, along with seafood and some horticultural products, is one of the few agricultural commodities to face such significant competition in the domestic market.

The principle sources of imported pork products, the United States of America and the European Union, are – not coincidentally – the world's leading agricultural subsidisers, as measured by the OECD's Producer Support Estimate (PSE).

When major issues arise in the U.S. and EU traditional markets, e.g. the closure of the Russian pork market, these countries look to other markets to dispose of their own pork oversupply. This may occur in addition to domestic measures, such as establishing a pork bank as the EU did in response to the Russian market closure. Australia is an attractive export destination given that pork prices have been the highest in the world, albeit declining significantly in 2017.

On three occasions over the last twenty years since Australia first liberalised its pork trade, imported, subsidised products from the USA, Canada, and EU have contributed to significant price declines and damage to domestic industry. And yet, it has been near impossible for the Australian pork industry to access trade remedy measures to provide relief from the purported dumped product.

The cost of gathering information required to launch an anti-dumping investigation is too high – financially and in terms of the legal expertise.

For example, APL expended \$200,000 in only the initial phase of information gathering in a proposed 2006 anti-dumping action against subsidised Canadian imports, before abandoning the effort.

To date, Australian pork producers, most of which are SMEs, have not benefited from Anti-Dumping or Countervailing measures, despite facing unfair competition from overseas producers.

Broader Issues in the Customs Act

In addition to the prohibitive costs and legal requirements associated with anti-dumping applications, Australia's current anti-dumping legislation does not favour primary production.

Sections 269T(4A) & (4B) of the *Customs Act 1901* (Cth) are designed to allow producers of raw agricultural products to be considered part of an Australian industry producing like goods where the like goods are processed 'substantially or completely' from the relevant raw agricultural goods.

The pig carcasses generated by Australian pig farmers are used to produce a range of specific cuts and processed foods. It is unfeasible that a carcass can be 'substantially or completely' devoted – as per the wording in the Customs Act - to producing a single processed product.

But Australia does not import carcasses – only certain cuts or processed pork. If, for example, pork middles were imported into Australia at dumped prices which consequently caused injury to Australian pork producers, those pork producers would not be considered part of the relevant Australian industry under the current system. This is because the carcasses they produce are not devoted 'substantially or completely' to the production of the pork middles.

The meanings of the words, 'substantially', 'close relationship' and 'significant part' are weaknesses in the Customs Act and impair industry attempts to substantiate injury to an industry.

The anti-dumping regimes administered by other pig producing nations are less restrictive, and have been used successfully to defend producers against dumped product. For example, the US has applied a number of anti-dumping measures against Canadian pig and pork imports, one in 1984, a second in 1989 and again in 2005. In contrast, Australian producers were unable to access relief from subsidised Canadian product in 2006, due to the prohibitively high costs and structural deficiencies of our anti-dumping system.

Some aspects of the U.S. countervailing and anti-dumping system make it easier to initiate investigations. For example, the U.S. has broader product definitions, allowing their investigations, in turn, to be broader.

The administration of **Australia's anti-dumping and countervailing investigations should be benchmarked to competitors' practice.** This would eliminate inequities between Australia's investigation processes and that of our major pork competitors.

Conclusion

APL is a strong supporter of free and fair trade, and of the WTO system. We encourage the Department of Industry, Innovation and Science to provide better access for Australian agricultural industries, and SMEs in particular, to WTO-consistent remedy measures that address the real and damaging practice of dumping subsidised product in Australia.

Should you have any questions about this submission, please do not hesitate to contact Andrew Robertson on 02 62708888 or via email andrew.robertson@australianpork.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Deb Kerr', written in a cursive style.

DEBORAH KERR
General Manager, Policy