



Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006

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Law and Bills Digest Section

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Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006

Date introduced: 21 June 2006

House: Senate

Portfolio: Justice and Customs

Commencement: The operative provisions in sections 1 to 3 will commence on Royal Assent. Other items will commence at various times as outlined in the Main Provisions part of this Digest.

Purpose

To amend the *Customs Act 1901* for two unrelated purposes, namely:

- to provide Customs officers with additional powers to deal with prescribed prohibited imports that are of low value and low risk; and
- to reflect the new Certificate of Origin requirements for the Singapore-Australia Free Trade Agreement.

Background

Changes to import controls

The Commonwealth Government controls the import of certain goods into Australia. Control is exercised through the Customs (Prohibited Import) Regulations 1956 ([regulations](#)) made under [section 50](#) of the Customs Act. The regulations provide that the importation of certain goods is prohibited absolutely, while other goods may only be imported when specified conditions or restrictions are complied with. The [Customs website](#) provides an outline of what goods are prohibited or restricted imports. There is a wide range of items controlled under the regulations, from high risk goods such as narcotic drugs, child abuse material and military style weapons, to lower risk community and consumer protection related items such as flick knives, blow pipes and toys with a painted coating that exceeds legislated standards for heavy metals content.¹

A restricted good that is imported contrary to the relevant restrictions or conditions becomes a prohibited import for the purposes of the Customs Act. Prohibited imports are defined as '[special forfeited goods](#)' under the Customs Act and become subject to seizure without warrant. There are also offences in the Customs Act that apply to the importation

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of prohibited goods. At present, section 203B of the Customs Act requires Customs officers to seize all prohibited imports to prevent the entry of these goods into the community. When Customs seizes prohibited imports without warrant, the Customs Act contains provisions that oblige the Customs officer to issue a seizure notice to the owner of the goods, hold the goods for thirty days² to provide the owner with an opportunity to make a claim for return of the goods, and, except in specified circumstances,³ return the goods to the owner who has made such a claim. According to the Australian Customs Service, '[d]ue to the low value of many of the goods, applications for their return are rarely made and the goods are destroyed'.⁴ The Minister has described the present arrangements, as they apply to items of low risk and little value, as 'a time-consuming and resource intensive process'.⁵

The amendments proposed by this Bill will provide Customs officers with three alternatives to automatic seizure, but only for certain prohibited goods which are considered to be of low value and low risk. New regulations will be made to specify the goods to which the new approach will apply. The three alternatives are:

- allowing a person to surrender certain prohibited imports that have not been concealed
- allowing the granting of post-importation permission for certain prohibited imports, and
- allowing infringement notices to be served for certain offences, including importing certain prohibited imports and restricted area offences.

Customs officers will be given discretion to choose when to apply the first two alternatives to seizure, but only for goods that have not been concealed. In the Bill, the definition of concealment extends beyond physically concealing the goods, and includes failing to declare them to Customs. The Explanatory Memorandum says that, if, for example, a person indicated on the Incoming Passenger Card that they were bringing a prohibited import into Australia, then they would not be considered to have concealed the goods from Customs.⁶ However, if the passenger failed to declare the goods on the Incoming Passenger Card, then they would be considered to have concealed the goods from Customs, and would not be permitted to surrender them. In those circumstances, the goods would either be seized by Customs, or be subject to an infringement notice under the proposed new regime to be introduced by this Bill. In contrast to the new surrender and post-importation permissions regime, the new infringement notice scheme will only apply to prescribed prohibited imports that have been concealed from Customs.

The Law Council of Australia has sought clarification of the type of prohibited imports to be prescribed by regulation as being subject to surrender or post-importation permission under the proposed new regime.⁷ The Law Council says that it is unclear why certain prohibited imports requiring a permission or licence to be imported may be prescribed for the purposes of the proposed amendments while other prohibited imports requiring a permission or licence to be imported are not also so prescribed.⁸ Customs has responded to these enquiries by saying that it will be undertaking consultation through the Passenger

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Facilitation Taskforce to assess the operational impact of the surrender and infringement notice schemes, and that:

As part of the policy implementation, Customs will determine which prohibited imports controlled under the *Customs (Prohibited Imports) Regulations 1956* it considers to be lower risk community and consumer protection related items. These prohibited imports will then be prescribed by regulation as subject to the surrender bin regime and/or the infringement notice scheme.⁹

