

EXPLANATORY STATEMENT

STATUTORY RULES 2004 No. 382

Issued by the Authority of the Minister for Foreign Affairs

Subject: *International Organisations (Privileges and Immunities) Act 1963*

Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Amendment Regulations 2004 (No. 1)

Section 13 of the *International Organisations (Privileges and Immunities) Act 1963* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The purpose of the Regulations is to extend arrangements for the repayment of indirect tax to the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (the PrepCom) so that purchases made between 17 August 2000 and 27 March 2002 are covered also.

The PrepCom was established in 1996 to prepare for the operation of the Comprehensive Nuclear-Test-Ban Treaty, and of its verification regime, when the Treaty enters into force. A particular task of the PrepCom is to manage the establishment and provisional operation of the International Monitoring System which will comprise 337 facilities worldwide for seismic, radionuclide, infrasound and Hydroacoustic monitoring. At 2 December 2004, the CTBT has been signed by 174 States and ratified by 120. Of the 44 States listed in Annex 2 to the Treaty, 33 have ratified. Australia's instrument of ratification was deposited on 9 July 1998.

To facilitate the hosting of 21 IMS facilities in Australia, Australia and the PrepCom signed a bilateral arrangement in March 2000. This came into effect on 17 August 2000. The provisions of the arrangement require inter-alia that Australia will make arrangements for repayment of indirect tax on significant purchases for official use. The *Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Amendment Regulations 2002* were made to address this obligation, but commenced only on 28 March 2002. The Regulations make it possible to deal with claims made by the PrepCom for refund of indirect tax on activities between 17 August 2000 and 27 March 2002.

Details of the proposed Regulations are attached.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations commence on the date of their notification in the *Gazette*.

The Regulations might be regarded as retrospective in effect. The Attorney General's Department is satisfied however that they are consistent with section 48 of the *Acts Interpretation Act 1901* in that they do not disadvantage any person other than the Commonwealth or a Commonwealth agency.

Authority: Section 13 of the *International Organisations (Privileges and Immunities) Act 1963*

Details of the proposed Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Amendment Regulations 2004 (No. 1)

Regulation 1 cites the *Regulations as the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Amendment Regulations 2004 (No. 1)*.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 amends the *Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Regulations 2000*.

Item 1 of Schedule 1 amends subregulation 15(1) by omitting “acquisitions by PrepCom” and substituting “acquisitions by PrepCom made on or after 17 August 2000”. This makes it possible to deal with claims for the refund of Goods and Service Tax paid by the PrepCom on acquisitions made between 17 August 2000 and 27 March 2002.