

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 7 December 1983

(Minister Assisting the Minister for Industry and Commerce)

A BILL

FOR

An Act to amend the *Customs Act 1901* and the *Industries Assistance Commission Act 1973* in relation to duties of customs under the *Customs Tariff (Anti-Dumping) Act 1975*

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 Tariff (Anti-Dumping) Miscellaneous Amendments Act 1983*.

Commencement

- 2.** This Act shall come into operation on the day on which it receives the Royal Assent.

PART II—AMENDMENTS OF THE CUSTOMS ACT 1901

Principal Act

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

Interpretation

4. Section 154 of the Principal Act is amended by omitting from sub-paragraph (4) (a) (ii) “each” and substituting “one of them”. 5

Powers of officers for purposes of section 164

5. Section 214A of the Principal Act is amended by omitting from sub-section (3) “\$500” and substituting “\$1,000”.

6. After section 214A of the Principal Act the following section is inserted: 10

Powers of officers for purposes of the *Customs Tariff (Anti-Dumping) Act 1975*

“214B. (1) For the purposes of the *Customs Tariff (Anti-Dumping) Act 1975* an authorized officer may, at all reasonable times, enter premises where there are kept any accounts, books or other records relating to goods exported to Australia or manufactured or produced, or sold, in Australia and may inspect any such accounts, books, documents or other records and make and retain copies of, or take and retain extracts from, any such accounts, books, documents or other records. 15

“(2) Where an authorized officer proposes to enter any premises under sub-section (1), he shall, if requested to do so by the occupier or person in charge of the premises, produce for inspection written evidence of the fact that he is an authorized officer and, if he fails to do so, he is not authorized to enter the premises. 20

“(3) The occupier or person in charge of premises referred to in sub-section (1) shall provide the authorized officer with all reasonable facilities and assistance for the effective exercise of his powers under sub-section (1). 25

Penalty: \$1,000.

“(4) An authorized officer may, by notice signed by him, require a person whom he believes to be capable of giving information that is relevant to the operation of the *Customs Tariff (Anti-Dumping) Act 1975* and relates to goods exported to Australia or manufactured or produced, or sold, in Australia to attend before him at the time and place specified in the notice and there to answer questions and produce to him such accounts, books, documents or other records in relation to goods exported to Australia or manufactured or produced, or sold, in Australia as are referred to in the notice. 30 35

“(5) An authorized officer may make and retain copies of, or take and retain extracts from, any accounts, books, documents or other records produced in pursuance of sub-section (4).

5 “(6) A person is not excused from answering a question or producing any accounts, books, documents or other records when required to do so under sub-section (4) on the grounds that the answer to the question, or the production of the accounts, books, documents or other records, might tend to incriminate him or make him liable to a penalty, but his answer to any such question or the production by him of any such accounts, books, documents or other records is not admissible in evidence against him in proceedings other than proceedings for an offence against this section or proceedings in respect of the falsity of any such answer.

10 “(7) An authorized officer may examine, on oath or affirmation, a person attending before him in pursuance of sub-section (4) and, for that purpose, may administer an oath or affirmation to that person.

15 “(8) The oath or affirmation to be made by a person for the purposes of sub-section (7) is an oath or affirmation that the answers he will give to questions asked him will be true.

“(9) A person shall not, without reasonable excuse, refuse or fail—

(a) to attend before an authorized officer;

(b) to make an oath or an affirmation; or

20 (c) to answer a question or produce an account, book, document or other record,

when so required in pursuance of this section.

Penalty: \$1,000.

25 “(10) In this section, ‘authorized officer’ means a Collector or an officer appointed by a Collector to be an authorized officer for the purposes of this section.”.

7. After Part XVA of the Principal Act the following Part is inserted:

**“PART XVB—SPECIAL PROVISIONS RELATING TO
ANTI-DUMPING DUTIES**

Interpretation

30 “269T. In this Part, ‘Anti-Dumping Act’ means the *Customs Tariff (Anti-Dumping) Act 1975*.