The Law Council has suggested in its submission that the Bill implements another, ‘entirely separate regime for the issue of infringement notices’ and that ‘[t]his will create huge additional confusion’.¹⁰ In response, the Australian Customs Service has stated that the new regime will apply only in the aviation and postal environments, and that it is an entirely new regime unrelated to the current regime in place in the cargo environment.¹¹ Customs has said that the infringement notice scheme proposed by this Bill ‘will operate differently to the existing approach because of the scope and quantity of goods involved’.¹²

Restricted area offences

[Section 234AA](#) of the Customs Act allows a Collector of Customs to display a sign at or near a place that is to be used by officers of Customs for questioning ship or aircraft passengers, for examining the personal baggage of passengers, and as a holding area for such passengers. In addition, a Collector of Customs may also display signs at or near that place indicating that the use of cameras, sound recorders and mobile phone or other electronic forms of communication at the place by unauthorised persons is prohibited. In the Customs Act, such a place is defined as a section 234AA place. It is an offence under subsection [234A\(1\)](#) of the Customs Act to enter into, or be in, a section 234AA place, or in a ship, aircraft or wharf at which a ship is berthed, when the personal baggage of a disembarking or embarking passenger is being examined. Similarly, it is an offence under [subsection 234AB\(3\)](#) of the Customs Act to fail to comply with a direction by an officer of Customs not to use a camera, sound recorder or mobile phone or other forms of electronic communication in such a place. Both subsections are strict liability offences.

This Bill proposes to allow an infringement notice to be issued to people who use electronic devices in the Customs controlled area and fail to comply with a direction from Customs not to use the device. The person issued with the infringement notice will have 28 days to pay the notice. Payment of the infringement notice will remove liability for the offence. However, if the person fails to pay the notice within 28 days, Customs may prosecute the person for the offence.¹³

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Changes to Certificate of Origin requirements

Australia signed a free-trade agreement with Singapore in 2003. Singapore is Australia's sixth largest trading partner with Australian exports valued at \$6.38 billion in 2005,¹⁴ principally in services (legal, education and telecommunications) and merchandise (fuel, agricultural and mineral products).¹⁵ According to press reports, the main outcome of the Singapore Australia Free Trade Agreement (SAFTA) has been to cement what was already a productive and friendly economic relationship.¹⁶

The SAFTA agreement provided for Ministerial review one year after entry into force and every two years thereafter. The first Ministerial review in July 2004 led to amendments that related to the recognition of law degrees, government procurement, rule of origin certificates, and agreement on food standards and horticultural goods.¹⁷ Three of the four amendments did not require legislative amendment and have entered into force with an exchange of notes between the Government of Singapore and the Government of the Commonwealth of Australia confirming completion of the Parties' respective domestic procedures. Schedule 2 of this Bill implements the SAFTA amendments on rule of origin certificates.

Consideration by Senate Legal and Constitutional Legislation Committee

The Bill was referred to the Senate Legal and Constitutional Legislation Committee for inquiry on 22 June 2006.¹⁸ The Committee [report](#) has recently been tabled. The Law Society of Australia and the Australian Customs Service made submissions to the Committee's inquiry. In addition, the Committee submitted a number of questions to Customs about the operation of the proposed new regime. The text of the submissions and Customs' written answers to the Committee's questions have been considered in preparing this Digest.

Financial implications

According to the Explanatory Memorandum, this Bill will have no impact on Government expenditure.¹⁹ There may be cost savings to Customs through reducing the time spent by Customs officers on administrative tasks related to the seizure of prohibited goods and the prosecution of offenders.²⁰

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Main provisions

Schedule 1— Import controls

The main provisions used to set up the new regime of alternatives to automatic seizure of certain prohibited imports are included in **item 14** and **item 36**. **Item 14** sets up a surrender of goods mechanism under **proposed section 209N** and a detention of goods arrangement pending the granting of post-importation permissions under **proposed section 209U**. The third alternative, an infringement notice scheme to deal with concealed goods, is set up under **proposed section 243ZH (item 36)**.

Surrender of prescribed prohibited imports

Proposed Subdivision GB of Division 1 of Part XII of the Customs Act inserts a new regime that will allow for the surrender of certain prohibited imports to Customs in specified circumstances. **Proposed section 209N** sets out the circumstances when the prescribed prohibited imports would be able to be surrendered to a Customs officer. **Proposed subsection 209N(1)** provides that an officer of Customs may, instead of seizing the goods under section 203B of the Customs Act, permit the person to surrender the goods to the officer in a section 234AA place if:

- (a) the officer has reasonable grounds to believe that the goods:
 - (i) have been imported by the person
 - (ii) have not been concealed from Customs by the person
 - (iii) are accompanied personal or household effects of the person, and
- (b) the person has been informed, by the officer in writing, of the available options for dealing with the goods and the consequences of exercising each of these options, and
- (c) the person has indicated to Customs, in writing, that he or she intends to surrender the goods, and
- (d) the officer has indicated to the person that the goods may be surrendered to the officer.

