

CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975

No. 76 of 1975

An Act relating to certain Special Duties of Customs.

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

- Short title. 1. This Act may be cited as the *Customs Tariff (Anti-Dumping) Act* 1975.¹
- Commence-
ment. 2. This Act shall come into operation on the day on which it receives the Royal Assent.¹
- Repeal and
saving. 3. (1) The following Acts are repealed:—
Customs Tariff (Dumping and Subsidies) Act 1961
Customs Tariff (Dumping and Subsidies) Act 1965.
- (2) Subject to sub-section (3), where, immediately before the date of commencement of this Act, a special duty was payable on any goods under the *Customs Tariff (Dumping and Subsidies) Act* 1961 in consequence of the publication by the Minister of a notice in the *Gazette* specifying those goods, the special duty continues to be payable on those goods, and may be charged and collected, in accordance with that Act on and after that date notwithstanding the repeal of the Acts specified in sub-section (1).
- (3) The Minister may, by notice published in the *Gazette*, revoke a notice referred to in sub-section (2), and, upon the revocation of the notice, the special duty on goods specified in the notice ceases to be payable, and shall not be charged or collected, on goods entered for home consumption on or after the date of revocation.
- (4) The reference in sub-section (2) to the *Customs Tariff (Dumping and Subsidies) Act* 1961 shall be read as including a reference to that Act as amended and in force from time to time.
- Interpret-
ation. 4. (1) In this Act, unless the contrary intention appears—
“export price”, in relation to goods exported to Australia, means—
(a) where the goods have been so exported otherwise than by the importer and have been purchased by the importer (whether before or after exportation) and the purchase is an arms length transaction—the price paid or payable for the goods by the importer, other than any

part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation;

- (b) where the goods have been so exported otherwise than by the importer and have been purchased by the importer (whether before or after exportation) and the purchase is not an arms length transaction, but the goods, in the condition in which they were exported, have been purchased from the importer by another person and the purchase by that other person is an arms length transaction—the price paid or payable for the goods by that person less—
 - (i) duties of Customs and sales tax paid or payable on the goods;
 - (ii) all costs, charges and expenses arising in relation to the goods after exportation; and
 - (iii) the profit, if any, on the sale to that person or, where the Minister so directs, the amount calculated in accordance with such rate as the Minister, having regard to all the circumstances of the sale, specifies, in writing, as the rate that, for the purposes of this Act, is to be regarded as the rate of profit on the sale; or
- (c) in any other case—the price that the Minister, having regard to all the circumstances of the exportation, specifies, in writing, would have been payable for the goods by an importer if they had been purchased by him and the purchase had been an arms length transaction;

“importer”, in relation to goods exported to Australia, means the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they are landed.

(2) For the purposes of this Act, a purchase or sale of goods shall not be treated as an arms length transaction if—

- (a) there is any consideration payable for or in respect of the goods other than their price;
- (b) the price is influenced by a commercial or other relationship between the buyer, or a business associate of the buyer, and the seller, or a business associate of the seller; or
- (c) the buyer, or a business associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

(3) For the purposes of sub-section (2), but without limiting the generality of that sub-section, two persons shall be deemed to be business associates if, directly or indirectly—

- (a) one has an interest in the business or property of the other;
- (b) both have an interest in the same business or property; or
- (c) another person has an interest in the business or property of each of them.

(4) A reference in this Act to the amount of the export price of goods, to the amount of the normal value of goods, to the amount of the subsidy, bounty, reduction or remission of freight or other financial assistance in relation to goods or to the amount of freight shall, where that amount is not expressed in Australian currency, be read as a reference to the equivalent amount in Australian currency.

Normal
value of
goods.

