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HOUSE OF REPRESENTATIVES

EXCISE TARIFF AMENDMENT BILL (NO.2) 1987

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Industry, Technology and
Commerce, Senator the Honourable John N. Button)

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OUTLINE

The main purpose of this Bill is to amend the Excise Tariff Act 1921 to give effect to the Government's decisions to deregulate crude oil marketing with effect from 1 January 1988, and to implement the package of excise concessions announced on 4 June 1987 by the then Minister for Resources and Energy, as follows:

- . the proposed deregulation amendments change the basis of calculating the excise on the production of stabilised crude oil from one based on the "Import Parity Price", a price determined by the Minister for Primary Industries and Energy, to one based on the volume weighted prices realised from the sale of excisable stabilised crude oil by Australian producers (the "VOLWARE" price of the oil). These prices will be determined according to the provisions contained in the Petroleum Excise (Prices) Bill 1987, the principal Bill in the deregulation package. The legislative package will permit refiners and producers of stabilised crude oil produced to negotiate freely the quantities and prices of crude oil they buy and sell without Government involvement. (Clauses 8 to 10 inclusive).
- . the proposed excise concessions (Clauses 6, 8 and 14) give effect to the Government's decision to encourage the exploration and development of petroleum following recent reductions in crude oil prices. The concessions in particular provide for:
 - a reduction in the top marginal rate for "old" oil from 87% of the import parity price down to 75% by 1989-90; and
 - the exemption from excise of all condensate, offshore LPG production and the first 30 million barrels of crude oil produced from onshore fields.

Additionally, the Bill amends the manner in which the alterations to excise tariff rates are made as a result of movements in the Consumer Price Index. The procedure proposed in Clause 5 of the Bill will add certainty as to when the calculation to determine the new excise rates is to take effect, by removing the existing procedure, and replacing it with a day certain system.

The Bill also incorporates into the Act previously notified excise tariff alterations which:

- (a) alter the excise duty on refined petroleum products on 16 May 1987, 18 July 1987 and 15 August 1987 following movements in the import parity price on stabilised crude oil on the first day of each of those months, in accordance with Government policy (Clauses 13, 15 and 16);
- (b) increase the amount of excise duty on aviation gasoline, which is a surcharge on the aviation industry to replace annual air navigation charges on general aviation aircraft (Clause 14); and
- (c) provide for an excise by-law to allow duty-free treatment of certain petroleum fuels, so as to allow petroleum fuels to be mixed with non-excisable goods to produce intermediate inputs to industry such as solvents and mould release oils (Clause 17).

Financial Impact Statement

(a) Deregulation of crude oil marketing arrangements. (clauses 8-10 inclusive)

The financial impact of moving to a free market for crude oil will depend on the extent to which crude oil prices vary after deregulation. In the current international climate and in a deregulated market, average Bass Strait crude oil prices could be expected to fall between \$A1 - \$A4 per barrel from what they would have been under the Import Parity Pricing formula .

On the basis of a price fall of \$A2.50 per barrel, the drop in Government revenue in 1987/88 and 1988/89 is expected to be about \$100 million and \$168 million respectively.

There will be no offsetting product excise adjustment to recoup revenue foregone by the Government as a result of any drop in Crude oil prices following deregulation.

(b) Import Parity Price adjustments (clauses 13,15 and 16 (b to g)).

The decreases in refined petroleum product excise rates due to the changes in the Import Parity Prices effective from 1 July 1987 and 1 August 1987 are expected to result in decreases in revenue of about \$7.2 million and \$82.7 million respectively in 1987-88. The increase in refined petroleum product excise rates effective from 16 May 1987 is expected to result in an increase in revenue of about \$20.3 million in 1986/87. The changes in the excise rates following changes to Import Parity Prices exactly offset the forecast changes in revenue from crude oil excise and royalties.

(c) New petroleum taxation arrangements (offshore and onshore) Clauses 6, 8, and 14 (b to d).

