Customs (Preliminary Affirmative Determinations) Direction 2015

Customs Act 1901

I, CHRISTOPHER PYNE, Minister for Industry, Innovation and Science, make this direction under subsection 269TA(1) of the Customs Act 1901.

Dated 22 October 2015

CHRISTOPHER PYNE

Minister for Industry, Innovation and Science
PART 1 - PRELIMINARY

1. **Name of Instrument**

   This Direction is the *Customs (Preliminary Affirmative Determinations) Direction 2015*.

2. **Authority**

   a) This Direction is made under subsection 269TA(1) of the Act.
   
   b) This Direction has the purpose of directing the Commissioner in relation to the making of preliminary affirmative determinations under section 269TD of the Act.

3. **Commencement**

   This Direction commences on commencement of Schedule 1 of the *Customs Amendment (Anti-Dumping Measures) Act (No.1) 2015*.

4. **Application**

   This Direction applies to all dumping and countervailing duty investigations initiated on or after commencement.

5. **Definitions**

   In this Direction:
   
   *Act* means the *Customs Act 1901*.
   
   *Commissioner* means the Commissioner of the Anti-Dumping Commission.
   
   *Status Report* means the report to be published by the Commissioner providing the reasons why a preliminary determination was not made under section 269TD of the Act on the date 60 days after the initiation of an anti-dumping or countervailing duty investigation in relation to the application received under section 269TB of the Act.

PART 2 - DIRECTIONS

6. **Provision of preliminary affirmative determination or status report**

   a) On the date that is 60 days after the initiation of an anti-dumping or countervailing duty investigation under section 269TB of the Act, the Commissioner must either:

      i. make a preliminary affirmative determination under section 269TD; or
      
      ii. publish a Status Report providing reasons why a preliminary affirmative determination was not made.
7. **Relevant matters – section 269TD(2)(b)**

The Commissioner must consider as a relevant matter, for the purposes of paragraph 269TD(2)(b), the desirability of providing relief to an injured Australian industry, where warranted, as quickly as possible.

8. **Considering late responses – section 269TD(3)**

When the Commissioner is considering whether or not to have regard to a late submission for the purposes of subsection 269TD(3), consideration of a preliminary affirmative determination should be treated as a priority.

9. **Reconsideration of making a preliminary affirmative determination – section 269TDAA**

If the Commissioner has published a Status Report, the Commissioner must reconsider whether or not to make a preliminary affirmative determination at least once prior to the publication of the Statement of Essential Facts required under section 269TDAA of the Act.