



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

**No. 68 of 1982**

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## **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.**

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*<sup>1</sup> is in this Act referred to as the Principal Act.

### **Countervailing duties**

2. Section 10 of the Principal Act is amended—

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

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“(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;
- (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
- (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,

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

- (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.

“(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;
- (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
  - (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
- (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

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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)—

- (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) 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—

- (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;
- (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
- (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—

- (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) 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.

“(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

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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:
- “(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
  - (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—
    - (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:
      - (A) the cost of granting that assistance;
      - (B) the value of that assistance to the person to whom it was granted.”;
- (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:
- “(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.”.

**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”.

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**NOTE**

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