The introduction of the new excise concessions on crude oil and LPG are forecast to reduce Commonwealth and State Government revenues by \$18 million in 1987/88 and by \$297 million in the five years to 1991/92. Higher production levels as a result of the new concessions will generate additional excise and royalty receipts which more than compensates for the cost of the concessions, based on previous production forecasts by the producers:

- . in 1987/88, the Commonwealth is forecast to receive an additional \$670 million; and
- . in the five years ending 1991/92, the higher production levels will generate an additional \$3.2 billion in excise and royalty collections for the Commonwealth and State Governments.

(d) Aviation gasoline surcharge (clause 14 (a)).

It is estimated that the surcharge will raise around \$3.9 million in 1987/88.

(e) Automatic indexation changes (clause 5).

The amendments proposed by this clause have no direct financial implications.

Excise Tariff Amendment Bill (No.2) 1987Notes on ClausesShort title etc.

Clause 1 is a formal machinery clause permitting the Bill to be cited as the Excise Tariff Amendment Bill (No.2) 1987, and identifies the Excise Tariff Act 1921 as the Principal Act for the purposes of this Bill.

Commencement

Clause 2 provides for the Act to come into operation on the day on which it receives Royal Assent, with the exception of:

- (i) sections 3 and 7, subsection 8(2) and sections 9,10,11 and 12 (relating to the excise arrangements to apply following the introduction of a free market for indigenous crude oil), which will operate from 1 January 1988;
- (ii) paragraph 5(a), and section 6 (dealing with the indexation of the "threshold rate" above which "added duty" will apply) and paragraph 4(a), subsection 8(1) and section 14 (dealing with amendments to the excise arrangements for crude oil, condensate and LPG), which will operate from 1 July 1987;
- (iii) paragraph 4(b) (replacing a reference to the Minister for Resources and Energy contained in the definition of "intermediate area" in subsection 3(1) with a reference to the Minister for Primary Industries and Energy), which will operate from 24 July 1987 (the day on which the new ministry was created);
- (iv) paragraph 5(b) (which details the procedure to apply if the Statistician does not publish an indexation number five days before the commencement of a new quarter) which will commence

operation 28 days after the day of Royal Assent;

- (v) sections 13, 15, and 16, altering the excise duties on certain petroleum products as a consequence of changes in the Import Parity Price of crude oil, which are deemed to operate from 16 May 1987, 18 July 1987 and 15 August 1987 respectively, being dates of adjustment following changes to import parity prices of crude oil; and
- (vi) section 17, reconstructing subitem 11(E) of the Schedule to the Act, and allowing for a Departmental by-law which permits certain petroleum oil to be blended with non-excisable products free of duty, which will operate from 22 August 1987 (the day after the related Excise Tariff Proposal was tabled in the Parliament).

Certain Acts to be read as one with this Act

Clause 3 adds the Petroleum Excise (Prices) Act 1987 to the list of Acts that are incorporated and read as one with the Principal Act.

Interpretation

Clause 4 defines various words and clauses contained in the Bill. In particular, the terms "excluded liquid petroleum area", "exempt offshore oil" and "exempt onshore oil" are defined:

- an "excluded liquid petroleum area" is an area for which a permit to explore for petroleum has been granted pursuant to Part III of the Petroleum (Submerged Lands) Act 1967 on or before 1 July 1984 and is still in force;

- "exempt offshore oil" relates to oil produced from offshore areas beyond the outer limits of the territorial sea of Australia that has not been produced from areas subject to the provisions of the resource rent tax, but was produced from a platform and/or significant installation that was not in operation prior to 1 July 1987 and, in the opinion of the

Minister for Primary Industries and Energy or person authorised in writing to make the decision, could only have been produced by use of the platform and/or significant installation; and

"exempt onshore oil" is the first 4767.3 megalitres of stabilised crude petroleum oil produced from a field that has been prescribed by departmental by-laws for the purpose, and is located in a state or territory, or inside the outer limits of the territorial sea of Australia (or, in any two associated such areas) that is not exempted from excise under the provisions of the Petroleum Revenue Act 1985.

