

WORLD TRADE ORGANIZATION

G/ADP/N/1/AUS/2/Suppl.1
G/SCM/N/1/AUS/2/Suppl.1
16 August 1999
(99-3448)

Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures

Original: English

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

AUSTRALIA

Supplement

The following communication, dated 10 August 1999, has been received from the Permanent Mission of Australia.

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Customs Tariff (Anti-Dumping) Amendment Act (No. 1) 1999

No. 27, 1999

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An Act to amend the *Customs Tariff (Anti-Dumping) Act 1975*, and for related purposes

[Assented to 14 May 1999]

The Parliament of Australia enacts:

1. Short title

This Act may be cited as the *Customs Tariff (Anti-Dumping) Amendment Act (No. 1) 1999*.

2. Commencement

- (1) Subject to subsection (2), this Act is taken to have commenced on 1 January 1993.
- (2) Items 2, 4, 6, 7 and 9 of Schedule 1 commence on the day on which this Act receives the Royal Assent.

3. Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Customs Tariff (Anti-Dumping) Act 1975

1. Subsection 8(2)

Repeal the subsection, substitute:

- (2) There is imposed, and there must be collected and paid, on goods:
 - (a) to which this section applies by virtue of a notice under subsection 269TG(1) or (2) of the Customs Act; and
 - (b) in relation to which the amount of the export price is less than the amount of the normal value;
a special duty of Customs, to be known as dumping duty, calculated in accordance with subsection (6).

2. Subsection 8(5A)

After “269TG(1) or (2)”, insert “of the Customs Act”.

3. Subsection 9(2)

Repeal the subsection, substitute:

- (2) There is imposed, and there must be collected and paid, on goods:
 - (a) to which this section applies by virtue of a notice under subsection 269TH(1) or (2) of the Customs Act; and
 - (b) in relation to which the amount of the export price is less than the amount of the normal value;
a special duty of Customs, to be known as third country dumping duty, calculated in accordance with subsection (6).

4. Subsection 9(5A)

After “269TH(1) or (2)”, insert “of the Customs Act”.

5. Subsection 10(1)

Repeal the subsection, substitute:

- (1) There is imposed, and there must be collected and paid, on goods:
 - (a) to which this section applies by virtue of a notice under subsection 269TJ(1), (2), (4), (5) or (6) of the Customs Act; and
 - (b) if the goods are goods to which this section applies by virtue of a notice under subsection 269TJ(1) or (2)—in relation to which a countervailable subsidy is received;
a special duty of Customs, to be known as countervailing duty.

6. Subsection 10(3)

After “on goods”, insert “the”.

7. Subsection 10(3B)

After “269TJ(1) or (2)”, insert “of the Customs Act”.

8. Subsection 11(1)

Repeal the subsection, substitute:

- (1) There is imposed, and there must be collected and paid, on goods:
- (a) to which this section applies by virtue of a notice under subsection 269TK(1) or (2) of the Customs Act; and
 - (b) in relation to which a countervailable subsidy is received;

a special duty of Customs, to be known as third country countervailing duty, calculated in accordance with subsection (7).

9. Subsection 11(4)

After “269TK(1) or (2)”, insert “of the Customs Act”.

10. Saving provisions

- (1) Any dumping duty imposed, and any dumping duty or interim dumping duty collected, as a result of a notice given by the Minister under subsection 269TG(1) or (2) or 269TH(1) or (2) of the *Customs Act 1901* (the ***Customs Act***) on or after 1 January 1993 is taken, for all purposes, to have been so imposed or collected in accordance with the *Customs Tariff (Anti-Dumping) Act 1975* as amended by this Act.
- (2) Any countervailing duty imposed, and any countervailing duty or interim countervailing duty collected, as a result of a notice given by the Minister under subsection 269TJ(1) or (2) or 269TK(1) or (2) of the Customs Act on or after 1 January 1993 is taken, for all purposes, to have been imposed or collected in accordance with the provisions of the *Customs Tariff (Anti-Dumping) Act 1975* as amended by this Act.
- (3) In this item:

dumping duty and ***countervailing duty*** have the same meanings as in Part XVB of the Customs Act.

