

LEGISLATIVE COUNCIL

Read 1° 29 October 1985

(Brought in by the Honourable J. E. Kirner)

A BILL

to amend the *Forests (Wood Pulp Agreements) Act 1974* to ratify, validate, approve and give effect to an agreement between the Forests Commission and APM Limited to amend the Softwood Timber Agreement made in 1973 and for other purposes.

Forests (Wood Pulp Agreement) (Amendment) Act 1985

WHEREAS an Agreement to amend the Softwood Timber Agreement made in 1973 was made on the 28th day of October 1985 between the Forests Commission and APM Limited (formerly known as Australian Paper Manufacturers Limited) a company incorporated in the State of New South Wales and registered under the *Companies (Victoria) Code* as a company carrying on business in Victoria:

And whereas by the Agreement made on the 28th day of October 1985 it is provided that the Agreement is not to be of any force or effect until it is ratified, validated, approved and otherwise given effect by an Act of the Parliament of Victoria:

And whereas it is expedient to ratify, validate, approve and otherwise give effect to that Agreement:

The Parliament of Victoria therefore enacts as follows:

Purpose.

1. the purpose of this Act is to ratify, validate, approve and give effect to the 1985 Amending Softwood Timber Agreement.

Commencement.

2. This Act comes into operation on the day on which it receives the Royal Assent.

Crown bound.

3. This Act binds the Crown.

5

Ratification of Agreement.

4. (1) The Amending Agreement is ratified, validated, approved and given effect.

(2) References in the *Forests (Wood Pulp Agreements) Act 1974* to the Agreement are deemed and taken to be references to the Softwood Timber Agreement as amended by the Amending Agreement.

10

(3) In this section—

“**Amending Agreement**” means the Agreement a copy of which is set out in the Schedule and includes the map annexed to the Agreement as executed a copy of which is lodged in the Central Plan Office and numbered 360-4; and

15

“**Softwood Timber Agreement**” means the Agreement a copy of which is set out in Schedule 2 to the *Forests (Wood Pulp Agreements) Act 1974*.

SCHEDULE

1985 AMENDING SOFTWOOD TIMBER AGREEMENT

THIS AGREEMENT is made the 28th day of October Nineteen hundred and eighty-five between FORESTS COMMISSION incorporated by the provisions of the *Forests Act* 1958 of the State of Victoria of the one part and APM LIMITED (formerly Australian Paper Manufacturers Limited) a company incorporated in the State of New South Wales whose head office is situated at South Gate South Melbourne in the State of Victoria of the other part and is supplemental to the Softwood Timber Agreement ratified, validated and approved by the *Forests (Wood Pulp Agreements) Act* 1974.

WHEREAS:

- I The Company has for some time been engaged in large scale operations in connection with the manufacture of wood pulp and has established a large paper making industry and the ancillary activities of chemical manufacture and forestry in the State of Victoria.
- II The Company proposes to further expand its usage of softwood timber for manufacture of wood pulp and desires to be satisfied that sufficient softwood timber will be made available from the area of supply to enable it to further develop the industry.
- III The Premier of the State of Victoria has advised the Company that the Victorian Government is willing to provide a total of 200 000 cubic metres of softwood timber per annum from first day of July 2004 for a period of twenty years to the thirtieth day of June 2024.
- IV The Commission is developing sufficient softwood plantations within the area of supply to provide the aforesaid supply of softwood timber.
- V The Commission and the Company have reviewed the resources available in relation to the Company's projected requirements for softwood timber and agreed on levels of supply and the basis of payments for such supply from State forest.
- VI The parties hereto desire to incorporate the following amendments in the Softwood Timber Agreement.

NOW IT IS HEREBY AGREED as follows:

PART I.—RATIFICATION AND ENFORCEMENT

1. This Agreement shall not be of any force or effect until it has been ratified, validated, approved and otherwise given effect by an Act of the Parliament of Victoria.
2. On and after the first day of January 1986 the Softwood Timber Agreement shall be read and construed as if the amendments made therein by this Agreement were incorporated therein.