Following the passage of the proposed Petroleum Resource Tax Assessment Bill and associated measures, to be considered by Parliament during this session, the only "offshore" areas subject to excise will be those in the existing permit areas associated with the Bass Strait and North-West Shelf projects.

Indexation of rates of duty

Clause 5 amends section 6A of the Principal Act by amending the existing definitions of "index number" and "Statistician" (paragraph (a)), and by inserting a new subsection 6A(6), which provides where:

any re-calculation of excise tariffs are necessary as a result of either the December or June quarterly All Groups Consumer Price Index, published by the Australian Statistician, pursuant to section 6A of the Principal Act; and

the index number has not been published more than five days prior to 1 February or 1 August of each year respectively, then any calculations necessary to amend excise tariffs will automatically take place five days after the day

on which the index number is actually published by the Statistician. (paragraph(b)).

- This amendment provides certainty as to when changes to excise tariffs because of CPI movements commence, by replacing the existing procedure which requires the Comptroller to publish a notice, as soon as practicable, specifying an arbitrary date from which the newly calculated rates will take effect.

Clause 6 adds a new section 6AA to the Act.

Indexation of threshold prices

The new section 6AA establishes the machinery required to index the "threshold price" of excisable crude petroleum oil on an annual basis. The threshold price applicable for a fiscal year after 1987-88 is derived by adjusting the threshold price in the previous year to the movement in the Consumer Price Index in the calendar year.

the formula requires the All Groups Consumer Price Index figure (the weighted average of the 8 capital cities) published by the Australian Statistician for the December quarter prior to 1 July of any one year, to be divided by the CPI figure for the previous December quarter. This index is calculated to three decimal places (the third decimal place is rounded up if the division's fourth decimal place would have exceeded "4"), with that figure to be then multiplied by the threshold price existing on 30 June to two decimal places (the second decimal place is rounded up if the multiplication's third decimal place would have exceeded "4"). The result of the multiplication produces the "threshold price" for the 12 month period commencing 1 July, substituting the threshold price that applied for the previous

financial year. The Comptroller is then obliged to publish the new price in the Gazette at the first opportunity the new threshold price. (proposed new subsections 6AA (4),(5),(6) and (7)). Proposed new subsection (8) details the procedure when the Statistician has failed to publish the CPI figure before the commencement of the next financial year.

.. In making the above calculation, alterations to the originally published December CPI figure are disregarded, whilst if the Statistician changes the reference base for the CPI figure, subsequent applications of the section will only use the CPI figures published using the same base. proposed new subsections 6AA(2) and (3).

- the new section 6B (clause 8 below) sets the threshold price for excisable crude petroleum oil at \$224.54 per kilolitre for 1987-88. It will be this figure that subsequently will be indexed.

Clause 7 adds a new section 6AB to the Principal Act.

Applicable petroleum prices

The new section 6AB of the Principal Act, which provides that for the purposes of sections 6B,6C and 6D of the Principal Act the "applicable petroleum price" for a month will be either:

. the final VOLWARE price, or the final determination made pursuant to subsection 7(3) of the Petroleum Excise (Prices) Act 1987 by the Minister for Primary Industries and Energy (or a person authorised by him or her to make the determination) of the volume weighted average of realised prices of excisable crude petroleum oil for that month, or, if that is not available;

the interim VOLWARE price, or estimate by the Minister for Primary Industries and Energy or an authorised person, pursuant to subsection 7(2) of the Petroleum Excise (Prices) Act 1987, of the amount that will finally be determined to be the volume weighted average of realised prices of excisable crude petroleum oil for that month, based on information available to him or her at the time or, if neither of the above two figures are available;

the "reference price" for the month, being the amount determined by the Minister for Primary Industries and Energy or an authorised person, pursuant to subsection 5(1) of the Petroleum Excise (Prices) Act 1987, made prior to the commencement of the month that estimates the price that is most likely to be the final VOLWARE price for the month. (subclause (1)).

