

CUSTOMS TARIFF (INDUSTRIES PRESERVATION).

No. 91 of 1957.

An Act to amend the *Customs Tariff (Industries Preservation) Act 1921-1956.*

[Assented to 12th December, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Customs Tariff (Industries Preservation) Act 1957.*

Short title
and citation.

No. 91. *Customs Tariff (Industries Preservation)*. 1957.

(2.) The *Customs Tariff (Industries Preservation) Act* 1921–1956* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Customs Tariff (Industries Preservation) Act* 1921–1957.

**Commence-
ment.**

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

Definitions.

3. Section three of the Principal Act is amended by omitting the definition of “the Tariff” and inserting in its stead the following definition:—

“ ‘the Tariff’ or ‘the Customs Tariff’ means the Customs Tariff in force for the time being;”.

4. After section four of the Principal Act the following section is inserted:—

**Dumping duty
—third country.**

“ 4A.—(1.) If the Minister is satisfied that goods which are produced or manufactured in a particular country have been or are being sold to an importer in Australia at an export price which is less than the fair market value of the goods at the time of shipment and that detriment may thereby result to the trade in the Australian market of producers or manufacturers in a third country, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

“(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the Queen for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as ‘the third country dumping duty’).

“(3.) The amount of the third country dumping duty in each case shall be the sum which represents the difference between the fair market value of the goods at the time of shipment and the export price, but where the importer satisfies the Minister that he purchased the goods within six months prior to the time of shipment and that after the date of purchase and prior to the date of shipment the fair market value of the goods had increased, the fair market value to be taken for the purposes of this section shall be the fair market value at the date of purchase.”.

* Act No. 28, 1921, as amended by No. 20, 1922; No. 30, 1933; No. 82, 1936; and No. 111, 1956.

5. After section five of the Principal Act the following section is inserted:—

“ 5A.—(1.) If the Minister is satisfied that goods which are produced or manufactured in a particular country have been or are being sold to an importer in Australia at an export price which is less than a reasonable price and that detriment may thereby result to the trade in the Australian market of producers or manufacturers in a third country, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

Dumping below
cost duty—
third country.

“(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the Queen for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as ‘ the third country dumping below cost duty ’).

“(3.) The amount of the third country dumping below cost duty in each case shall be the sum which represents the difference between a reasonable price of the goods at the time of shipment and the export price of the goods.

“(4.) In this section, ‘ a reasonable price ’, in relation to goods, means such an amount as represents the cost of production of the goods plus such addition, not exceeding twenty per centum, as is determined by the Minister, plus free on board charges.

“(5.) In the absence of satisfactory evidence as to the cost of production, the Minister may fix such amount as he thinks fit as the cost of production, and the amount so fixed shall, for the purposes of this section, be deemed to be the cost of production.”.

6. After section six of the Principal Act the following section is inserted:—

“ 6A.—(1.) If the Minister is satisfied—

- (a) that goods which are produced or manufactured in a particular country have been or are being consigned to Australia for sale;
- (b) that the goods may be sold at less than a reasonable selling price; and
- (c) that detriment may thereby result to the trade in the Australian market of producers or manufacturers in a third country,

Dumping
consignment
duty—third
country.

the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

“(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the Queen, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as ‘the third country dumping consignment duty’).

“(3.) The amount of the third country dumping consignment duty in each case shall be the sum which represents the difference between the wholesale selling price in Australia and a reasonable selling price.

“(4.) In this section, ‘a reasonable selling price’, in relation to goods, means an amount ascertained by adding to the sum of—

- (a) the fair market value of the goods;
- (b) the freight, insurance, landing and other charges; and
- (c) the amount of duty payable under the Customs Tariff,

such amount, not exceeding fifteen per centum of that sum, as is determined by the Minister.

“(5.) If the evidence of the fair market value is, in the opinion of the Minister, insufficient, the Minister may, for the purposes of the last preceding sub-section, substitute for the fair market value the ascertained cost of production plus such addition, not exceeding twenty per centum of that cost, as is determined by the Minister.”.

7. After section seven of the Principal Act the following section is inserted:—

Dumping
freight duty—
third country.

