

EXPLANATORY STATEMENT 10 OF 2009

AMENDMENT TO THE CONVENTION ESTABLISHING A CUSTOMS COOPERATION COUNCIL ADOPTED AT BRUSSELS IN 1952

Financial and legal effect

1. The proposed treaty action will allow customs and economic unions to join the Customs Cooperation Council, also known as the World Customs Organization (WCO), subject to the approval of the Council. The amendments involve Articles VIII and XVIII of the Convention.
2. The financial and legal effect of the amendment for Australia is negligible. According to the Council Decision relating to the only customs or economic union to have applied for membership thus far, the European Communities (EC), membership would not confer any additional voting rights in the WCO on customs and economic unions or their member states. Where a vote is held on a matter within the competence of the customs or economic union, it shall exercise the votes of all its member states that have the right to vote. Individual member states cannot exercise their right to vote individually. Where a vote is held on a matter not within the competence of the customs or economic union, it cannot vote and individual member states may vote as usual. These conditions are likely to apply to customs and economic unions that apply for membership in future.
3. The primary purpose of the proposed amendment is to allow the EC to be admitted to the WCO as a member. The financial and legal effect of the EC's accession is also negligible. Due to its competency in customs matters, the EC already participates in the work of most of the key WCO bodies, through its status as a Contracting Party to WCO instruments which are open for accession by customs and economic unions, or by virtue of its membership of the WTO.

Nature and timing of proposed treaty matter

4. In June 2007, the WCO Council adopted a Recommendation requiring certain amendments to the Convention Establishing a Customs Cooperation Council that will allow the accession of customs or economic unions to the WCO. The amendments to the Convention will enter into force three months after all signatories to the Convention have ratified them. As of May 2009, the amended Convention had been ratified by 29 of the 174 members of the WCO.
5. In recognition of the time it will take for all signatories to ratify the amendments, the Council has granted the EC status akin to that of a member pending the entry into force of the amended Convention. The Council's decision provides the EC with both financial obligations and voting rights.

Reasons for Australia to take the proposed action relating to the treaty matter

6. Australia's endorsement of the Recommendation amending the Convention Establishing a Customs Cooperation Council is consistent with Australia's support for customs or economic unions, including the EC, becoming a member of treaties and international organisations if the subject matter falls within their competency.

Implementing legislation

7. No legislative changes are needed to implement the proposed treaty action.