CUSTOMS TARIFF (ANTI-DUMPING) AMENDMENT BILL (NO.2) 1983

Date Introduced: 7 December 1983
House: House of Representatives
Presented by: Hon. John J. Brown, M.P., Minister Assisting the Minister for Industry and Commerce

Short Digest of Bill

Purpose

To amend the Customs Tariff (Anti-Dumping) Act 1975 as a consequence of a review of Australia's anti-dumping and countervailing duties legislation.

Background

Dumping occurs when a commodity is exported to another country at less than its "normal value". The normal value of goods is defined internationally as the price of like goods sold in the ordinary course of trade for consumption in the country of export in arms-length transactions by the exporter or by other sellers of like goods. Anti-dumping action is possible when, by reason of dumped imports, material injury is caused or threatened to an established industry, or hinders the establishment of a potential industry. A dumping duty, equal to the difference between the export price and the normal value, may be levied on such imports.

Countervailing action is possible when a subsidy, bounty, reduction or remission of freight or other financial assistance has been paid on the production, export or carriage of goods exported to Australia, and those goods cause or threaten material injury to Australian industry. Countervailing duties, equal to the amount of subsidy or other assistance received, may be levied.

The Customs Tariff (Anti-Dumping) Act 1975 and amending Acts set out the legal provisions for anti-dumping and countervailing action in Australia. In 1975 Australia adopted a revised GATT Anti-Dumping Code (Article VI of GATT) and the requirements of the Code were enacted in the Customs Tariff (Anti-Dumping) Act 1975. During the Tokyo Round of Multilateral Trade negotiations in 1979 a further
revision of the GATT Anti-Dumping Code was negotiated with the objective of clarifying and strengthening some provisions of the existing Code. The Customs Tariff (Anti-Dumping) Act 1975 was revised by the Customs Tariff (Anti-Dumping) Amendment Act 1981 to enable Australia to become a signatory to the revised GATT Anti-Dumping Code and the GATT Code on Subsidies and Countervailing Duties, which also emerged from the Tokyo Round.

In recent years there has been a rise in the number of anti-dumping complaints. This trend was substantiated by the Industries Assistance Commission review in 1982. Furthermore, various sectors of Australian industry have claimed that the current law and procedures do not provide a sufficiently effective control against dumped or subsidised imports.

In April 1983 the Government announced its intention to review the anti-dumping and countervailing legislation. State Governments, industry and commerce organisations, trade unions and other interested parties were invited to submit their views on ways in which the anti-dumping and countervailing legislation and procedures could be improved.

This Bill and the Customs Tariff (Anti-Dumping) Miscellaneous Amendments Bill 1983 provide legislative changes arising from the review of Australia's anti-dumping and countervailing legislation.

Main Provisions

Clause 3 proposes to align the definition of business associate in section 4 of the Principal Act with that of related persons in section 154 of the Customs Act 1901.

Clause 4 amends section 4A of the Principal Act to enable the Minister to deal with sales dumping arrangements (hidden dumping) irrespective of whether the parties are associates. The invoiced export prices between associates may be accepted by the Minister if the prices are in relation to purchases in arms length transactions.

Clause 5 amends section 5 of the Principal Act to provide that it will not be mandatory for the Minister to assess the normal value of goods by using the price of sales by other sellers of like goods when the exporter does not sell like goods, to those exported, in the domestic market. In establishing the normal value on the basis of like goods sold to third countries, the Minister may determine a representative price which may be the highest export price.
Under clause 5, allowances may be made to ensure that the normal value ascertained is properly comparable with the export price where normal values are established on the basis of a constructed price. The Minister may disregard sales at a loss, for normal value purposes, as not having been made in the ordinary course of trade if they have been made over an extended period of time and in substantial quantities and are at prices which would not permit recovery of all costs within a reasonable period of time.

Clause 6 lists those factors to which the Minister may have regard when determining whether there has been any material injury to an Australian industry or any material hindrance to the establishment of an Australian industry, or to a producer or manufacturer in a third country.

By clause 7, the Minister may determine the amount of dumping duty on goods to be a sufficient sum to prevent injury to industry. Clause 9 provides for a similar provision in relation to the determination of countervailing duties.

For further information, if required, contact:

Economics and Commerce Group
LEGISLATIVE RESEARCH SERVICE