Customs (Anti-Dumping Amendments) Act 1999

No. 26, 1999

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An Act to amend the *Customs Act 1901*, and for related purposes

[Assented to 14 May 1999]

The Parliament of Australia enacts:

1. Short title

This Act may be cited as the *Customs (Anti-Dumping Amendments) Act 1999*.

2. Commencement

- (1) Subject to subsections (2), (3), (4) and (5), the provisions of this Act commence on the day on which it receives the Royal Assent.
- (2) Subject to subsection (5), items 1, 2 and 3 of Schedule 1 commence on a day to be fixed by Proclamation.
- (3) Items 4, 6, 8, 10, 12, 14, 16 and 18 of Schedule 1 are taken to have commenced on 1 January 1993.
- (4) Items 5, 7, 9, 11, 13, 15, 17 and 19 of Schedule 1 are taken to have commenced on 24 July 1998, immediately after the commencement of the items (other than item 39) of Schedule 1 to the *Customs Legislation (Anti-dumping Amendments) Act 1998*.
- (5) If the items referred to in subsection (2) do not commence within 6 months after the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

3. Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Customs Act 1901

1. After subsection 269TAC(5C)

Insert:

- (5D) If goods are exported to Australia and the Minister is satisfied that:
- (a) in the past the Government of the country of export had a monopoly, or a substantial monopoly, of the trade of that country and determined, or substantially influenced, the domestic price of goods in that country; and
 - (b) the circumstance described in paragraph (a) no longer applies in relation to the country of export; and
 - (c) a price control situation applies, within the meaning of subsection (5E), in relation to like goods to those first-mentioned goods;
- the normal value of those first-mentioned goods is such amount as is determined by the Minister having regard to all relevant information.
- (5E) A price control situation applies in relation to the domestic selling price of like goods to the goods first referred to in subsection (5D):
- (a) if the exporter of the goods so referred to sells like goods in the country of export and the domestic selling price of those like goods is controlled, or substantially controlled, by a government (at whatever level) of that country; or
 - (b) if the exporter does not sell like goods in the country of export but there are other sellers in that country of like goods and the domestic selling price of like goods sold by some or all of those other sellers is so controlled or substantially so controlled.
- (5F) Without limiting the generality of subsection (5D), for the purpose of working out, under that subsection, the amount that is to be the normal value of goods exported to Australia, the Minister may determine that amount in a manner that would be open to the Minister under paragraph (4)(c), (d), (e) or (f) if subsection (4) were applicable.
- (5G) If goods (*exported goods*) are exported to Australia and the Minister is satisfied that:
- (a) in the past the government of the country of export had a monopoly, or a substantial monopoly, of the trade of that country and determined, or substantially influenced, the domestic price of goods in that country; and
 - (b) the circumstance described in paragraph (a) no longer applies in relation to that country; and
 - (c) subsection (5D) does not apply in relation to the exported goods; and
 - (d) a particular raw material used in producing or manufacturing the exported goods was, in whole or in part, supplied directly to the producer or manufacturer by an enterprise that is wholly owned by the national government, or by a provincial government, of that country; and
 - (e) the cost actually incurred by the producer or manufacturer in procuring the raw material so supplied exceeds 10% of the costs actually incurred by the producer or manufacturer in producing or manufacturing the exported goods;
- the normal value of the exported goods for the purposes of this Part is the sum of:
- (f) an amount determined by the Minister, having regard to all relevant information, to be the value of the raw material so supplied, irrespective of the cost actually incurred by the producer or manufacturer in procuring the raw material so supplied; and

