

EXPLANATORY STATEMENT

Issued by authority of the Minister for Home Affairs

Customs Tariff Act 1995

Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024

The *Customs Tariff Act 1995* (Tariff Act) gives effect to Australia's import trade classification system. It assigns rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties.

The *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Expansion) Act 2024* (Tariff Amendment Act) inserted new section 16B into the Tariff Act. This allows the Minister for Home Affairs to make a legislative instrument (a notice) to effect a suspension of preferential tariffs for certain Trans-Pacific Partnership originating goods where the last process of production occurred in the United Kingdom and where those goods are imported during the period specified in the notice, in accordance with the *Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (Protocol). The Minister must be satisfied that equivalent goods will, under a law of the United Kingdom, be subject to a safeguard measure during that period in accordance with the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*.

The United Kingdom currently has a safeguard in place over certain goods listed in Chapters 72 (iron and steel) and 73 (articles of iron and steel) of the Harmonized Commodity Description and Coding System, as contained in the *International Convention on the Harmonized Commodity Description and Coding System*, and implemented in Australia under the Tariff Act, until 30 June 2026 (UK Steel Safeguard).

The *Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024* (Notice) is made under section 16B of the Tariff Act and suspends preferential rates of customs duty on certain goods from the United Kingdom that are steel or iron goods, if those goods are imported during the period specified in the Notice. The purpose of the Notice is to maintain the general rate of customs duty in relation to equivalent goods covered by the UK Steel Safeguard. The Notice remains in effect while the United Kingdom's safeguard is in effect (until 30 June 2026). If the United Kingdom subsequently indicates that it will extend the safeguard, the Minister may choose to make another notice that applies to the equivalent products for the same amount of time as the extension of the safeguard.

The Notice specifies safeguard goods by reference to particular subheadings in Schedule 3 to the Tariff Act, by item numbers in Schedule 8B of the Tariff Act, and by reference to goods covered by a particular subheading that match a particular description.

The Notice was developed in consultation with the Department of Foreign Affairs and Trade (DFAT). No public consultation was undertaken on the Notice specifically because the Notice gives effect to measures included within consultation for the Tariff Amendment Act.

Prior to and during the negotiation of the Protocol, DFAT consulted widely with state and territory governments, industry and other stakeholders, such as representatives of the business sector, academia and civil society organisations.

Details of the Notice are set out in **Attachment A**.

The Statement of Compatibility with Human Rights has been prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*, and is set out at **Attachment B**.

The Notice is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Notice commences on the later of, the day after the instrument is registered, and immediately after the commencement of Schedule 1 to the Tariff Amendment Act. Schedule 1 to the Tariff Amendment Act commences when the Protocol enters into force for Australia.

Details of the *Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024*

Section 1 – Name

This section provides that the title of the instrument is the *Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024* (Notice).

Section 2 – Commencement

This section sets out, in a table, the date on which each of the provisions contained in the instrument commences.

Table item 1 provides the whole of the instrument commences on the later of, the start of the day after it is registered on the Federal Register of Legislation, and immediately after the commencement of Schedule 1 to the *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Expansion) Act 2024* (Tariff Amendment Act). Schedule 1 to the Tariff Amendment Act commences when the Protocol enters into force for Australia. However, the provisions of the instrument do not commence at all if the Tariff Amendment Act does not commence.

Section 3 – Authority

This section sets out the authority under which the Notice is made, which is the *Customs Tariff Act 1995* (Tariff Act).

Section 4 – Definitions

This section sets out interpretative provisions that apply to the Notice.

Note 1 to this section indicates a number of terms and expressions which adopt the same meaning in section 3 of the Tariff Act.

Note 2 to this section indicates the expression ‘safeguard goods’ used in this instrument is defined in subsection 16B(5) of the Tariff Act.

Note 3 to this section indicates the expression ‘Trans-Pacific Partnership originating goods’ used in this instrument is defined in section 13EB of the Tariff Act.

Note 4 to this section indicates that the matters covered by the expression ‘minimal operations’ used in this instrument is listed in subsection 16(4ABB) of the Tariff Act.

The term ‘safeguard goods’ means Trans-Pacific Partnership originating goods that are classified to a heading or subheading in Schedule 3 to the Tariff Act that are specified in column 2 of any of items 396A to 408, 410 to 419, 421 to 423, 424A to 432ZC, 446 or 448 to 451 in the table in Schedule 8B to the Tariff Act.

These items correspond to the items where staging category B10(*) is listed in the table in the Schedule of Australia's Tariff Commitments to the United Kingdom at Annex A of the Protocol, as being subject to the safeguard of the United Kingdom.

The effect of this definition is that preferential tariff treatment is only suspended on goods falling under certain tariff subheadings listed with staging category B10(*) in the fourth column from the left in Table 1 of Annex A to the Protocol. The Protocol can in 2024 be viewed, free of charge, on the Australian Parliament House website (http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/AccessionCPTP/P/Treaty_being_considered).

Subsection 4(1) sets out definitions for the following terms for the purposes of the Notice:

- Act;
- electrical;
- relevant composition; and
- tool steel.

