

1997

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CUSTOMS TARIFF AMENDMENT BILL (NO. 3) 1997

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Customs and Consumer Affairs,
Senator the Hon Christopher Ellison)

CUSTOMS TARIFF AMENDMENT BILL (NO. 3) 1997

OUTLINE

The purpose of the Customs Tariff Amendment Bill (No. 3) 1997 (the Amendment Act) is to amend the Schedule to the *Customs Tariff Act 1995* (the Customs Tariff Act) by increasing the rates of Customs duty on tobacco, certain tobacco products and certain petroleum products.

On 5 August 1997, the High Court gave judgment in the cases of *Ngo Ngo Ha v State of New South Wales* and *Walter Hammond and Associates P/L v State of New South Wales*. The decision invalidated the New South Wales tobacco business franchise fees and cast considerable doubt upon the constitutional validity of all other State and Territory business franchise fees on tobacco, alcohol and some petroleum products. Due to the serious budgetary implications this decision had on States and Territories, the Commonwealth agreed to a safety net to protect State and Territory revenues. Part of this safety net requires increases in Customs duties on tobacco products and certain petroleum products.

The Customs duty on tobacco and certain tobacco products currently dutiable at \$84.27 per kilogram will be increased by \$167 per kilogram to \$251.27 per kilogram. These products are classified to subheadings 2402.10.00, 2402.20.00, 2403.10.00 and 2403.99.90 in Schedule 3 to the Customs Tariff Act. The Customs duty on petroleum products currently dutiable at \$0.36872 per litre and \$0.34697 cents per litre will be increased by 8.1 cents per litre to \$0.44972 per litre and \$0.42797 per litre. These products are classified to subheadings 2707.50.11, 2707.50.19, 2710.00.19, 2710.00.20, 2710.00.52 and 2710.00.53 in Schedule 3 to the Customs Tariff Act.

The increases in Customs duty rates on these products were implemented immediately by the publication of notices in the Commonwealth *Gazette* in accordance with section 273EA of the *Customs Act 1901* (the Customs Act). These notices were published on 6 August 1997 and took effect on and from 7 August 1997.

Identical increases in the rates of excise duty on tobacco and certain tobacco products and certain petroleum products as part of the safety net to protect State and Territory revenues are proposed in the Excise Tariff Amendment Bill (No. 3) 1997.

FINANCIAL IMPACT STATEMENT

The increases in the rates of excise duty and customs duty on tobacco, certain tobacco products and certain petroleum products is expected to result in additional revenue of \$5.56 billion per annum. All of the additional revenues collected under this Amendment Act and the Excise Tariff Amendment Bill (No. 3) 1997, however, will be returned to the States and Territories under the provisions of the *States Grants (General Purposes) Act 1994*, less any administrative costs incurred by the Commonwealth.

Therefore, the financial impact on the Commonwealth Budget is neutral.

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NOTES ON CLAUSES

Clause 1 - Short Title

This clause provides for the Bill to be cited as the "*Customs Tariff Amendment Act (No. 3) 1997*".

Clause 2 - Commencement

Subclause 2(1) provides that, subject to subclause 2(2), the Bill is to commence on the day on which it receives the Royal Assent.

Subclause 2(2) provides for the amendments in Schedule 1 to be taken to have commenced on 7 August 1997. The amendments in Schedule 1 propose the increases in duty rates necessary for the Commonwealth to collect the increased Customs duties on tobacco, certain tobacco products and certain petroleum products required as part of the Commonwealth safety net to protect State and Territory revenues.

The increases in Customs duty rates on these products were implemented immediately by the publication of notices in the *Gazette* in accordance with section 273EA of the *Customs Act 1901*. These notices were published on 6 August 1997 and took effect on and from 7 August 1997. The amendments set out in Schedule 1, which formally incorporate the rate increases into the *Customs Tariff Act 1995* (the Customs Tariff Act), are therefore proposed to take effect on and from that same day.

Clause 3 - Schedule(s)

This clause is the formal enabling provision for the Schedule to the Bill, providing that each Act specified in the Schedule (in this case the Customs Tariff Act only) is amended in accordance with the applicable items of the Schedule. The clause also provides that the other items of the Schedules have effect according to their terms. This is a standard enabling clause for transitional, savings and application items in amending legislation.

Schedule 1 - Amendment of the *Customs Tariff Act 1995*

Item 1 - The rates of duty in column 3 of subheadings 2402.10.00 and 2402.20.00 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheadings 2402.10.00 and 2402.20.00 in Schedule 3 to the Customs Tariff Act. The new rates for those subheadings increase the Customs duty on cigars, cheroots, cigarillos and cigarettes containing tobacco (currently dutiable at \$84.27 per kilogram) by \$167.00, to \$251.27 per kilogram.

Item 2 -The rates of duty in column 3 of subheading 2403.10.00 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2403.10.00 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on smoking tobacco (currently dutiable at \$84.27 per kilogram) by \$167.00, to \$251.27 per kilogram.

Item 3 -The rates of duty in column 3 of subheading 2403.99.90 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2403.99.90 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on other manufactured tobacco products (currently dutiable at \$84.27 per kilogram) by \$167.00, to \$251.27 per kilogram.

Item 4 - The rates of duty in column 3 of subheading 2707.50.11 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2707.50.11 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on leaded fuel products distilled from coal tar which can be used as substitutes for leaded petrol (currently dutiable at \$0.36872 per litre) by \$0.081, to \$0.44972 per litre.

Item 5 - The rates of duty in column 3 of subheading 2707.50.19 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2707.50.19 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on unleaded fuel products distilled from coal tar which can be used as substitutes for unleaded petrol (currently dutiable at \$0.34697 per litre) by \$0.081, to \$0.42797 per litre.

Item 6 - The rates of duty in column 3 of subheading 2710.00.19 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2710.00.19 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on topped crude oil which may be used as a fuel (currently dutiable at \$0.34697 per litre) by \$0.081, to \$0.42797 per litre.

Item 7 - The rates of duty in column 3 of subheading 2710.00.20 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2710.00.20 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on automotive diesel oil, industrial diesel fuel and marine diesel fuel (currently dutiable at \$0.34697 per litre) by \$0.081, to \$0.42797 per litre.

Item 8 - The rates of duty in column 3 of subheading 2710.00.52 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2710.00.52 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on leaded petrol (currently dutiable at \$0.36872 per litre) by \$0.081, to \$0.44972 per litre.

Item 9 - The rates of duty in column 3 of subheading 2710.00.53 in Schedule 3

This item omits and substitutes the rates of duty in column 3 of subheading 2710.00.53 in Schedule 3 to the Customs Tariff Act. The new rates for that subheading increase the Customs duty on unleaded petrol (currently dutiable at \$0.34697 per litre) by \$0.081, to \$0.42797 per litre.

Item 10 - Application

This item provides for the increased rates of duty proposed in this Bill to apply to goods entered for home consumption on or after 7 August 1997.



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