The surrender of goods may only take place at airports or ports in a place that is set aside for the questioning of passengers and the examination of their baggage. It therefore does not apply to goods which arrive by post or in containers. According to the Explanatory Memorandum, it is proposed that the permission to surrender prescribed imported goods will be granted entirely at the discretion of the officer of Customs. ‘If the officer decides that the circumstances of the importation require different action to be taken in respect of the person and the goods, he or she may refuse to permit the goods to be surrendered’.²¹ It is also at the discretion of the officer of Customs to give the person the option of seeking a

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post-importation permission in respect of the goods. The Australian Customs Service has said that it will be developing guidelines for the exercise of discretion by Customs officers in order to provide for consistent application of the new regime.²²

Proposed section 209P sets out the effects of the surrender on the goods - a person will not be able to be prosecuted for the offence of importing a prohibited import but they will also lose all title to the surrendered goods. The person will not be able to make a claim for the return of the goods.

However, if in fact the surrendered goods were not prohibited goods but have been disposed of or destroyed by the Commonwealth, **proposed subsections 209Q(1)-(2)** allows the owner of the goods to seek compensation from a court. **Proposed subsection 209Q(3)** provides that if a right to compensation exists, the court must order the payment by the Commonwealth to the person of an amount equal to the market value of the goods at the time of their disposal or destruction. According to the Explanatory Memorandum, these provisions are similar to other compensation arrangements in the Customs Act in relation to seized goods that have been disposed of or destroyed.²³

Post-Importation Permission

Proposed Subdivision GC of Division 1 of Part XII of the Customs Act will insert a new regime that will allow for the granting or giving of post-importation permissions, licences or other documents in respect of certain goods whose importation is prohibited under the regulations in specified circumstances. Under the new arrangements, the owner of certain prohibited imports (yet to be defined in regulations) may apply for the required permission to import the goods after the goods have been imported. **Proposed section 209U** sets out the circumstances in which an officer of Customs may allow a person to apply for a required permission in lieu of seizing the goods. This decision will be entirely at the discretion of the officer of Customs. The goods will remain in the custody of Customs at all times until the required permission is granted or given (**proposed section 209V**). A detention notice is required to be served for all goods detained under section 209U (**proposed section 209W**). If the required permission is not subsequently granted or given within the specified period,²⁴ then the goods are taken to be seized and the normal seizure process will follow. Presumably this means a person could be prosecuted for the importation or subject to the infringement notice scheme.²⁵

The post-importation permission arrangements are intended to apply in all environments, that is, passenger, postal and cargo.²⁶

Infringement notices

Item 36 inserts **proposed Subdivision B** of Division 5 of Part XIII. (Part XIII includes the penal provisions of the Customs Act and Division 5 deals with penalties in lieu of

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prosecution for certain offences.) **Subdivision B** provides a new scheme to enable the issue of infringement notices in lieu of prosecution for offences relating to prohibited imports and restricted Customs areas.

Prescribed prohibited imports

Proposed paragraph 243ZF(a) provides that Subdivision B will apply to the offence of importing goods that are prohibited imports of a kind proscribed for the purposes of section 243ZF. This is similar to the application of the new surrender and post-importation permissions regimes established by **item 14** above. Paragraph 233(1)(b) of the Customs Act prohibits the importation of any prohibited imports. A contravention of paragraph 233(1)(b) is an offence of strict liability. The changes proposed by Subdivision B will allow the issue of an infringement notice in lieu of prosecution for the offence of contravening paragraph 233(1)(b), if the offence relates to goods that are prohibited imports prescribed for the purposes of section 243ZF.