- (g) the amount of the cost actually incurred by the producer or manufacturer in producing or manufacturing the exported goods, other than the cost actually incurred by the producer or manufacturer in procuring the raw material so supplied; and
 - (h) on the assumption that the exported goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—an amount determined by the Minister to be the sum of the administrative, selling and general costs associated with the sale of the exported goods and of the profit on that sale.
- (5H) Without limiting the generality of paragraph (5G)(f), the Minister may determine the amount that is to be the value of a raw material under that paragraph in accordance with whichever of the following paragraphs the Minister, having regard to what is appropriate and reasonable in the circumstances of the case, determines to be appropriate, as if the raw material were goods exported from the country of export referred to in paragraph (5G)(a):
- (a) an amount equal to the price determined by the Minister to be the price of like goods to the raw material produced or manufactured in a country determined by the Minister and sold for home consumption in the ordinary course of trade in that country, being sales that are arms length transactions;
 - (b) an amount equal to the price determined by the Minister to be the price of like goods to the raw material produced or manufactured in a country determined by the Minister and sold in the ordinary course of trade in arms length transactions for exportation from that country to a third country determined by the Minister to be an appropriate third country;
 - (c) an amount equal to the sum of the following amounts ascertained in respect of like goods to the raw material produced or manufactured in a country determined by the Minister and sold for home consumption in the ordinary course of trade in that country:
 - (i) such amount as the Minister determines to be the cost of production or manufacture of like goods to the raw material in that country;
 - (ii) such amounts as the Minister determines to be the administrative, selling and general costs associated with the sale of like goods to the raw material in that country and the profit on that sale;
 - (d) an amount equal to the price payable for like goods to the raw material produced or manufactured in Australia and sold for home consumption in the ordinary course of trade in Australia, being sales that are arms length transactions.
- (5J) For the purposes of fulfilling Australia's international obligations under an international agreement, regulations may be made to disapply subsection (5D) or (5G) to a country.

2. Subsection 269TAC(6)

After “preceding subsections”, insert “(other than subsection (5D))”.

3. After subsection 269TAC(7)

Insert:

- (7A) The application of subsection (5D) or (5G) to goods that are exported to Australia from a particular country does not preclude the application of other provisions of this section (other than subsections (4) and (5)) to other goods that are exported to Australia from that country.

4. Subsection 269TG(1)

Omit all the words after paragraph (b), substitute:

the Minister may, by public notice, declare that section 8 of that Act applies:

- (c) to the goods in respect of which the Minister is so satisfied; and
- (d) to like goods that were exported to Australia after the CEO made a preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection in respect of the goods referred to in paragraph (c) but before the publication of that notice.

5. Paragraph 269TG(1)(d)

Omit “preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection”, substitute “preliminary affirmative determination under section 269TD”.

6. Subsection 269TG(2)

Omit all the words after “Anti-Dumping Act”, substitute “applies to like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice”.

7. Subsection 269TG(2)

Omit “Anti-Dumping Act”, substitute “Dumping Duty Act”.

8. Subsection 269TH(1)

Omit all the words after paragraph (b), substitute:

the Minister, if requested by the Government of the third country to do so, may, by public notice, declare that section 9 of that Act applies:

- (c) to the goods in respect of which the Minister is so satisfied; and
- (d) to like goods that were exported to Australia after the CEO made a preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection in respect of the goods referred to in paragraph (c) but before the publication of that notice.

9. Paragraph 269TH(1)(d)

Omit “preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection”, substitute “preliminary affirmative determination under section 269TD”.

10. Subsection 269TH(2)

Omit all the words after “Anti-Dumping Act”, substitute “applies to like goods so produced or manufactured that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice”.

11. Subsection 269TH(2)

Omit “Anti-Dumping Act”, substitute “Dumping Duty Act”.

12. Subsection 269TJ(1)

Omit all the words after paragraph (b), substitute:

the Minister may, by public notice, declare that section 10 of that Act applies:

- (c) to the goods in respect of which the Minister is so satisfied; and
- (d) to like goods that were exported to Australia after the CEO made a preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection in respect of the goods referred to in paragraph (c) but before the publication of that notice.

13. Paragraph 269TJ(1)(d)

Omit “preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection”, substitute “preliminary affirmative determination under section 269TD”.

14. Subsection 269TJ(2)

Omit all the words after “Anti-Dumping Act”, substitute “applies to like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice”.

15. Subsection 269TJ(2)

Omit “Anti-Dumping Act”, substitute “Dumping Duty Act”.

