

**Gross & Becroft**  
**L A W Y E R S**  
**International Trade • Customs • Commercial Law**

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Our Ref: RB:3006

Your Ref:

26 March 2012

Mr Geoff Gleeson  
Director - International Trade Measures Branch  
Australian Customs & Border Protection Service  
Customs House  
5 Constitution Ave  
CANBERRA ACT 2601

Dear Mr Gleeson,

**Re: Statement of Essential Facts: Trade Measures Enquiry No 176 – Structural Timber Exported from Austria, Canada, the Czech Republic, Estonia, Germany, Lithuania, Sweden and the USA**

We confirm we act for Ilim Timber HWN Holz Werke Nord GmbH ('Ilim Timber').

Our client has received the Statement of Essential Facts ('SEF') dated 13 March 2012 and wishes to put forward the following points in response to the SEF.

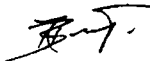
1. Our client fully agrees with the preliminary finding of Customs that there is no dumping that is causing material injury to the Australian industry and accordingly, no basis to impose any anti-dumping duties.
2. Pursuant to s269TDA(1) of the *Customs Act 1901* the investigation should now be terminated.
3. Our client strongly disagrees with the finding that Ilim Timber is exporting products to Australia with a dumping margin of 15.7 percent. Our client maintains that it is not dumping and notes that of the various exporters investigated across 8 countries, it has been the only exporter subject to this finding.
4. Ilim Timber has filed submissions on 7 February 2012, 22 February 2012 and 8 March 2012 regarding the deficiencies in the approach of Customs to determining a constructed normal value. Despite these submissions, Customs has not altered the dumping margin calculation referred to in the Ilim Timber Visit Report.

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5. Our client has provided detailed information in the abovementioned submissions that would give Customs a proper basis to recalculate the constructed normal value by reducing the artificial cost to make and sell and reducing the artificial profit margin arrived at by Customs. Further, as previously advised, some of this information was simply not available to be provided to Customs at the verification visit in late November 2011. In addition, our client was extremely frustrated by the verification process and its dealings with Customs in finalising the Visit Report.
6. Our client requests that Customs review its current position regarding the cost to make and sell values and also requests that Customs reach a final position with regards to the artificial profit margin calculation.
7. We refer to page 31 of the SEF where Customs states:  
  
*"Customs and Border Protection has been unable to fully consider Ilim Timber's submission on an appropriate profit level in the time available and will do so in the process of considering submissions to the SEF."*
8. Given the efforts made by our client to date to present information and make submissions on these issues, it is only fair and reasonable for Customs to decide on a more appropriate profit margin for our client's exports.
9. For completeness, we refer to the fact that Customs (see page 29 of the SEF), have not included a profit margin at all in the case of Egger, being the other German exporter that was investigated. The same or similar treatment should have been given to Ilim Timber.

We look forward to these issues being properly resolved prior to the finalisation of the report to the Minister or earlier termination by the CEO of Customs.

Yours faithfully  
**GROSS & BECROFT**



**Dr. Ross Becroft**  
Principal