

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

ADP/1/Add.18/Suppl.1
SCM/1/Add.18/Suppl.1
22 April 1983

Special Distribution

Committee on Anti-Dumping Practices

Original: English

Committee on Subsidies and
Countervailing Measures

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Australia

Supplement

The Australian Permanent Mission has transmitted to the secretariat the following texts:

1. Customs Tariff (Anti-Dumping) Amendment Act 1982
2. Customs Tariff (Anti-Dumping) Amendment Act (No. 2) 1982
3. Customs Tariff (Anti-Dumping) Amendment (Countervailing Duties) Act 1982
4. Customs Securities (Anti-Dumping) Amendment Act 1982

Customs Tariff (Anti-Dumping) Amendment Act 1982

No. 114 of 1982

**An Act to amend the *Customs Tariff (Anti-Dumping) Act 1975*
consequent upon the enactment of the *Customs Tariff Act 1982*
and for related purposes**

[Assented to 22 November 1982]

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1.** (1) This Act may be cited as the *Customs Tariff (Anti-Dumping)*
Amendment Act 1982.

 (2) The *Customs Tariff (Anti-Dumping) Act 1975*¹ is in this Act referred
to as the Principal Act.

Commencement

10 **2.** This Act shall come into operation on the day on which the *Customs*
Tariff Act 1982 comes into operation.

Dumping duties

3. Section 8 of the Principal Act is amended—

- (a) by omitting sub-paragraph (7) (c) (i) and substituting the following sub-paragraph:

“(i) the tariff classification in Schedule 3 to the *Customs Tariff Act* 1982 that applies to the goods, or, where the goods are goods to which section 27 of that Act applies, the item in Part I of Schedule 4 to that Act that applies to the goods is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law; and ”; and 5 10

- (b) by omitting sub-paragraph (7) (d) (i) and substituting the following sub-paragraph:

“(i) the tariff classification in Schedule 3 to that Act that applies to the goods is such that no duty is payable in respect of the goods or the duty payable in respect of the goods is at a rate equivalent to a rate payable under Part I of Schedule 4 on the goods; and”. 15

Countervailing duties

4. Section 10 of the Principal Act is amended—

- (a) by omitting sub-paragraph (8) (b) (i) and substituting the following sub-paragraph: 20

“(i) the tariff classification in Schedule 3 to the *Customs Tariff Act* 1982 that applies to the goods, or, where the goods are goods to which section 27 of that Act applies, the item in Part I of Schedule 4 to that Act that applies to the goods is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law; and ”; and 25

- (b) by omitting sub-paragraph (8) (c) (i) and substituting the following sub-paragraph:

“(i) the tariff classification in Schedule 3 to that Act that applies to the goods is such that no duty is payable in respect of the goods or the duty payable in respect of the goods is at a rate equivalent to a rate payable under Part I of Schedule 4 on the goods; and”. 30

Saving

5. Notwithstanding the amendments of the Principal Act made by this Act, any notices under sub-section 8 (7) or 10 (8) of the Principal Act that were in force immediately before the commencement of this Act continue in force but section 20 of the Principal Act as amended and in force from time to time applies in relation to those notices. 35 40

NOTE

1. No. 76, 1975. For previous amendments, see No. 66, 1981 and No. 53, 1982.

Customs Tariff (Anti-Dumping) Amendment Act (No. 2) 1982

No. 136 of 1982

**An Act to repeal section 14 of the *Customs Tariff
(Anti-Dumping) Act 1975*, and for related purposes**

[Assented to 23 December 1982]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1.** (1) This Act may be cited as the *Customs Tariff (Anti-Dumping) Amendment Act (No. 2) 1982*.

 (2) The *Customs Tariff (Anti-Dumping) Act 1975*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2.** This Act shall be deemed to have come into operation on 24 November 1982.

Notices not to be published if inconsistent with international obligations

3. Section 14 of the Principal Act is repealed.

Consequential amendments

4. The Principal Act is amended as set out in the Schedule.

SCHEDULE			Section 4
Provision Amended	Omit—	Substitute—	
Sub-section 8 (1)	sections 13 and 14	section 13	
Sub-section 8 (2)	Subject to section 14, where	Where	
Sub-section 9 (1)	sections 13 and 14	section 13	
Sub-section 9 (2)	Subject to section 14, where	Where	
Sub-section 10 (1)	sections 13 and 14	section 13	
Sub-section 10 (2)	Subject to section 14, where	Where	
Sub-section 10 (2B)	Notwithstanding section 14, where	Where	
Sub-section 10 (2C)	Notwithstanding section 14, where	Where	
Sub-section 10 (2D)	Notwithstanding section 14, where	Where	
Sub-section 11 (1)	sections 13 and 14	section 13	
Sub-section 11 (2)	Subject to section 14, where	Where	

NOTE

1. No. 76, 1975, as amended. For previous amendments, see No. 66, 1981; and Nos. 53, 68 and 114, 1982.

Customs Tariff (Anti-Dumping) Amendment (Countervailing Duties) Act 1982

No. 68 of 1982

**An Act to amend the *Customs Tariff (Anti-Dumping) Act 1975*
in relation to countervailing duties**

[Assented to 24 August 1982]

[Date of commencement 21 September 1982]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 1. (1) This Act may be cited as the *Customs Tariff (Anti-Dumping) Amendment (Countervailing Duties) Act 1982*.

