

# EXPLANATORY STATEMENT

## Tariff Concessions Revocation Instrument 10/2010

### *Customs Act 1901*

#### ***Background***

Part XVA of the *Customs Act 1901* (the Act) sets out a scheme under which Tariff Concession Orders (TCOs) may be made and revoked by the Chief Executive Officer of Customs (the CEO). A lower rate of customs duty applies to goods that are the subject of a TCO.

Under sections 269C and 269P of the Act, a TCO will be made if the application for the TCO meets the core criteria, that is, on the day on which the application was lodged, no substitutable goods were produced in Australia in the ordinary course of business.

Subsection 269SD(2) of the Act provides that if the CEO is satisfied that:

- because of an amendment of the *Customs Tariff Act 1995*; or
- having regard to a decision of a court of the Administrative Appeals Tribunal; or
- having regard to written advice on the matter given by an officer of Customs;

the tariff classification that is stated in a TCO to apply to the goods the subject of the TCO has not, with effect from a particular day, applied to those goods, the CEO must:

- make an order revoking the TCO with effect from that day; and
- make a new TCO in respect of the goods with effect from the revocation.

#### ***Instrument***

Tariff Concessions Revocation Instrument No 10/2010 was made on 21 May 2009. It revokes TCO 0804294 and makes TCO 0917087. The tariff classification has been changed from 8428.90.00 to 8479.89.90 because of a tariff classification change.

#### ***Consultation***

No consultation was undertaken since the change is minor or machinery nature and does not substantially alter existing arrangements.

#### ***Commencement***

Subsection 269SD(2) provides that the order revoking the TCO has effect from the day on which the tariff classification did not apply to the goods. Further the new TCO has effect from the revocation. Subsection 269SD(4) provides that the day may be the day on which the old TCO came into force or a later day.

Subsection 269SD(6) provides that section 269SD has effect despite section 12 of the *Legislative Instruments Act 2003*. Section 12 prohibits the making of certain retrospective legislative instruments.

Tariff Concessions Revocation Instrument No. 10/2010 revoked 0804294 and made new TCO 0917087 on 21 May 2009, with the Revocation date of effect as from 16 April 2008