.. subclause (2) makes it clear that the Import Parity Price shall be regarded as the applicable petroleum price for the purposes of sections 6B, 6C and 6D of the Principal Act, until 31 December, 1987.

Duties of excise on certain crude petroleum oil

Clause 8 amends section 6B of the Principal Act by adding duty on relevant oil (i.e. "old oil") produced from prescribed non-exempted offshore fields when the price of that oil exceeds the existing threshold price, and also alters the basis on which excise on relevant oil is calculated.

in particular, subclause (1) adds a new subsection 6B(3B) to the Principal Act which provides that the amount of excise payable on relevant oil during a particular prescribed division of a financial year, whilst the Import Parity Price is in operation from 1 July 1987, is the notional amount of duty (which is the

product of multiplying the relevant percentage contained in subsection 6B(7) and the Import Parity Price and the quantity of oil that exceeds the amount contained in the relevant paragraph of subsection 6B(4)), plus any added duty (discussed below) that is owed, less any amount of duty paid (paragraph (c))

.. added duty is required to be paid when the Import Parity Price (an amount determined by the Minister for Primary Industries and Energy) exceeds the threshold price (discussed in clause 6 (above), and the quantity of oil produced in the month exceeds the "threshold quantity" (or, the number of days in the month multiplied by 1369.8630 kilolitres (in a 365 day year) or 1366.1202 kilolitres (in a 366 day year) for any one "old oil" prescribed production area. In this circumstance, the added duty is the product of the added percentage (as defined in paragraph (a) with the Import Parity Price and the number of kilolitres produced in excess of the threshold quantity. (paragraph (e)). Paragraph (h) provides the procedure for determining the added duty in respect of relevant oil from a production area when production from that area first commences part way through a month to which the duty applies. In that circumstance, the threshold quantity for the month to be used in the formula is the result of the threshold quantity (discussed above) multiplied by the quotient of the days that oil were produced, and by the number of days in the month.

... subclause 8(1) additionally amends one of the amounts in which notional duty applies (paragraph (d)); provides for a progressive reduction to 75% in the top marginal excise rate on "old" oil applying to the quantity of oil produced from an area that is in excess of 500 megalitres

per annum (paragraph (f)); and ensures that the volume of relevant oil upon which added duty is calculated is correct to one decimal place (paragraph (g)). This subclause will take effect as from 1 July 1987

subclause (2) removes the concept of "Import Parity Price" throughout subsection 6B, as from 1 January 1988, and substitutes "applicable petroleum price", discussed in clause 6 (above). The manner of determining excise discussed in subclause 8(1) (above) ends on 31 December 1987 (paragraph (d)), and a new manner of determining the excise due on relevant oil is established.

Subclause 8(2) adds a new subsection 6B(3C), which calculates the amount of excise due on relevant crude oil produced from a prescribed area, and entered for home consumption during a particular prescribed division of a particular financial year after 1 January 1988, which is the notional duty owed on the oil plus any added duty (as discussed above) plus any debited adjustment amounts (described below) less the sum of duty already paid, and any credited adjusted amounts (paragraph (e)). The new proposed subsection 6B(3D) makes clear that any amount collected in the current financial year that relates to any increases or decreases in the amount of excise due in the last financial year, is not included in the "duty paid" for the purposes of the formula.

.. the proposed new subsections 6B(5B) and (5C), provide that where, in a prescribed division of a financial year, a VOLWARE price has been determined for a month in the previous financial year, and the "adjusted previous year's duty", that is, the duty that would have to had been paid if all the information regarding the applicable petroleum prices for the last financial year were known and inserted in the

formula at the end of a prescribed period), is greater (or less) than the "non adjusted previous year's duty", the information regarding the applicable petroleum price regarding the previous financial year was known and inserted into the formula immediately before the commencement of the prescribed division of a financial year, then either a debited adjustment amount (or a credited adjustment amount respectively) is created.