The purpose of defining the words *electrical*, *relevant composition*, and *tool steel* is to ensure that the types and composition of goods identified by tariff subheadings in this Notice reflects what is covered by the United Kingdom's global safeguard. The United Kingdom's global safeguard, including Trade remedies notice 2024/08 and Trade remedies notice 2024/06, is publically available on the United Kingdom's government website (<https://www.gov.uk/government/publications/trade-remedies-notices-tariff-rate-quotas-on-steel-goods>).

Subsection (2) sets out that an expression used in this instrument has the meaning given by, or has a meaning affected by, any relevant Note, Subheading Note, or Additional Note to Chapter 72 or Chapter 73 of Schedule 3 to the Tariff Act. Schedule 3 sets out the general rate of customs duty for all goods, including goods which are iron and steel.

Section 5 – Suspension of preferential tariffs for Trans-Pacific Partnership originating goods – safeguard goods imported from the United Kingdom

This section specifies the safeguard goods and the period of time for the purposes of paragraphs 16B(1)(a) and 16B(1)(b) of the Tariff Act.

Subsection 5(1) of the Notice sets out that the safeguard goods covered by subsection (2) or (3), and where the last production process (other than minimal operations) occurred in the United Kingdom, are specified and the period for which they are specified.

General rate of duty

Subsection 16B(1) of the Tariff Act has the effect of applying the Schedule 3 general rates of customs duty on safeguard goods set out in the Notice, instead of the preferential rates of customs duty in Schedule 8B and subsection 16B(4ABA) of the Tariff Act, during the period specified in the Notice.

Specified timeframe

Paragraph 5(1)(b) of the Notice sets out the timeframe specified in this Notice. The period begins at the commencement of the instrument and ends at the end of 30 June 2026, which corresponds with equivalent safeguard duties imposed by the United Kingdom on Australian originating goods.

This timeframe specified is consistent with subsection 16B(4) of the Tariff Act, which relevantly provides that the Minister must not specify a period commencing before the start of the Notice. Essentially, this provision prevents a notice from applying retrospectively.

The period of time specified in the instrument is limited to times when the importation of products under Chapters 72 or 73 of Schedule 3 to the Tariff Act are subject to a safeguard measure under a law of the United Kingdom.

The effect of this is that the suspension on preferential rates of customs duty commences at the same time those rates take effect, which is when the Protocol enters into force. The specified end date aligns with the currently specified end date to the United Kingdom's steel safeguard instrument.

Specified goods

The goods covered by the Notice are safeguard goods set out in the tables in subsections (2) and (3) of the Notice. The goods must also have been imported into Australia where the last production process, other than minimal operations, occurred in the United Kingdom.

Subsection 5(2) sets out goods which are specified safeguard goods if they are classified to a heading or subheading in Schedule 3 to the Tariff Act identified in column 2 of an item of the table under subsection 5(2) of this Notice.

Subsection 5(3) sets out goods which are specified safeguard goods if they are classified to a heading or subheading in Schedule 3 to the Tariff Act identified in column 2 of an item of the table under subsection 5(3) of this Notice, and if they also meet the description set out in column 3 of that table.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The *Customs Tariff Act 1995* (Tariff Act) gives effect to Australia's import trade classification system. It assigns rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties.

The *Customs Tariff Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Expansion) Act 2024* inserted new section 16B into the Tariff Act. This allows the Minister for Home Affairs to make a legislative instrument (a notice) to effect a suspension of preferential tariffs for certain Trans-Pacific Partnership originating goods, in accordance with the *Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (the Protocol).

The United Kingdom currently has a safeguard in place over certain goods listed in Chapters 72 (iron and steel) and 73 (articles of iron and steel) of the Harmonized Commodity Description and Coding System, as contained in the *International Convention on the Harmonized Commodity Description and Coding System*, and implemented in Australia under the Tariff Act, until 30 June 2026.

The *Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024* (Notice) is made under section 16B of the Tariff Act and suspends preferential rates of customs duty on certain goods from the United Kingdom that are steel or iron goods, if those goods are imported during the period specified in the notice. The purpose of the Notice is to maintain the general rate of customs duty in relation to equivalent goods covered by the United Kingdom's steel safeguard. The Notice will remain in effect while the United Kingdom's safeguard is in effect (until 30 June 2026). If the United Kingdom subsequently indicates that it will extend the safeguard, the Minister may choose to make another notice that applies to the equivalent products for the same amount of time as the extension of the safeguard.

The Notice specifies safeguard goods by reference to particular subheadings in Schedule 3 to the Tariff Act, by item numbers in Schedule 8B of the Tariff Act, and by reference to goods covered by a particular subheading that match a particular description.

The Notice commences on the later of, the day after the instrument is registered on the Federal Register of Legislation, and immediately after the Protocol enters into force for Australia.

Human rights implications

The Notice is technical in nature and does not engage any of the applicable rights or freedoms.

Conclusion

The Notice is compatible with human rights as it does not raise any human rights issues.

The Hon Tony Burke MP
Minister for Home Affairs