Proposed section 243ZH sets out the circumstances under which an infringement notice can be served. If an offence of importing prohibited goods is detected during the examination of the personal baggage of a passenger in an airport or a port, the infringement notice must be served before the passenger leaves the examination area. According to the Explanatory Memorandum, this is to ensure that the offence is dealt with quickly and while the passenger is in contact with Customs.²⁷ The Australian Customs Service advised the Senate Committee that they had not yet decided upon the process and appropriate authorisations for delegations to issue infringement notices. They explained that '[a]s the provision does not determine who the delegate is, the decision regarding the appropriate delegation will take into account the environment in which this scheme will operate and the operational practicalities of the situation.'²⁸

The penalty payable under the infringement notice is 2 penalty units (\$220)²⁹ (**proposed paragraph 243ZI(d)**) and must be paid before the person leaves the examination area 'for the first time after the notice is served' (**proposed paragraph 243ZI(e)(i)**). In answer to a question from the Senate Committee about the practical operation of this regime, especially if the person did not have sufficient money on them to pay the infringement notice, the Australian Customs Service has explained that a Customs officer will accompany the person to the Customs Duty Collector's Office where the infrastructure is already available for electronic payment of infringement notices.³⁰ In circumstances where a passenger does not have immediate access to funds, Customs has said that it will allow for the person to arrange for a third party to be brought to the duty collection area, and that Customs would keep an officer with the person until a friend or relative arrives with the payment.³¹ Customs further explained that the passenger must pay the infringement notice before leaving the Customs controlled area to 'remove liability for the offence, and to transfer title of the item(s) to the Commonwealth'.³² Should the passenger refuse to pay the infringement notice before leaving the Customs controlled area, the goods will automatically be seized and Customs may prosecute the person for the offence. Customs told the Senate committee that '[t]his approach has been adopted due to the

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nature of the airport environment. Thousands of people pass through an airport daily, many staying for very short periods. To allow for a 28 day payment period would require extensive, time-consuming and expensive administration controls, with little or no result for the work'.³³

Infringement notices may also be issued for goods imported as unaccompanied baggage or through the post (**proposed paragraph 243ZH(2)(b)**). In this situation, Customs would seize the goods and issue an infringement notice at the same time as the seizure notice and the person would have 28 days in which to pay the infringement notice (**proposed paragraph 243ZI(e)(ii)**). The new infringement notice regime will not operate in the commercial air cargo or sea cargo environments.³⁴

Restricted area offences

Proposed Subdivision B will also allow an infringement notice to be issued to people who use electronic devices in the Customs controlled area and fail to comply with a direction from Customs not to use the device (**proposed paragraphs 243ZF(b) and (c)**). The person issued with the infringement notice will have 28 days to pay the notice (**proposed subparagraph 243ZI(e)(ii)**). Payment of the infringement notice will remove liability for the offence. However, if the person fails to pay the notice within 28 days, Customs may prosecute the person for the offence.

When a person pays the penalty as required by the infringement notice within the required time (**proposed section 243ZK**), then

- (a) any liability of the person for the offence specified in the notice is discharged (subsection (2))
- (b) further proceedings cannot be taken against the person for the offence (subsection (3))
- (c) the person is not regarded as having been convicted of the offence (subsection (4)), and
- (d) if the notice is for the offence of importing prescribed prohibited imports, the goods are taken to be condemned as forfeited to the Crown, title to the goods immediately vests in the Commonwealth to the exclusion of all other interests in the goods, and the title cannot be called into question (subsection (5)).

Proposed subsection 243ZO provides that all goods condemned as forfeited to the Crown under Subdivision B must be dealt with and disposed of in accordance with the directions of the Chief Executive Officer of Customs. According to the Explanatory Memorandum, this provision is similar to other provisions dealing with the disposal of goods that have been seized by Customs, for example, section 208D.³⁵

Commencement: The provisions relating to surrender of prescribed prohibited imports and to post-importation permissions only apply in relation to goods imported into

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Australia on or after the commencement of **item 37** – that is, on a day to be fixed by Proclamation, or failing that six months after Royal Assent. The provisions relating to the infringement notice scheme also only apply to offences alleged to have been committed on or after item 37 commences.

Schedule 2 — Goods claimed to be produce or manufacture of Singapore

Item 1 of Schedule 2 repeals existing subsection 153VE(1) of the *Customs Act 1901* and substitutes a new subsection. **Proposed subsection 153VE(1)** implements agreed amendments to Articles 11 and 12 of Chapter 3 of SAFTA that deal with the new documentary requirements to apply when an Australian importer claims the preferential rate of duty for goods imported from Singapore. In practice, a claim for a preferential rate of duty is made as part of the import declaration when entering the relevant goods for home consumption.³⁶