5. (1) Subject to this section, for the purposes of this Act, the normal value of any goods exported to Australia is the price paid for like goods sold for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

(2) Subject to this section, where, by reason of the absence of sales of like goods or otherwise, the normal value of any goods exported to Australia cannot be ascertained under sub-section (1), the normal value of the goods, for the purposes of this Act, is—

- (a) except where paragraph (b) applies, the sum of—
 - (i) the cost of production or manufacture of the goods in the country of export;
 - (ii) delivery charges in the country of export in relation to the goods;
 - (iii) other costs that would necessarily be incurred in selling the goods; and
 - (iv) such additional amount calculated in accordance with such rate as the Minister, having regard to all the circumstances of the sale, specifies, in writing, as the rate that, for the purposes of this Act, is to be regarded as the rate of profit on the sale; or
- (b) where the Minister so directs, the highest price paid for like goods sold in the ordinary course of trade in the country of export for export to a third country.

(3) Subject to sub-sections (4) and (5), where the Minister is satisfied that it is inappropriate to ascertain the normal value of goods exported to Australia in accordance with the preceding sub-sections by reason that the government of the country of export—

- (a) has a monopoly, or substantial monopoly, of the trade of the country; or
- (b) determines or substantially influences the domestic price of goods in that country,

the normal value of the goods for the purposes of this Act is the price of like goods produced or manufactured, and sold in the ordinary course of trade, in another country specified by the Minister, being a country in which, in the opinion of the Minister, the costs of production or manufacture are similar to those in the country of export.

(4) Where the Minister is satisfied that sufficient information has not been furnished or is not available to enable the normal value of goods to be ascertained under the preceding sub-sections, the normal value of those goods shall be such amount as is determined by the Minister having regard to all relevant information.

(5) Where the normal value of goods exported to Australia is the price paid for like goods and that price and the export price of the goods exported—

- (a) relate to sales occurring at different times;
- (b) are not in respect of identical goods; or
- (c) are modified in different ways by taxes or the terms or circumstances of the sales to which they relate,

that price paid for like goods is to be taken to be that price paid adjusted in accordance with directions by the Minister so that those differences would not affect its comparison with that export price.

(6) For the purposes of this section, where, during the exportation of goods to Australia, the goods pass in transit from a country through another country, that other country shall be disregarded in ascertaining the country of export of the goods.

(7) Where—

- (a) the actual country of export of goods exported to Australia is not the country of origin of the goods; and
- (b) the Minister is of the opinion that the normal value of the goods should be ascertained for the purposes of this Act as if the country of export were the country of origin,

he may direct that the normal value of the goods shall be so ascertained.

(8) For the purposes of sub-section (7), the country of origin of goods is—

- (a) in the case of unmanufactured raw products—the country of which they are products; or
- (b) in any other case—the country in which the last significant process in the manufacture or production of the goods was performed.

6. The *Customs Act 1901-1974* (in this Act referred to as the *Customs Act*) is incorporated and shall be read as one with this Act. Incorporation.

Imposition
of duties of
Customs.

7. Duties of Customs are imposed in accordance with this Act.

Dumping
duties.

8. (1) Subject to sections 13 and 14, where the Minister is satisfied, as to any goods that have been exported to Australia, that—

(a) the amount of the export price of the goods is less than the amount of the normal value of those goods; and

(b) by reason thereof—

(i) material injury to an Australian industry has been or is being caused; or

(ii) in a case where security has been taken under section 42 of the Customs Act in respect of any duty that may become payable on the goods under this section—material injury to an Australian industry would or might have been caused if the security had not been taken,

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

(2) Subject to section 14, where the Minister is satisfied, as to goods of any kind, that—

(a) the amount of the export price of goods of that kind that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of goods of that kind that may be exported to Australia in the future may be less than the normal value of the goods; and

(b) by reason thereof, 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,

the Minister may, by notice published in the *Gazette* (whether or not he has made, or proposes to make, a declaration under sub-section (1) in respect of goods of that kind that have been exported to Australia), declare that this section applies to goods of that kind—

(c) that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice; and

(d) the amount of the export price of which is less than the amount of their normal value.

(3) There shall be charged, collected and paid on goods to which this section applies a special duty of Customs, to be known as dumping duty.

(4) Subject to sub-section (5), the dumping duty in respect of goods is a sum equal to the amount by which the amount of the export price of the goods is less than the amount of the normal value of the goods.