16. Subsection 269TK(1)

Omit all the words after paragraph (b), substitute:

the Minister, if requested by the Government of the third country to do so, may, by public notice, declare that section 11 of that Act applies:

- (c) to the goods in respect of which the Minister is so satisfied; and
- (d) to like goods that were exported to Australia after the CEO made a preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection in respect of the goods referred to in paragraph (c) but before the publication of that notice.

17. Paragraph 269TK(1)(d)

Omit “preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection”, substitute “preliminary affirmative determination under section 269TD”.

18. Subsection 269TK(2)

Omit all the words after “Anti-Dumping Act”, substitute “applies to like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice”.

19. Subsection 269TK(2)

Omit “Anti-Dumping Act”, substitute “Dumping Duty Act”.

20. Application provisions

- (1) Despite the amendments of the *Customs Act 1901* (the ***Customs Act***) made by items 1, 2 and 3 of this Schedule, the Customs Act, as in force immediately before the day on which those items commence, continues to apply in relation to applications under subsection 269TB(1) or (2) of that Act that were made before that day as though those amendments had not been made.
- (2) Any notice given by the Minister under subsection 269TG(1) or (2), 269TH(1) or (2), 269TJ(1) or (2) or 269TK(1) or (2) of the Customs Act on or after 1 January 1993 is taken to have effect, and at all times on or after 1 January 1993 to have had effect, as if it had been given under that subsection as amended and in force from time to time.

Customs Amendment Regulations 1999 (No. 2)

Statutory Rules 1999 No. 131

made under the

Customs Act 1901

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations under the Customs Act 1901

Dated 29 June 1999

WILLIAM DEANE
Governor-General

By His Excellency's Command,

AMANDA VANSTONE
Minister for Justice and Customs

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1. Name of regulations

These regulations are the *Customs Amendment Regulations 1999 (No. 2)*.

2. Commencement

These regulations commence on the commencement of item 1 of Schedule 1 to the *Customs (Anti-Dumping Amendments) Act 1999*.

3. Amendment of Customs Regulations 1926

Schedule 1 amends the *Customs Regulations 1926*.

Schedule 1 Amendments
(regulation 3)

[1] After regulation 181

insert

182 Countries to which subsections 269TAC (5D) and (5G) of the Act do not apply

For subsection 269TAC (5J) of the Act, subsections 269TAC (5D) and (5G) of the Act do not apply to a country mentioned in Schedule 1B.

[2] After Schedule 1A

insert

Schedule 1B Countries to which subsections 269TAC (5D) and (5G) of the Act do not apply
(regulation 182)

Angola	Côte d'Ivoire
Antigua and Barbuda	Cuba
Argentina	Cyprus
Austria	Czech Republic
Bahrain	Democratic People's Republic of Korea
Bangladesh	Democratic Republic of the Congo
Barbados	Denmark
Belgium	Djibouti
Belize	Dominica
Benin	Dominican Republic
Bolivia	Ecuador
Botswana	Egypt
Brazil	El Salvador
Brunei Darussalam	Fiji
Bulgaria	Finland
Burkina Faso	France
Burundi	Gabon
Cameroon	Gambia
Canada	Germany
Central African Republic	Ghana
Chad	Greece
Chile	Grenada
Colombia	Guatemala
Congo	Guinea
Costa Rica	Guinea Bissau

Guyana	Pakistan
Haiti	Panama
Honduras	Papua New Guinea
Hong Kong Special Administrative Region of China	Paraguay
Hungary	Peru
Iceland	Philippines
India	Poland
Indonesia	Portugal
Ireland	Qatar
Israel	Republic of Korea
Italy	Romania
Jamaica	Rwanda
Japan	Saint Kitts and Nevis
Kenya	Saint Lucia
Kuwait	Saint Vincent and the Grenadines
Kyrgyzstan	Senegal
Latvia	Sierra Leone
Lesotho	Singapore
Liechtenstein	Slovakia
Luxembourg	Slovenia
Macau	Solomon Islands
Madagascar	South Africa
Malawi	Spain
Malaysia	Sri Lanka
Maldives	Suriname
Mali	Swaziland
Malta	Sweden
Mauritania	Switzerland
Mauritius	Thailand
Mexico	Togo
Mongolia	Trinidad and Tobago
Morocco	Tunisia
Mozambique	Turkey
Myanmar	Uganda
Namibia	United Arab Emirates
Netherlands	United Kingdom of Great Britain and Northern Ireland
Netherlands Antilles	United Republic of Tanzania
New Zealand	United States of America
Nicaragua	Uruguay
Niger	Venezuela
Nigeria	Zambia
Norway	Zimbabwe