At present an Australian importer needs a Declaration, issued by the Singapore exporter, and a Certificate of Origin, issued by the Government of Singapore, to claim a preferential rate of customs duty under SAFTA. A Certificate of Origin can be used for multiple shipments within two years of its issue, provided that the first shipment occurs within the first year of issue. A Declaration is required for each shipment. Both documents must be issued before the goods are exported from Singapore to Australia. According to the Australian Customs Service:

Approaches to Australian Customs by both Australian importers and Singaporean exporters raised administrative difficulties with regard to preparation of the Certificate of Origin. For example, before exportation of bulk goods from Singapore, the Certificate of Origin could not be properly prepared to cover all of the goods in a given shipment as the exact volumes were not known until after loading. The problem was exacerbated in circumstances where goods were loaded after-hours or on weekends.³⁷

Following the amendments to SAFTA that are to be implemented by this Bill, an Australian importer will be required to have either a Certificate of Origin for each shipment (provided that the Certificate was used within one year of issue) or a Certificate of Origin for multiple shipments (provided that the Certificate was used within two years of the date of issue and the first shipment occurred within the first year) and a Declaration. Where a Certificate of Origin is to be used for multiple shipments, a Declaration would not be required for all subsequent shipments.

The Report of the Joint Standing Committee on Treaties which considered the proposed amendments to SAFTA stated that:

At a practical level, the changes mean that a Declaration and a Certificate of origin will not both be required for the initial shipment of goods. Instead, a Certificate of

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Origin is required for the initial shipment of goods, and for each subsequent shipment, a Declaration is required that states the goods are identical to the first shipment.

Following the changes, importers of goods need only possess a Declaration before the goods enter the territory of the importing country for goods to be afforded preferential treatment. This will give exporters roughly a week of extra time and will reduce delays in situations where it is difficult to determine the quantity of bulk cargo – a requirement for the Declaration – until after the cargo has been loaded onto a vessel.

The revised arrangements relating to Certificates of Origin will facilitate the movement of goods from Singapore to Australia and help to reduce administrative costs for Australian manufacturers.³⁸

Commencement: The proposed amendments to SAFTA will enter into force with an exchange of notes between the Government of Singapore and the Government of the Commonwealth of Australia confirming completion of the Parties' respective domestic procedures. It is anticipated that this exchange of notes will occur after the Act has received Royal Assent. However, should the SAFTA amendments not come into force for Australia, then Schedule 2 will not commence. The Minister for Justice and Customs is required to announce by notice in the Commonwealth Gazette the day on which the proposed SAFTA amendments come into force for Australia.

Concluding comments

The Government argues that the great variety of goods controlled under the Customs (Prohibited Import) Regulations 1956 means that the threat posed to the community by these goods also varies greatly. They say that the present procedures of automatic seizure of prohibited imports, appeal and release of the goods in certain circumstances places a heavy administrative burden on Customs and is not an efficient or effective use of resources.³⁹ According to the Australian Customs Service:

Customs is proposing the introduction of a regime that will provide sanctions appropriate to the level of threat to the community and which will reduce the time spent by Customs officers on administration and the level of post-seizure claims made on seized items.⁴⁰

The changes proposed by this Bill will enable Customs officers to apply a range of responses, allowing for the voluntary surrender of goods (proposed Subdivision GB), the seeking of a post-importation permission (proposed Subdivision GC), or payment of a penalty under the new infringement notice scheme (proposed Subdivision B), rather than automatic seizure of the goods. Discretion will lie with the Customs officers that encounter the prohibited imports when they arrive in the country.

Questions have been asked about how Customs officers will exercise the discretion given to them under the proposed regime.⁴¹ In response, the Australian Customs Service has said

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that, in order to provide consistent application of the new regime, Customs officers at airports will attend training session on the proposed scheme before it is implemented.⁴² In addition, administrative guidelines, standing operating procedures and forms will be developed for the scheme.⁴³ If dissatisfied, passengers may ask to speak to a duty manager, or they may make use of Customs complaints processes.⁴⁴ Standard administrative appeals processes are also available to all persons subject to an administrative regime that imposes a penalty.⁴⁵ However, Customs stresses that, regardless of the measure imposed (surrender, infringement notice, seizure or prosecution):

the person has committed an offence by importing a prohibited item. Customs is providing the person with an alternative to seizure and prosecution which removes any liability for the offence.⁴⁶

The Law Council of Australia has complained of the ‘unrelenting piecemeal changes’ made to Customs legislation in recent times. They say that they are:

concerned that these regular amendments do not aid easy comprehension of the legislation by interested parties. [The Law Council] shares the view of other affected parties (such as the Customs Brokers & Forwarders Council of Australia, the Australian Law Reform Commission and the House of Representatives Standing Committee of Legal and Constitutional Affairs), that the Act requires extensive review to remedy areas of uncertainty.⁴⁷