- The final amount of excise owed is based on the final VOLWARE figure for a particular month. As this figure can take a considerable amount of time to compute, this mechanism is necessary so as to ensure that the amount of excise actually owed is due.

... In addition, paragraph (k) replaces the existing formula in subsection 6B(6) with a formula to calculate the amount of notional duty in respect of a quantity of oil referred to in subsection 6B(4) where there is a variation in the Import Parity Price in a financial year with a formula which calculates the notional duty that accommodates variations in the applicable petroleum price, whilst paragraph (m) removes sections of the Principal Act which deal with the determination, Gazettal and tabling of Ministerial determinations as to the Import Parity Price of Bass Strait stabilised crude petroleum oil. These provisions now rely on the applicable petroleum price, discussed in clause 7 (above)

- these provisions take effect as from 1 January 1988

alties of excise on new oil

ause 9 amends section 6C of the Principal Act by changing the basis on which excise on new oil, that is, stabilised crude petroleum oil produced from a new accumulation in a prescribed area is calculated. The same

formulae that is used for determining the excise on "relevant oil" (ie the applicable petroleum price rather than the Import Parity Price), contained in subclause 8(2) is applied to "new oil", with the exception that "added duty" is not imposed on any part of the production of new oil.

Duties of excise on intermediate oil

Clause 10 amends section 6D of the Principal Act by changing the basis on which excise on intermediate oil, that is stabilised crude petroleum oil produced from an area declared by the Minister for Primary Industries and Energy to be an intermediate area, is calculated. The same formulae used for determining the excise on "relevant oil", using the applicable petroleum price rather than the Import Parity Price, contained in subclause 8(2) (above) is applied to intermediate oil, with the exception that "added duty" is not imposed on any part of the production of intermediate oil.

Delayed-entry oil rate

Clause 11 amends section 6E of the Principal Act to make it clear that the calculation of duty on delayed entry oil, that is, oil which was produced from a production area whilst subject to excise, but was not sold until the area's production was exempt from excise by virtue of the Petroleum Revenue Act 1985 would be based on the Import Parity Price applicable at the time of production of the oil rather than the applicable petroleum price.

Delayed-entry LP rate

Clause 12 amends section 6F of the Principal Act to make clear that the calculation of duty on delayed entry liquefied petroleum, that is, liquefied petroleum which was produced from a production area whilst subject to excise, but was not sold until the area's production was exempt from excise by virtue of the Petroleum Revenue Act 1985 would be based on the import parity price applicable at the time of production of the liquefied petroleum rather than the applicable petroleum price.

Amendments of Schedule having effect from 16 May 1987, 18 July 1987, and 15 August 1987

Clauses 13,15 and 16 amend the excise duties on certain refined petroleum products as a consequence of changes in the Import Parity Price of crude oil on 1 May, 1 July and 1 August 1987 respectively.

Amendments of Schedule having effect from 1 July 1987

Clause 14 increases the amount of excise due on gasoline for use in aircraft (paragraph (a)), and removes from the excise regime the oil and liquefied petroleum that fall within the classes defined in clause 4 (discussed above) produced from an excluded liquefied petroleum area, into the appropriate subitems to the Schedule to the Principal Act.

The amendment to the excise on aviation gasoline takes into account a decision by the Government to add a surcharge on aviation gasoline, as a result of the decision to abolish navigation charges for general aviation aircraft.

Amendment of Schedule having effect from 22 August 1987

Clause 17 amends the Schedule to the Principal Act by amending subitem 11(E) to allow certain petroleum fuels falling within the subitem, as prescribed by Departmental by-law to be entered for home consumption free from excise duty.

This will permit the fuels contained in subitem 11(E), when blended with non-excisable goods to produce solvents, mould release oils and other similar products that are not to be used as fuels themselves, to be entered for home consumption duty free.

