

EXPLANATORY STATEMENT

Instrument of Approval for Approved Forms for Review of Certain Decisions Concerning Dumping or Countervailing Duties 2012

Customs Act 1901

Under Part XVB, Division 9 of the *Customs Act 1901* (the Act), the Trade Measures Review Officer (TMRO) may review certain decisions made by the Minister responsible for Customs and Border Protection or by the Chief Executive Officer of the Australian Customs and Border Protection Service in relation to anti-dumping measures. Section 269ZXA of the Act empowers the TMRO to approve forms for applying for review of decisions that are reviewable by the TMRO. Applications must be made in the approved form.

Background

This instrument replaces previous approved forms for the purpose of applying for TMRO review of certain Ministerial decisions and CEO decisions made under Part XVB of the Act. The approved forms are of a machinery nature, and do not substantially alter the existing arrangements for applications to the TMRO. The amendments clarify the requirements for lodging an application for TMRO review, update contact details for the TMRO and expressly facilitate applications being made by email.

The amended approved forms are as follows:

- a) Review of a decision in respect of an assessment of the amount of dumping or countervailing duty payable. This is the form to be used when applying for TMRO review of a decision of the CEO in respect of an assessment of the amount of dumping or countervailing duty payable.
- b) Review of a decision to reject an application for the publication of a dumping duty notice or a countervailing duty notice. This is the form to be used when applying for TMRO review of a decision of the CEO to reject an application for the publication of a dumping duty notice or a countervailing duty notice.
- c) Review of a decision whether to publish a dumping duty or countervailing duty notice. This is the form to be used when applying for TMRO review of a decision of the Minister whether to publish a dumping duty notice or countervailing duty notice (or both).
- d) Review of a decision to reject or terminate an application for duty assessment: This is the form to be used when applying for TMRO review of a decision of the CEO to reject or terminate examination of an application for duty assessment.
- e) Review of a decision to terminate an investigation into an application for dumping or countervailing measures. This is the form to be used when applying for TMRO review of a decision of the CEO to terminate an investigation into an application for dumping or countervailing measures.

Instrument

The amended approved forms are taken to revoke all previous forms, if any, issued pursuant to section 269ZXA(1) relating to the subject matter with which the forms deal. This instrument is described in s 269ZXA of the Act as a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*, and is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

The TMRO did not consult on this instrument because it is minor and machinery in nature.

Human rights compatibility statement

The TMRO has assessed this instrument as being compatible with human rights. It provides for approved forms for seeking review of administrative decisions consistently with Part XVB of the Customs Act. This legislative instrument does not otherwise engage, impact on or limit in any way the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights at s 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Commencement

The approved forms will take effect on and from the time at which the forms are available to the public on the www.tmro.gov.au website.