Further, the Law Council suggests that the ‘apparently limited resources of Customs and the Parliament’ could best be addressed to focus on other fundamental amendments to the Act. They refer in particular to changes to the prosecution provisions recommended by the Australian Law Reform Commission⁴⁸ and to the completion of the Senate Scrutiny of Bills inquiry into Entry, Search and Seizure provisions in Commonwealth legislation that commenced in March 2004.⁴⁹

With regard to the present Bill, Customs has responded to the Senate Committee that it has yet to determine which prohibited imports are to be prescribed by regulation as subject to the proposed voluntary surrender regime, post-importation permissions and the infringement notice scheme.⁵⁰ To date no training has been undertaken in respect of the proposed scheme,⁵¹ the directions of the CEO relating to the disposal of surrendered goods are yet to be specified,⁵² and the CEO’s guidelines for servicing infringement notices are not yet drafted.⁵³ Customs says that it will have up to six months after Royal Assent to develop all of the necessary procedures and guidelines for the new regime.⁵⁴

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Endnotes

1. Australian Customs Service, Submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
2. Some goods may be disposed of immediately (Sections 206 and 207 of the Customs Act)
3. See subsection 205D(2) of the Customs Act.
4. Australian Customs Service, Submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
5. Senator the Hon. Eric Abetz, 'Second reading speech, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006', Senate, *Hansard*, 21 June 2006, p. 1.
6. Explanatory Memorandum, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, paras. 39 and 42.
7. Law Council of Australia, Submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, 10 July 2006.
8. *ibid.*, p. 5.
9. Australian Customs Service, Supplementary submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
10. Law Council of Australia, Submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, 10 July 2006, p. 2 and p. 6.
11. Australian Customs Service, Supplementary submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006. (The other infringement notice scheme was implemented through the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001* and the *Customs Legislation Amendment (Application of International Trade Modernisation and Other Measures) Act 2004*.)
12. *ibid.*
13. Australian Customs Service, Submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
14. Joint Standing Committee on Treaties, 'Review of amendments to the Singapore-Australia Free Trade Agreement', *Media Alert*, 24 March 2006.

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15. Tracy Sutherland, 'A trading impasse where the sky's not the only limit', *Australian Financial Review*, 6 July 2006, p. 14.
16. Andrew Burrell, 'Singapore pact turns out to be small beer', *Australian Financial Review*, 25 March 2004, p. 17.
17. Joint Standing Committee on Treaties, *Report 66: Review of treaties tabled 7 December 2004 (4), 15 March and 11 May 2005*. Chapter 4 'Singapore–Australia Free Trade Agreement Amendments', pp. [29]-34.
18. Senate Selection of Bills Committee, 'Sixth report of 2006', Senate, *Hansard*, 22 June 2006, p. 13.
19. Explanatory Memorandum, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, p. 2.
20. Australian Customs Service, Submission to the Senate Legal and Constitutional Legislation Committee Inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006. Also, Australian Customs Service, Answer to Question No. 7 provided to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
21. Explanatory Memorandum, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, para. 39.
22. Australian Customs Service, Answer to Question No. 8 provided to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
23. Explanatory Memorandum, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, para. 48.
24. The application and grant periods for post-import permissions are 30 days unless another period is prescribed by regulation.
25. Australian Customs Service, Answer to Question No. 47 provided to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
26. Australian Customs Service, Answer to Question No. 4 provided to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
27. Explanatory Memorandum, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, para.122.
28. Australian Customs Service, Supplementary submission to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
29. This compares to a fine for a prosecuted offence of \$1,000.

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30. Australian Customs Service, Answer to Question No. 28 provided to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
31. *ibid.*, Question No. 28.
32. *ibid.*, Question No. 36.
33. *ibid.*, Question No. 36.
34. Australian Customs Service, Answer to Question No. 3 provided to the Senate Legal and Constitutional Legislation Committee inquiry into the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, July 2006.
35. Explanatory Memorandum, Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006, para. 141.
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44. *ibid.*, Question No. 16.
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46. *ibid.*, Question No. 15.

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48. Recommended by the Australian Law Reform Commission in its report number 60 (1992) entitled *Customs and Excise*, and in its report number 95 (2002) entitled *Principled Regulation*.
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