(5) The Minister may, by notice published in the *Gazette*, direct that the dumping duty in respect of goods is an amount to be ascertained by reference to the value, or to the weight or other measure of quantity, of

the goods less the amount, if any, by which that amount exceeds the dumping duty that would be payable in respect of the goods under sub-section (4), and the notice has effect accordingly.

(6) A notice under sub-section (5) applies to goods entered for home consumption after a date specified in the notice, which may be a date earlier than the date of publication of the notice but shall not be a date on or before a date on which an earlier notice under that sub-section applied to the goods.

(7) The Minister may, by notice in writing, exempt goods from dumping duty if he is satisfied—

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;
- (b) that the difference between the amount of the export price of the goods and the amount of the normal value of the goods does not exceed 10 per centum of the amount of the normal value and that the exemption would not cause injury to an Australian industry;
- (c) that—
 - (i) the tariff classification in Part II of Schedule 1 to the *Customs Tariff* 1965-1974 that applies to the goods, or, where the goods are goods to which section 33A of that Act applies, the item in Schedule 2 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
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available;
- (d) that—
 - (i) the tariff classification in Part II of Schedule 1 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 Schedule 2 on the goods; and
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available; or
- (e) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

(8) Where the Minister exempts goods from the dumping duty under sub-section (7) by reason of his being satisfied as to a matter specified in paragraph (7) (a), (b), (c) or (d), the instrument of exemption shall be published in the *Gazette*.

Third
country
dumping
duties.

9. (1) Subject to sections 13 and 14, where the Minister is satisfied, as to any goods produced or manufactured in a particular country that have been exported to Australia, that—

- (a) the amount of the export price of the goods is less than the amount of the normal value of the goods; and
- (b) by reason thereof—
 - (i) material injury to a producer or manufacturer in a third country has been or is being caused; or
 - (ii) in a case where security has been taken under section 42 of the Customs Act in respect of any duty that may become payable on the goods under this section—material injury to a producer or manufacturer in a third country would or might have been caused if the security had not been taken,

the Minister, if requested by the Government of the third country so to do, may, by notice published in the *Gazette*, declare that this section applies to those goods.

(2) Subject to section 14, where the Minister is satisfied, as to goods of any kind produced or manufactured in a particular country that—

- (a) the amount of the export price of goods of that kind so produced or manufactured that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of goods of that kind so produced or manufactured that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) by reason thereof, injury to a producer or manufacturer in a third country has been or is being caused or is threatened,

the Minister, if requested by the Government of the third country so to do, may, by notice published in the *Gazette* (whether or not he has made, or proposes to make, a declaration under sub-section (1) in respect of goods of that kind so manufactured or produced that have been exported to Australia), declare that this section applies to goods of that kind so produced or manufactured—

- (c) that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice; and
- (d) the amount of the export price of which is less than the amount of their normal value.

(3) There shall be charged, collected and paid on goods to which this section applies a special duty of Customs, to be known as third country dumping duty.

(4) Subject to sub-section (5), the third party dumping duty in respect of goods is a sum equal to the amount by which the amount of the export price of the goods is less than the amount of the normal value of the goods.

(5) The Minister may, by notice published in the *Gazette*, direct that the third country dumping duty in respect of goods is an amount to be ascertained by reference to the value, or to the weight or other measure of quantity, of the goods less the amount, if any, by which that amount exceeds the third country dumping duty that would be payable in respect of the goods under sub-section (4), and the notice has effect accordingly.

(6) A notice under sub-section (5) applies to goods entered for home consumption after a date specified in the notice, which may be a date earlier than the date of publication of the notice but shall not be a date on or before a date on which an earlier notice under that sub-section applied to the goods.