 (2) The *Customs Tariff (Anti-Dumping) Act 1975*¹ is in this Act referred to as the Principal Act.

Countervailing duties

2. Section 10 of the Principal Act is amended—

10 (a) by inserting after sub-section (2A) the following sub-sections:

“(2B) Notwithstanding section 14, where the Minister is satisfied that—

- (a) under the law of a country other than Australia there are imposed on goods of a particular kind that are exported from Australia to that country special duties of customs in the nature of countervailing duties; 5
- (b) those duties are imposed because it is alleged that there is paid or granted, directly or indirectly, upon the production, manufacture, carriage or export of goods of that kind a subsidy, bounty, reduction or remission of freight or other financial assistance; and 10
- (c) those duties are imposed without regard to, or without proper regard to, whether or not material injury to an industry in that country has been or is being caused or is threatened, or the establishment of an industry in that country has been or may be materially hindered, by reason of the payment or grant of that subsidy, bounty, reduction or remission of freight or other financial assistance, 15

the Minister may, by notice published in the *Gazette*, declare that this section applies to goods specified in the notice— 20

- (d) that are exported from that country to Australia after the date of publication of the notice or, if a later date is specified in the notice, that later date; and
- (e) upon the production, manufacture, carriage or export of which there is paid or granted, directly or indirectly, a subsidy, bounty, reduction or remission of freight or other financial assistance. 25

“(2C) Notwithstanding section 14, where the Minister is satisfied that—

- (a) under the law of a country other than Australia there are imposed on goods of a particular kind that are exported from Australia to that country special duties of customs in the nature of countervailing duties; 30
- (b) those duties are imposed because it is alleged that—
 - (i) prescribed assistance is paid or granted, directly or indirectly, in relation to goods of that kind that are exported from Australia to that country; and 35
 - (ii) material injury to an industry in that country has been or is being caused or is threatened, or the establishment of an industry in that country has been or may be materially hindered, by reason of the payment or grant of that prescribed assistance; and 40
- (c) prescribed assistance of the same kind as, or a substantially similar kind to, the prescribed assistance by reason of which the duties referred to in paragraph (a) were imposed has been paid

5 or granted in relation to goods exported from that country to Australia and material injury to an Australian industry has been or is being caused or is threatened, or the establishment of an Australian industry has been or may be materially hindered, by reason of the payment or grant of that prescribed assistance, the Minister may, by notice published in the *Gazette*, declare that this section applies to goods specified in the notice, being goods of a kind mentioned in paragraph (c)—

- 10 (d) that are exported from that country to Australia after the date of publication of the notice or, if a later date is specified in the notice, that later date; and
- 15 (e) in relation to which there is paid or granted prescribed assistance of a kind specified in the notice, being prescribed assistance of the same kind as, or a substantially similar kind to, the prescribed assistance by reason of which the duties referred to in paragraph (a) were imposed.

“(2D) Notwithstanding section 14, where the Minister is satisfied that—

- 20 (a) under the law of a country other than Australia there are imposed on goods of a particular kind that are exported from Australia to that country special duties of customs in the nature of countervailing duties;
- 25 (b) those duties are imposed because it is alleged that prescribed assistance is paid or granted, directly or indirectly, in relation to goods of that kind that are exported from Australia to that country; and
- 30 (c) those duties are imposed without regard to, or without proper regard to, whether or not material injury to an industry in that country has been or is being caused or is threatened, or the establishment of an industry in that country has been or may be materially hindered, by reason of the payment or grant of that prescribed assistance,

the Minister may, by notice published in the *Gazette*, declare that this section applies to goods specified in the notice—

- 35 (d) that are exported from that country to Australia after the date of publication of the notice or, if a later date is specified in the notice, that later date; and
- 40 (e) in relation to which there is paid or granted prescribed assistance of a kind specified in the notice, being prescribed assistance of the same kind as, or a substantially similar kind to, the prescribed assistance by reason of which the duties referred to in paragraph (a) were imposed.

