CUSTOMS AMENDMENT (TENDERS) BILL 1981

Date Introduced: 30 April 1981
House: House of Representatives
Presented by: The Hon J.C. Moore, Minister for Business and Consumer Affairs.

Short Digest of Bill

Purpose

To enable the sale by tender of part of the quotas applying from 1 January 1982 to imports of certain textiles, clothing and footwear.

Background

Following a report from the Industries Assistance Commission on assistance to the textiles, clothing and footwear industries, the Government decided to continue to protect these industries by quotas for seven years beginning 1 January 1982. In its report, the IAC recommended principles of quota allocation. Some of these recommendations were accepted by the Government and others not. The Commission recommended that there be two elements to quotas: a 'base' quota to be allocated to existing importers on the basis of past performance in a selected base period, and a 'sale' quota to be made available for purchase. The reasons for selling a portion of the quotas are, amongst others, to allow new importers to obtain quotas; return some of the 'scarcity value' of quotas to the Government; and ensure that the supply of products under quota more closely matches demand. The IAC also recommended that sale quotas be sold by tender rather than auction primarily for administrative reasons. A similar arrangement i.e., partial sale of quotas, used to apply to imports of motor vehicles.

Main Provisions

The main provisions are contained in clause 4 which provides for a proposed new Part XV containing six new sections to be inserted into the Customs Act 1901.

Section 265

Proposed section 265 is interpretative. In particular, it defines a 'scheme' as one formulated by the Minister under proposed section 266.
Section 266

Section 266 deals with tender schemes.

Sub-section (1) empowers the Minister to formulate a scheme for tendering for imports of goods at determined quantities or values.

Sub-section (2) provides that where there is a call for tenders to import a quantity of goods under this scheme, it is to include a statement [for the purpose of the proposed Customs Undertakings (Penalties) Act 1981 and Customs Securities (Penalties) Act 1981] that the value of that quantity is to be determined in accordance with the unit value of the goods (also to be set out on the statement).

With respect to this unit value, sub-section (3) provides that the Minister shall have regard to the average value of similar goods imported in the immediately preceeding financial year ended 30 June.

Sub-section (4) in essence provides that a call for tenders must include a statement of the percentage of the quotas to be sold by tender.

Section 267

Section 267 basically provides that a tender will not be considered unless it is accompanied by an undertaking by the tenderer to the effect that, if the tender is successful and the measures set out in paragraph (a) and (b) of sub-section (1) are introduced, goods will be imported under the quotas allocated to him, i.e, he will use all of the quotas allocated to him to import goods.

Sub-sections (2) and (3) respectively provide that such an undertaking must also include reference to the basis of calculating unit values [sub-section (2) of section 266] and the percentage of quotas to be sold by tender [sub-section (4) of section 266].

Sub-section (4) defines a call for tender undertaking referred to in sub-sections (1), (2) and (3) of section 267.

Section 268

Section 268 deals with the 'transferability' of quotas.
Sub-section (1) enables a tender scheme to provide for the transfer of quotas by a successful tenderer to another person.

Sub-section (2) specifies that a transfer will not be approved by the Minister unless the transferee undertakes to meet certain conditions. These are, briefly, to use the quotas transferred to import goods under the correct tariff items, and to give security for payment to the Collector of Customs for any penalty incurred by the transferor.

Sub-section (3) and (4) contain similar provisions with respect to the undertaking referred to in sub-sections (2) and (3) of section 267, (that is, with respect to unit value and the percentage of goods to be sold by tender).

Section 269

Section 269 provides that undertakings made under sections 267 and 268 can only be revoked or varied with the approval of the Minister.

Section 269A

Section 269A provides that a penalty payable by a person under the Customs Undertakings (Penalties) Act 1981, is a debt due to the Commonwealth and may be recovered by an action in a court of competent jurisdiction.

For further information, if required, contact:

Finance, Industries, Trade & Development Group
5 May 1981

REFERENCES

1. Industries Assistance Commission, Textiles, Clothing and Footwear, No. 240, 29 April 1980, especially Part A: General