PART II.—AMENDMENT OF SOFTWOOD TIMBER AGREEMENT

3. Clause 1 of the Softwood Timber Agreement is amended by substituting for the definitions of "area of supply" and "Company" the following definitions:

"area of supply" means the area within the boundary indicated by brown verge on the map annexed hereto.

"Company" means APM LIMITED and upon each assignment to any other company in accordance with sub-clause (1) of clause 4 hereof means that assignee company.

4. Clause 6 of the Softwood Timber Agreement is amended by substituting for the word "thirty" the word "fifty".

5. Clause 14 (1) of the Softwood Timber Agreement is amended by adding the following paragraph after paragraph (f):

"(g) During the years 2004–2005 to 2023–2024 inclusive—200 000 cubic metres".

6. Clause 14 of the Softwood Timber Agreement is amended by adding the following sub-clause after sub-clause (1):

"(1A) (a) the company shall pay to the Commission:
(i) an amount of \$110 000; and

SCHEDULE—*continued*

- (ii) in three equal successive annual instalments each being one-third of an amount of a royalty surcharge of 21 cents per cubic metre on 4 000 000 cubic metres of softwood timber to be made available during the period first day of July 2004 to the thirtieth day of June 2024.
 - (b) the amount of \$110 000 and the first of the instalments shall be paid to the Commission on or before thirtieth day of March 1986 and the second and third instalments shall be paid on or before thirtieth day of March 1987 and thirtieth day of March 1988 respectively.
7. Clause 17 of the Softwood Timber Agreement is amended by deleting sub-clause (3).
8. Clause 20 of the Softwood Timber Agreement is amended—
- (a) by inserting the words “until the thirtieth day of June 2004” after the words “first day of July 1976” where first occurring in sub-clause (1);
 - (b) by deleting the words “Commonwealth Bureau of Census and Statistics” where twice occurring in sub-clause (1) and substituting the words “Australian Bureau of Statistics”;
 - (c) by deleting paragraphs (a) and (b) in sub-clause (1) and substituting the following paragraphs:
 - “(a) the Average Weekly Earnings of Employees, All Males, Weekly Total Earnings, Victoria; and
 - (b) the Index Numbers Based On Australian Standard Industrial Classification, Weighted Average of Six State Capital Cities, Wood and wood products.”
 - (d) by adding the following sub-clauses after sub-clause (2):
 - “(2A) During each successive period of three years from the first day of July 2004 to the thirtieth day of June 2022 and during the further two year period until the thirtieth day of June 2024 the royalty payable shall be at the rate or rates agreed upon by the Commission and the Company on the basis of the average rate paid for softwood timber supplied by the Commission under other long term supply agreements or long term licences for the manufacture of wood pulp paper particleboard and similar products during the preceding period of three years and varied in the same proportion as the average proportional variation in the figures at the beginning and end of that period in regard to the figures referred to in paragraphs (a) and (b) of sub-clause (1) hereof and subject to an additional charge of 10% to the rate or rates so determined.”
 - “(2B) If the Commission and the Company fail to agree within three months of the commencement of any period as to any rate of royalty pursuant to sub-clause (2A) the rate shall be determined by arbitration in accordance with Clause 27.”
9. Clause 27 is amended by inserting the words “and sub-clause (2A) of Clause 20” after the words “the preceding sub-clause” in sub-clause (2).

IN WITNESS whereof the parties hereto have executed this Agreement the day and the year first before written.

The Common Seal of FORESTS
COMMISSION was hereto affixed in the
presence of:

TONY EDDISON, Commissioner
G. GRIFFIN, Commissioner

The Common Seal of APM LIMITED was
hereto affixed by authority of the Board of
Directors:

D. E. MEIKLE JOHN, Director
R. A. MANZIE, Secretary