(7) The Minister may, by writing under his hand, exempt goods from third country dumping duty if he is satisfied—

- (a) that like or directly competitive goods are not offered or sold in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;
- (b) that the difference between the amount of the export price of the goods and the amount of the normal value of the goods does not exceed 10 per centum of the amount of the normal value and that the exemption would not cause injury to the trade in the Australian market of producers or manufacturers in the third country; or
- (c) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

(8) Where the Minister exempts goods from the third country dumping duty under sub-section (7) by reason of his being satisfied as to a matter specified under paragraph (7) (a) or (b), the instrument of exemption shall be published in the *Gazette*.

10. (1) Subject to sections 13 and 14, where the Minister is satisfied, as to any goods that have been exported to Australia, that—

- (a) there has been paid or granted, directly or indirectly, upon the production, manufacture, carriage or export of those goods a subsidy, bounty, reduction or remission of freight or other financial assistance; and
- (b) by reason thereof—
 - (i) material injury to an Australian industry has been or is being caused; or
 - (ii) in a case where security has been taken under section 42 of the Customs Act in respect of any duty that may become payable on the goods under this section—material injury to an Australian industry would or might have been caused if the security had not been taken,

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

Counter-
vailing
duties.

(2) Subject to section 14, where the Minister is satisfied, as to goods of any kind that—

- (a) there has been paid or granted, directly or indirectly upon the production, manufacture, carriage or export of goods of that kind that have already been exported to Australia, and there may be paid or granted, directly or indirectly, upon the production, manufacture, carriage or export of goods of that kind that may be exported to Australia in the future, a subsidy, bounty, reduction or remission of freight or other financial assistance; and
- (b) by reason thereof, material injury to an Australian industry has been or is being caused or is being threatened, or the establishment of an Australian industry has been or may be materially hindered,

the Minister may, by notice published in the *Gazette* (whether or not he has made, or proposes to make, a declaration under sub-section (1) in respect of goods of that kind that have been exported to Australia), declare that this section applies to goods of that kind—

- (c) that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice; and
- (d) on the production, manufacture, carriage or export of which a subsidy, bounty, reduction or remission of freight or other financial assistance is paid or granted.

(3) There shall be charged, collected and paid on goods to which this section applies a special duty of Customs, to be known as countervailing duty.

(4) Subject to sub-section (5), the countervailing duty in respect of goods is 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.

(5) The Minister may, by notice published in the *Gazette*, direct that the countervailing duty in respect of goods is an amount to be ascertained by reference to the value, or to the weight or other measure of quantity, of the goods less the amount, if any, by which that amount exceeds the countervailing duty that would be payable in respect of the goods under sub-section (4), and the notice has effect accordingly.

(6) A notice under sub-section (5) applies to goods entered for home consumption after a date specified in the notice, which may be a date earlier than the date of publication of the notice but shall not be a date on or before a date on which an earlier notice under that sub-section applied to the goods.

(7) If the Minister is satisfied that adequate information as to the amount of subsidy, bounty, reduction or remission of freight or other financial assistance in relation to goods cannot be obtained, the amount

of subsidy, bounty, reduction or remission of freight or other financial assistance shall, for the purpose of this section, be such as is determined, in writing, by the Minister.

(8) The Minister may, by notice in writing, exempt goods from countervailing duty if he is satisfied—

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;
- (b) that—
 - (i) the tariff classification in Part II of Schedule 1 to the *Customs Tariff* 1965-1974 that applies to the goods, or, where the goods are goods to which section 33A of that Act applies, the item in Schedule 2 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
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available;
- (c) that—
 - (i) the tariff classification in Part II of Schedule 1 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 Schedule 2 on the goods; and
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available; or
- (d) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

(9) Where the Minister exempts goods from countervailing duty under sub-section (8) by reason of his being satisfied as to a matter specified in paragraphs (8) (a), (b) and (c), the instrument of exemption shall be published in the *Gazette*.

(10) For the purposes of this section, the benefit accruing to an exporter from the use of dual or multiple rates of exchange in relation to the proceeds of export sales shall be deemed to be financial assistance paid to him.

11. (1) Subject to sections 13 and 14, where the Minister is satisfied, as to any goods produced or manufactured in a particular country that have been exported to Australia, that—

Third
country
countervail-
ing duties.