NOTES

1. These regulations amend Statutory Rules 1926 No. 203, as amended by 1927 Nos. 17, 95 and 121; 1928 Nos. 47, 57, 74 and 95; 1929 Nos. 25, 56 and 127; 1930 Nos. 91, 138 and 140; 1931 Nos. 16, 42 and 90; 1932 No. 90; 1933 Nos. 21, 105, 106 and 129; 1934 Nos. 109 and 127; 1935 Nos. 1, 41, 69 and 113; 1936 Nos. 49 and 163; 1938 No. 111; 1939 No. 157; 1940 Nos. 203 and 256; 1946 Nos. 127 and 161; 1947 Nos. 29, 83, 94 and 152; 1948 No. 156; 1949 Nos. 34, 78, 95 and 111; 1950 No. 17; 1951 Nos. 34, 38, 71, 99, 106, 109 and 159; 1952 No. 96; 1953 No. 102; 1954 No. 21; 1955 Nos. 15, 32 and 66; 1956 Nos. 71, 83, 91 and 127; 1957 Nos. 57 and 76; 1958 No. 86; 1959 No. 106; 1960 Nos. 29 and 70; 1961 Nos. 60 and 144; 1962 Nos. 102 and 103; 1963 No. 149; 1964 No. 141; 1965 Nos. 86, 121 and 194; 1966 Nos. 15 and 173; 1967; Nos. 9 and 179; 1968 No. 68; 1969 Nos. 69, 77, 133, 152 and 186; 1970 Nos. 104, 113 and 170; 1971 Nos. 9, 59 and 170; 1972 No. 96; 1973 Nos. 155, 251, 257 and 268; 1974 Nos. 29 and 112; 1976 Nos. 261 and 262; 1977 Nos. 68, 137 and 188; 1978 Nos. 32, 147, 180 and 195; 1979 Nos. 181, 275 and 277; 1980 Nos. 109, 255, 372 and 377; 1981 Nos. 162, 265 and 382; 1982 Nos. 140, 255, 311, 335 and 404 and Act No. 108, 1982; Statutory Rules 1983 Nos. 92, 93, 327, 328, 329 and 330 and Act No. 101, 1983; Statutory Rules 1984 Nos. 13, 18, 137, 319 and 462; 1985 Nos. 12, 71, 76, 126, 306 and 308; 1986 Nos. 77, 91, 94, 144, 174, 175, 176, 215, 248, 361, 363, 367 and 368; 1987 Nos. 72, 102, 103, 124, 140, 162, 244, 297 and 316; 1988 Nos. 111, 179, 207, 260 and 270; 1989 Nos. 100, 101, 159, 160, 161, 162, 163, 243, 260 and 409; 1990 Nos. 6, 8, 123, 147, 148, 189, 217, 220, 222, 248, 274 and 450; 1991 Nos. 30, 109, 129, 139, 140, 228, 290, 316 and 384; 1992 Nos. 72, 175, 277 (as amended by 1992 No. 326), 328, 343, 344, 447 and 464; 1993 Nos. 66, 158 and 339; 1994 Nos. 53, 82, 183, 311, 312, 351, 366, 367, 391 and 435; 1995 Nos. 99, 136, 244, 313, 321, 352, 423 and 424; 1996 Nos. 42, 43, 134, 326 and 327; 1997 Nos. 52, 70, 79, 89, 128, 131, 255, 284, 378, 379 and 422; 1998 Nos. 38, 101, 212, 229, 276 and 278; 1999 No. 35.
 2. Made by the Governor-General on 29 June 1999, and notified in the *Commonwealth of Australia Gazette* on 30 June 1999.
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