45 “(2E) A reference in this section to prescribed assistance in relation to goods is a reference to any assistance, incentive, exemption, privilege or benefit (whether financial or otherwise) in relation to goods other

than the payment or grant of a subsidy, bounty, reduction or remission of freight or other financial assistance on the production, manufacture, carriage or export of the goods.”;

- (b) by omitting sub-section (4) and substituting the following sub-section: 5
- “(4) Subject to sub-section (5), the countervailing duty in respect of goods is—
- (a) in the case of countervailing duty in respect of goods to which this section applies by virtue of sub-section (1), (2) or (2B)—a sum equal to the amount of the subsidy, bounty, reduction or remission of freight or other financial assistance that has been paid or granted, directly or indirectly, upon the production, manufacture, carriage or export of the goods; or 10
- (b) in the case of countervailing duty in respect of goods to which this section applies by virtue of sub-section (2C) or (2D), a sum equal to— 15
- (i) if the prescribed assistance that has been paid or granted, directly or indirectly, in relation to the goods was financial assistance—the amount of that financial assistance; or
- (ii) if the prescribed assistance that has been granted, directly or indirectly, in relation to the goods was not financial assistance, whichever of the following is determined by the Minister to be appropriate: 20
- (A) the cost of granting that assistance;
- (B) the value of that assistance to the person to whom it was granted.”; 25
- (c) by inserting in sub-section (7) “in a case to which paragraph (4) (a) applies” after “satisfied”; and
- (d) by inserting after sub-section (7) the following sub-section: 30
- “(7A) If the Minister is satisfied in a case to which paragraph (4) (b) applies that adequate information as to the amount, cost or value of the prescribed assistance in relation to goods cannot be obtained, the amount, cost or value of that prescribed assistance shall, for the purpose of this section, be such as is determined, in writing, by the Minister.”. 35

Notices not to be published if inconsistent with international obligations

3. Section 14 of the Principal Act is amended by inserting “other than sub-section 10 (2B), (2C) or (2D)” after “Act”.

NOTE

1. No. 76, 1975, as amended. For previous amendments, see No. 66, 1981.

Customs Securities (Anti-Dumping) Amendment Act 1982

No. 137 of 1982

An Act to amend the *Customs Act 1901* and the *Administrative Decisions (Judicial Review) Act 1977* in relation to certain Customs securities, and for related purposes

[Assented to 23 December 1982]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Customs Securities (Anti-Dumping) Amendment Act 1982*.

Commencement

2. This Act shall be deemed to have come into operation on 24 November 1982.

10 PART II—AMENDMENT OF THE CUSTOMS ACT 1901

Principal Act

3. The *Customs Act 1901*¹ is in this Part referred to as the Principal Act.

Right to require security

4. (1) Section 42 of the Principal Act is amended by inserting after sub-section (1A) the following sub-section:

“(1B) The right of the Customs under sub-section (1) to require and take a security includes the right to require and take securities in respect of any duty that may be payable on goods under the *Customs Tariff (Anti-Dumping) Act 1975*.”. 5

(2) The amendment of the Principal Act made by sub-section (1) shall not be taken to imply that, before the commencement of this Act, the right of the Customs under sub-section 42 (1) of the Principal Act to require and take a security did not include the right to require and take securities in respect of any duty that may be payable on goods under the *Customs Tariff (Anti-Dumping) Act 1975*. 10

**PART III—AMENDMENT OF THE ADMINISTRATIVE
DECISIONS (JUDICIAL REVIEW) ACT 1977** 15

Principal Act

5. The *Administrative Decisions (Judicial Review) Act 1977*² is in this Part referred to as the Principal Act.

Schedule 1

6. (1) Schedule 1 to the Principal Act is amended by adding at the end thereof the following paragraph: 20

“(p) decisions under section 42 of the *Customs Act 1901* to require and take securities in respect of duty that may be payable under the *Customs Tariff (Anti-Dumping) Act 1975*.”.

(2) The amendment made by sub-section (1) applies only in relation to decisions made after the commencement of this Act. 25

NOTES

1. No. 6, 1901, as amended. For previous amendments, see No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914; No. 10, 1916; No. 41, 1920; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133, 1965; No. 28, 1966; No. 54, 1967; Nos. 14 and 104, 1968; Nos. 12 and 134, 1971; No. 162, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 28 and 120, 1974; Nos. 56, 77 and 107, 1975; Nos. 41, 91 and 174, 1976; No. 154, 1977; Nos. 36 and 183, 1978; Nos. 92, 116, 177 and 180, 1979; Nos. 13, 15 and 110, 1980; Nos. 45, 64 (as amended by No. 51, 1982) and 67, 1981; and Nos. 48, 51 and 81, 1982.
2. No. 59, 1977, as amended. For previous amendments, see No. 66, 1978; No. 111, 1980; and No. 140, 1982.