- (a) there has been paid or granted, directly or indirectly, upon the production, manufacture, carriage or export of those goods a subsidy, bounty, reduction or remission of freight or other financial assistance; and

- (b) by reason thereof—
- (i) material injury to a producer or manufacturer in a third country has been or is being caused; or
 - (ii) in a case where security has been taken under section 42 of the Customs Act in respect of any duty that may become payable on the goods under this section—material injury to a producer or manufacturer in a third country would or might have been caused if the security had not been taken,

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

(2) Subject to section 14, where the Minister is satisfied, as to goods of any kind produced or manufactured in a particular country that—

- (a) there has been paid or granted, directly or indirectly, upon the production, manufacture, carriage or export of goods of that kind that have already been exported to Australia, and there may be paid or granted directly or indirectly, upon the production, manufacture, carriage or export of goods of that kind that may be exported to Australia in the future, a subsidy, bounty, reduction or remission of freight or other financial assistance; and
- (b) by reason thereof injury to a producer or manufacturer in a third country has been or is being caused or is being threatened,

the Minister may, by notice published in the *Gazette* (whether or not he has made, or makes, a declaration under sub-section (1) in respect of goods of that kind that have been exported to Australia), declare that this section applies to goods of that kind—

- (c) that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice; and
- (d) on the production, manufacture, carriage or export of which a subsidy, bounty, reduction or remission of freight or other financial assistance is paid or granted.

(3) There shall be charged, collected and paid on goods to which this section applies a special duty of Customs, to be known as the third country countervailing duty.

(4) Subject to sub-section (5), the third country countervailing duty in respect of goods is 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.

(5) The Minister may, by notice published in the *Gazette*, direct that the third country countervailing duty in respect of goods is an amount to be ascertained by reference to the value, or to the weight or other measure of quantity, of the goods less the amount, if any, by which that

amount exceeds the third country countervailing duty that would be payable in respect of the goods under sub-section (4), and the notice has effect accordingly.

(6) A notice under sub-section (5) applies to goods entered for home consumption after a date specified in the notice, which may be a date earlier than the date of publication of the notice but shall not be a date on or before a date on which an earlier notice under that sub-section applied to the goods.

(7) If the Minister is satisfied that adequate information as to the amount of subsidy, bounty, reduction or remission of freight or other financial assistance in relation to goods cannot be obtained, the amount of subsidy, bounty, reduction or remission of freight or other financial assistance shall, for the purpose of this section, be such as is determined, in writing, by the Minister.

(8) The Minister may, by writing under his hand, exempt goods from third country countervailing duty if he is satisfied—

- (a) that like or directly competitive goods are not offered or sold in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade; or
- (b) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

(9) Where the Minister exempts goods from third country countervailing duty under sub-section (8) by reason of his being satisfied as to a matter specified under paragraph (8) (a), the instrument of exemption shall be published in the *Gazette*.

(10) For the purposes of this section, the benefit accruing to an exporter from the use of dual or multiple rates of exchange in relation to the proceeds of export sales shall be deemed to be financial assistance paid to him.

12. (1) Where the Minister is satisfied that, by reason of any circumstances, including the granting of rebates, refunds or other allowances, goods exported to Australia have been carried from the country of export to Australia freight free, or the amount of freight paid or payable in respect of the carriage of the goods is less than the normal freight in relation to the goods—

Freight less than normal freight.

- (a) the Minister shall be deemed, for the purposes of section 10, or section 11, to be satisfied that a reduction of freight has been granted upon the carriage of the goods; and
- (b) where a special duty of Customs imposed by section 10 or section 11 is chargeable (whether by virtue of this section or otherwise) on goods as to which the Minister is so satisfied, the Minister shall be deemed, for the purposes of sub-section 10 (7), or sub-section 11 (7), to be satisfied that the amount of the

reduction of freight that has been granted upon the carriage of the goods is an amount equal to—

- (i) in the case of goods carried freight free—the amount of the normal freight in relation to the goods; and
- (ii) in the case of other goods—the amount by which the normal freight in relation to the goods exceeds the amount or the net amount of the freight paid or payable in respect of the carriage of the goods.

