

Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Amendment Regulations 2002 (No. 1) 2002 No. 57

EXPLANATORY STATEMENT

Statutory Rules 2002 No. 57

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 2002 (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 this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

These Regulations make arrangements for the repayment of indirect tax to the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (the PrepCom) on certain purchases made for official use.

Regulations may provide details of the Indirect Tax Concession Scheme (ITCS) for international organisations in Australia in accordance with the Act. Section 11C of the Act provides that the Commissioner must re-pay to an international organisation any indirect tax paid on specified acquisitions that are covered by regulations, and which are for the official use of the organisation. The amount is payable in accordance with the conditions and limitations, and within the period and in the manner set out in regulations.

The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (the PrepCom) was established by a resolution of the United Nations General Assembly on 19 November 1996. Its task is to prepare for the operation of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and its verification regime when the treaty enters into force. A particular task of the PrepCom is to supervise and co-ordinate the establishment and provisional operation of the International Monitoring System (IMS) which will comprise 337 facilities worldwide for seismic, radionuclide, infrasound and hydroacoustic monitoring. Australia will host 21 IMS facilities.

To facilitate the Australian activities of the PrepCom's Provisional Technical Secretariat (PTS) and its contractors in establishing the IMS, Australia and the PrepCom signed a bilateral arrangement on 13 March 2000. The provisions of the arrangement require inter-alia that Australia will make arrangements for repayment of indirect tax. These Regulations discharge this obligation.

Details of the Regulations are set out in the Attachment.

Attachment

Regulation 1 cites the Regulations as the *Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Amendment Regulations 2002 (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 inserts definitions in Regulation 3 for *taxable supply* and *tax invoice*.

Item 2 of Schedule 1 inserts new Regulations 15, 16, 17 and 18:

Regulation 15 implements the ITCS for the PrepCom. It provides that the Commissioner of Taxation must refund to the PrepCom any indirect tax paid on specified acquisitions it may make for official use. The Regulation reflects the *standard package* of concessions provided by Australia to international organisations, as well as international practice concerning such concessions. However the Regulation does not provide concessions for acquisitions made for personal use by PrepCom officials. Subregulation 15(d) provides for concessions on the full range of acquisitions to be made by the PrepCom's Provisional Technical Secretariat pursuant to Australia's bilateral arrangement with the PrepCom of 13 March 2000.

Regulation 16 establishes a series of conditions requiring repayment of the tax refunded if there is a disposal of goods before a specified time has elapsed, so as to ensure that these goods do not enter the general market at a price which does not reflect the impact of indirect taxes. The sale of goods to a finance company as part of a sale and lease-back arrangement is not however a disposal of goods for this purpose. Subregulation 16(2) provides that these conditions do not apply to a payment in relation to the acquisition of goods or services that are disposed of to the Commonwealth in accordance with a written arrangement between the Commonwealth and PrepCom.

Regulation 17 specifies the documents that must accompany claims for repayment of tax under the ITCS and to whom and when claims must be sent.

Regulation 18 requires amounts repayable under the ITCS to be paid to a single recipient or nominated account.