“7A.—(1.) If the Minister is satisfied—

- (a) that goods which are produced or manufactured in a particular country and have been or are being exported to Australia have been or are being carried—
 - (i) in subsidized ships at rates of freight lower than the normal rate of freight;
 - (ii) at ballast rates of freight, being rates lower than the normal rate of freight; or
 - (iii) freight free; or
- (b) that, by reason of any circumstance, including the granting of rebates, refunds or other allowances, the amount or the net amount of freight paid or payable on goods exported to Australia is lower than the amount of freight which would have been or would be payable at the normal rate of freight,

and that in any such case detriment may thereby result to the trade in the Australian market of producers or manufacturers in a third country, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

“(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the Queen, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as ‘the third country dumping freight duty’).

“(3.) The third country dumping freight duty shall be—

- (a) in the case of goods which have been or are being carried freight free—the amount which would have been or would be payable as freight on those goods if they had been or were carried at the normal rate of freight; and
- (b) in the case of any other goods—such amount as, in the opinion of the Minister, is equal to the sum by which the freight which would have been or would be payable on those goods if they had been or were carried at the normal rate of freight exceeds the freight or the net freight paid or payable on those goods.

“(4.) The normal rate of freight in respect of any goods to which this section applies shall, for the purposes of this section, be such as is determined by the Minister, but not exceeding the highest rate of freight payable, at the date of shipment of those goods, on similar goods carried by general cargo vessels which, in the opinion of the Minister, trade regularly with Australia.

“(5.) If any dispute arises as to the rate of freight in respect of any goods, or the amount of any rebate, refund or other allowance in respect of freight on goods to which this section applies, that rate or that amount shall, for the purposes of this section, be such rate or amount as the Minister determines.”.

8. Section eleven A of the Principal Act is amended by omitting sub-section (2.). Emergency duty.

9. After section eleven A of the Principal Act the following sections are inserted:—

“11B.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, in respect of goods exported to Australia which are produced or manufactured in a particular country and are of a class or kind produced or manufactured in Australia, that a subsidy, bounty or other financial assistance has been or is being paid or given directly or indirectly upon the production, manufacture, carriage or export of those goods and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied. Countervailing duty.

“(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the Queen for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as ‘the countervailing duty’).

“(3.) The amount of the countervailing duty in each case shall be a sum equal to the amount of the subsidy, bounty or other financial assistance referred to in sub-section (1.) of this section.

“(4.) If the evidence of the amount of subsidy, bounty or other financial assistance is, in the opinion of the Minister, insufficient, the amount of subsidy, bounty or other financial assistance shall, for the purpose of this section, be such as is determined by the Minister.

“(5.) In this section, ‘financial assistance’ includes the benefit accruing to an exporter from the use of dual or multiple rates of exchange in relation to the proceeds of export sales.

Countervailing
duty—third
country.

“11C.—(1.) If the Minister is satisfied, in respect of goods which are produced or manufactured in a particular country and have been or are being exported to Australia, that a subsidy, bounty or other financial assistance has been or is being paid or given directly or indirectly upon the production, manufacture, carriage or export of those goods and that detriment may thereby result to the trade in the Australian market of producers or manufacturers in a third country, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

“(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the Queen for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as ‘the third country countervailing duty’).

“(3.) The amount of the third country countervailing duty in each case shall be a sum equal to the amount of the subsidy, bounty or other financial assistance referred to in sub-section (1.) of this section.

“(4.) If the evidence of the amount of subsidy, bounty or other financial assistance is, in the opinion of the Minister, insufficient, the amount of subsidy, bounty or other financial assistance shall, for the purpose of this section, be such as is determined by the Minister.

“(5.) In this section, ‘financial assistance’ includes the benefit accruing to an exporter from the use of dual or multiple rates of exchange in relation to the proceeds of export sales.

“11D. The Minister shall not publish a notice under sub-section (1.) of section four A, five A, six A, seven A, eleven A or eleven C 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.

10. Section twelve A of the Principal Act is amended by omitting the words “four, five or seven” and inserting in their stead the words “four, four A, five, five A, seven, seven A, eleven B or eleven C”.

Duty to be paid in Australian currency.