(2) In this section, “normal freight”, in relation to goods exported to Australia, means the amount of freight that would have been payable in respect of the carriage of the goods from the country of export to Australia if the rate of freight applicable to that carriage were a rate determined by the Minister to be the appropriate rate in respect of that carriage having regard to the ruling rates of freight (if any), at the date of exportation of the goods, in respect of the carriage of similar goods by sea, or if similar goods are regularly carried by aircraft, by aircraft, and to any other matter that the Minister considers relevant.

Retro-
spective
notices.

13. (1) Subject to this section, the Minister shall not cause a notice to be published under sub-section 8 (1), 9 (1), 10 (1) or 11 (1) in respect of goods that have been entered for home consumption.

(2) Sub-section (1) does not prevent the publication of a notice under sub-section 8 (1), 9 (1), 10 (1) or 11 (1) in respect of goods that have been entered for home consumption in relation to which security has been taken under section 42 of the Customs Act in respect of any duty that might become payable under section 8, 9, 10 or 11 of this Act, as the case may be (not being security that has been cancelled) by reason of the publication of such a notice or in relation to which the Customs had the right to require and take such security (not being security that would have been cancelled in accordance with the Customs Act if it had been taken).

(3) Sub-section (1) does not prevent the publication of a notice under sub-section 8 (1) in respect of goods that have been entered for home consumption to which, by virtue of sub-section (4) of this section, this sub-section applies, if—

- (a) within 90 days after the entry of the goods for home consumption, security has been taken under section 42 of the Customs Act in respect of any duty that might be payable on goods of the same kind under section 8 of this Act or, within that period, the Customs had the right to require and take such security; and
- (b) material injury has been caused to an Australian industry by the export to Australia during a short period of large quantities of goods of the same kind, being injury arising by reason of the amount of the export price of the goods exported being less than the amount of the normal value of the goods exported, and the

Minister considers that the publication of the notice is necessary to prevent the recurrence of the injury.

- (4) Sub-section (3) applies to goods—
- (a) that have been imported into Australia by an importer who knew, or ought to have known, that the amount of the export price of the goods was less than the normal value of the goods and that by reason thereof material injury would be caused to an Australian industry; or
- (b) that are goods of a kind the exportation of which to Australia on a number of occasions has caused, or but for the publication of a notice under section 8 in respect of goods of that kind, would have caused material injury to an Australian industry by reason of the amount of the export price of the goods exported being less than the normal value of the goods exported.

14. The Minister shall not cause a notice to be published under any provision of this Act unless he is satisfied that the publication of the notice is not inconsistent with the obligations of Australia under any international agreement relating to tariffs or trade.

Notices not to be published if inconsistent with international obligations.

15. (1) The Minister may refer to the Industries Assistance Commission (in this section referred to as “the Commission”) for inquiry and report a question as to the existence of any fact, or facts, as to the existence of which he is required to be satisfied before causing a notice to be published under sub-section 8 (1), 8 (2), 9 (1), 9 (2), 10 (1), 10 (2), 11 (1), 11 (2) or 20 (1).

Reference to Industries Assistance Commission of matters relating to anti-dumping duties.

(2) Where—

- (a) a person engaged in, or concerned in the establishment of, an Australian industry requests the Minister to cause a notice to be published under sub-section 8 (1), 8 (2), 10 (1) or 10 (2) in relation to goods of a kind with which persons engaged in that industry are concerned; and
- (b) the Minister informs the person, in writing, that he does not propose to accede to the request,

the person may, not later than 30 days after being so informed, request the Minister, in writing, to refer to the Commission for inquiry and report the question as to the existence of a fact, or facts, specified in the request, being a fact or facts as to the existence of which the Minister is required to be satisfied before causing the notice to be published.

