

## EXPLANATORY STATEMENT

### Customs By-law No. 1700126

#### *Customs Act 1901*

Section 271 of the *Customs Act 1901* (the Act) provides, in part, that where an item of a Customs Tariff is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law, the Comptroller-General of Customs may make by-laws for the purposes of that item. A Customs Tariff is defined in section 4 of the Act to mean an act imposing duties of customs. The *Customs Tariff Act 1995* (the Customs Tariff Act) is a Customs Tariff for the purposes of the Act. Section 18 of the Customs Tariff Act provides for calculation of concessional duty.

#### **Background**

Schedule 4 of the Customs Tariff Act was amended by the *Customs Tariff Amendment (Schedule 4) Act 2012*. The amendment of item 10 in Schedule 4 provides that goods, as prescribed by by-law, which are owned by the government of a foreign country and for the official use of that government, are dutiable at the rate of 'Free'.

Consistent with Australia's obligations under various Status of Forces Agreements and Status of Visiting Forces Agreements, goods for the official use of the foreign governments are imported under item 10 in Schedule 4 of the Customs Tariff Act. This provides for a concessional duty rate of 'Free'.

Status of Forces Agreements and Status of Visiting Forces Agreements are arrangements between two or more countries that address issues arising out of the presence of one country's visiting defence forces in the territory of the host country. Australia has a number of such agreements with foreign governments including the United States of America, New Zealand and Papua New Guinea, which allow for visiting defence forces to enter Australian territory.

#### **Instrument**

By-law No. 1700126 prescribes goods that are the subject of a Status of Forces Agreement or Status of Visiting Forces Agreement as being goods in respect of which duty is payable at the concessional rate of "Free".

The importation of goods that are the subject of a Status of Forces Agreement or Status of Visiting Forces Agreement at the concessional duty rate of 'Free' is subject to the conditions of item 10. That is, the goods must:

- a) be owned by the government of a country other than Australia at the time they are entered for home consumption;
- b) must be for the official use of that government; and
- c) must not be for the purposes of trade.

#### **Consultation**

Consultation on this by-law was undertaken with the Department of Defence and the Attorney General's Department.

**Commencement**

By-law No. 1700126 takes effect the day after it is registered.

**Delegate of the Comptroller-General of Customs**