Inquiries in relation to undertakings

“269U. (1) Where the Minister is considering, in relation to a consignment of goods of a particular kind—

35 (a) whether to give a notice, in accordance with paragraph 8 (2A) (a) of the Anti-Dumping Act, to the exporter of the goods in the consignment in relation to an undertaking in relation to an Australian industry; or

40 (b) whether to give a notice, in accordance with paragraph 10 (2A) (a) of the Anti-Dumping Act, to the Government of the country of origin, or of the country of export, of the goods in the consignment or to the

exporter of the goods in the consignment in relation to an undertaking in relation to an Australian industry,

the Minister may authorize an officer in writing to convene a meeting of representatives of the Australian industry for the purpose of obtaining information and submissions from those representatives in relation to the question what terms of undertaking should be set out in the notice, if it is to be given, as the terms that may be satisfactory to the Minister.

“(2) An officer authorized under sub-section (1) to convene a meeting of representatives of an Australian industry shall give notice in writing to such persons as, in his opinion, represent the Australian industry, setting out—

- (a) the day, time and place for the convening of the meeting; and
- (b) the question to be considered by the meeting.

“(3) The officer convening a meeting in pursuance of sub-section (2)—

- (a) shall preside at the meeting; and
- (b) may adjourn the meeting from time to time.

“(4) At a meeting of representatives of an Australian industry convened in pursuance of sub-section (2), the representatives attending the meeting may provide information, or make submissions, to the officer convening the meeting in relation to the question being considered by the meeting.

“(5) Nothing in sub-section (4) shall be taken to prevent a representative of an Australian industry who attends a meeting convened in pursuance of sub-section (2) from providing information or making a submission, in relation to the question considered or to be considered at the meeting, to the officer convening the meeting otherwise than at the meeting or to the Minister.

“(6) The officer convening a meeting in pursuance of sub-section (2) may, subject to sub-section (7), put before the meeting information in relation to the question being considered by the meeting.

“(7) The officer convening a meeting in pursuance of sub-section (2) shall not put before the meeting any information provided to him by another person that is information of a confidential nature (whether or not confidentiality was claimed in respect of the information by the person who provided the information).

“(8) After the close of a meeting convened in pursuance of sub-section (2), the officer convening the meeting shall furnish to the Minister a report in writing of the information provided and the submissions made at the meeting.

“(9) Nothing in this section shall be taken, for the purposes of sub-section 51 (1) of the *Trade Practices Act 1974*, to authorize any act or thing other than the providing of information or the making of a submission, at a meeting of representatives of an Australian industry convened in pursuance of sub-section (2), by a representative of the Australian industry to the officer convening the meeting in relation to the question being considered by the meeting.”

Certain information and submissions to be verified

“269v. Where a person who is not an officer provides information, or makes a submission or request, to the Minister (otherwise than in pursuance of section 15 of the Anti-Dumping Act) in relation to the exercise of his powers under that Act in relation to goods of a particular kind, the Minister is not required to have regard to the information, submission or request in exercising those powers in relation to goods of that kind unless the information, submission or request is in writing and is verified by statutory declaration or witnessed by a notary public exercising his function in a place outside the Commonwealth and the Territories.”.

**PART III—AMENDMENTS OF THE INDUSTRIES ASSISTANCE
COMMISSION ACT 1973**

Principal Act

8. The *Industries Assistance Commission Act 1973*² is in this Part referred to as the Principal Act.

Policy guidelines for Commission

9. Section 22 of the Principal Act is amended by inserting after sub-section (4) the following sub-section:

“(4A) Where a matter of the kind referred to in paragraph 23 (5) (a) is referred to the Commission for inquiry and report, the preceding provisions of this section do not apply in relation to the performance by the Commission of its functions in relation to that matter.”.

Reference of matters to Commission

10. Section 23 of the Principal Act is amended by omitting paragraph (5) (a) and substituting the following paragraph:

“(a) where the Minister administering the *Customs Tariff (Anti-Dumping) Act 1975* is empowered or required under that Act to refer a question as to the existence of any facts to the Commission for inquiry and report—a question as to the existence of any such facts;”.

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; No. 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. 19, 92, 116, 155, 177 and 180, 1979; Nos. 13, 15, 110 and 171, 1980; Nos. 45, 61, 64 (as amended by No. 51, 1982), 67, 152 and 157, 1981; Nos. 48, 51, 80, 81 (as amended by No. 39, 1983), 108, 115 and 137, 1982; and Nos. 19, 39 and 101, 1983.

*Customs Tariff (Anti-Dumping) Miscellaneous
Amendments No. , 1983*

2. No. 169, 1973, as amended. For previous amendments, see No. 91, 1976; No. 1, 1978; No. 74, 1981; No. 80, 1982; and Nos. 21 and 75, 1983.