(3) Where a person who is engaged, or is concerned in the establishment of, an Australian industry or who is engaged, or proposes to engage, in the business of importing into Australia goods of a particular kind, requests the Minister to revoke a notice in force under sub-section 8 (1), 8 (2), 9 (1), 9 (2), 10 (1), 10 (2), 11 (1) or 11 (2), being a notice relating to goods of a kind with which persons engaged in that industry

are concerned or relating to goods of the kind imported, or proposed to be imported, by the person, as the case may be, the person may request the Minister, in writing, to refer to the Commission for inquiry and report the question as to the existence of a fact, or facts, specified in the request, being a fact or facts as to the existence of which, if the notice were not in force, the Minister would be required to be satisfied before causing the notice to be published.

(4) Where the Minister receives a request under sub-section (2) or (3) to refer a question to the Commission for inquiry and report, he shall, unless that question has been referred to the Commission for inquiry and report within the period of 2 years immediately preceding the request, refer the question to the Commission for inquiry and report.

(5) Where the Minister refers a question to the Commission under this section, that question shall, for the purposes of the *Industries Assistance Commission Act 1973*, be deemed to have been referred to the Commission in accordance with that Act by the Minister administering that Act.

Duties to be charged separately.

16. The several duties imposed by this Act shall be separately charged, notwithstanding that more than one duty applies to any particular goods.

Ascertainment of equivalent amount in Australian currency.

17. (1) For the purposes of sections 8, 9, 10, 11 and 12 and any other purpose of this Act, the equivalent amount in Australian currency of an amount in a currency other than Australian currency shall be ascertained in accordance with a fair rate of exchange at the appropriate date.

(2) For the purpose of this section, the Minister may, where he considers it desirable so to do for the avoidance of doubt, specify, by notice published in the *Gazette*, a means of ascertaining a rate that is to be deemed to be, or to have been, a fair rate of exchange in relation to a currency—

- (a) on a date, or during a period, preceding the date of publication of the notice; or
- (b) from and including the date of publication of the notice, or an earlier date specified in the notice, until the revocation of the notice.

(3) The rate of exchange ascertained in relation to a currency in pursuance of sub-section (2) shall, for the purpose of calculating the amount of duty payable on any goods exported on the date or during the period to which the rate so specified applies, be the rate of exchange that shall be applied for the purpose of sub-section (1) in respect of the currency specified in the notice.

Power to specify goods.

18. A notice under sub-section 8 (2), 9 (2), 10 (2) or 11 (2) in respect of a kind of goods, may, without limiting the generality of those provisions be expressed to apply to—

- (a) goods of that kind exported from a particular country; or
- (b) goods of that kind exported by a particular exporter.

19. (1) The Minister may, by writing under his hand, delegate to a person, either generally or otherwise all or any of his powers and functions under this Act except his powers under sub-sections 8 (1), 8 (2), 8 (5), 9 (1), 9 (2), 9 (5), 10 (1), 10 (2), 10 (5), 11 (1), 11 (2) and 11 (5) and under section 15. Delegation.

(2) A delegate of the Minister is, in the exercise of his powers and the performance of his functions under this Act, other than in his being satisfied, or having an opinion, as to any matter, subject to the directions of the Minister.

20. (1) The Minister may, by notice published in the *Gazette*, revoke a notice published in pursuance of this Act and shall do so if he is satisfied that, if the notice were not in force, he would not be authorized by this Act to cause the notice to be published. Revocation of notices.

(2) A notice of revocation under sub-section (1) has effect from a date specified in the notice, which, except in the case of the revocation of a notice that directed the manner of ascertaining the amount of a special duty of Customs imposed by this Act, may be a date earlier than the date of publication of the notice of revocation in the *Gazette*.

(3) Upon the revocation of a notice that declared that a section of this Act applies to goods, the special duty on the goods ceases to be payable, and shall not be charged or collected on goods entered for home consumption on or after the date of effect of the notice of revocation.

21. The special duties of Customs payable under this Act are in addition to such other duties of Customs (if any) as are payable under any other Act. Special duties to be additional to ordinary duties.

NOTE

1. Act No. 76, 1975; assented to 20 June 1975.