

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

Notification under Article 7.3 of the
Agreement on Import Licensing Procedures¹

AUSTRALIA

The following communication, dated 27 September 2012, is being circulated at the request of the delegation of Australia.

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¹ See document G/LIC/3, Annex, for the Questionnaire.

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I. ANIMALS (INCLUDING BIRDS, FISH AND INSECTS) AND ANIMAL PRODUCTS, PLANTS AND GOODS OF GENERAL QUARANTINE CONCERN.

Outline of system

1. The *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* regulates international trade in Australian native species, live wildlife, and species listed under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*.

EPBC Act -

<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/93CECCC69FF754BCA25776600173C09?OpenDocument&mostrecent=1>

EPBC

Regulations

-

<http://www.comlaw.gov.au/comlaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/1340F9D261FCF31ACA25773600833AB9?OpenDocument>

The *Quarantine Act 1908*, Quarantine Regulations and Quarantine Proclamation (collectively, Quarantine Legislation) apply controls to the importation of all plants, parts of plants and plant products, all animals (including birds, fish and insects), animal products, soil and other items of general quarantine concern.

Quarantine legislation: <http://www.comlaw.gov.au/Search/Quarantine>.

Sections of the Customs (Prohibited Imports) Regulations 1956 control the importation of some animals and plants.

Purposes and coverage of licensing

2. Apart from exports, the EPBC Act regulates:

- the import of all live animals and plants;
- the import of non-live animal and plant specimens, including parts and derivatives, of species listed under CITES.

The purpose of Australia's quarantine legislation is to manage the risk of introduction of pests and disease that could damage plant, animal or human health or the environment. As well as controlling the importation of plants and animals and their products and derivatives, quarantine legislation applies to items such as: straw packing, pallets, skids; dunnage and waste; brush ware (bristles or hair of animal origin); vehicles and certain machinery and equipment (for soil traces); infants food (milk in any form); and galley waste and refuse.

The Customs (Prohibited Imports) Regulations 1956 control the importations of: fish caught by foreign based fishing vessels; and Patagonian and Antarctic Toothfish. The Regulations also control the import of raw tobacco and certain plant material containing drugs.

3. The quarantine legislation applies to the importation of goods from all countries.

4. The EPBC Act seeks to implement Australia's obligations under CITES, by regulating international trade in wildlife and wildlife products, to contribute to the protection and conservation of species that are endangered, or could become endangered. The EPBC Act is not intended to restrict the quantity or value of imports.

The quarantine legislation is not intended to restrict the quantity or value of imports but to manage the risk of introduction of exotic pests and diseases associated with importation for the purpose of protecting plant, animal and human health and the environment. The legislation also seeks to protect the Australian environment against further establishment of pest species of plants and animals by controlling the importation of certain live plants and animals. Live animals and plants may only be imported if the species are included on the *List of Specimens taken to be Suitable for Live Import* under the EPBC Act. Additional quarantine controls are applied to the importation of foodstuffs to more specifically protect human health.

5. The controls on the importation of goods specified in this category are statutory requirements under the legislation detailed below:

- Environment Protection and Biodiversity Conservation Act 1999;
- Quarantine Act 1908;
- Quarantine Regulations;
- Quarantine Proclamation;
- Customs (Prohibited Imports) Regulations 1956.

The Commonwealth Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) is responsible for administration of the EPBC Act. The Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF), is responsible for administration of animal and plant quarantine legislation. The Australian Customs and Border Protection Service (ACBPS) is responsible for administration of the Customs (Prohibited Imports) Regulations 1956.

The legislation does not allow for administrative discretion regarding goods/items subject to import controls. It is not possible for the Government or executive branch to abolish the systems without legislative approval.

Procedures

6. Not applicable.
- 7.(a) Application should be made well in advance of arrival of the goods to allow time for the application to be assessed against the legislation and the relevant import policy. For commodities that require an import permit, permits cannot be issued retrospectively. However, not all goods require an import permit and clearance to import can be given at the point of entry provided the import conditions have been met. However, CITES permits will not be issued retrospectively.
- (b) In the case of most importations in this category it will not be possible for permission to be issued immediately on request.
- (c) Permits may be issued at any period of the year.
- (d) Applications for permission to import most animals, animal products, plants and plant products into Australia involve an approach to a single agency - DAFF – unless the specimens are listed under CITES or Part 2 of the *List of Specimens taken to be Suitable for Live Import* (live import list) under the EPBS Act, in which case an import permit from DSEWPaC is also required. The importation of some products is, by law, subject to certain quarantine conditions, outlined in the DAFF Import Conditions database - ICON. If the good to be imported is regulated by more than one agency, import permission is generally required from both agencies before the good may be imported. Live animals and plants must be included on the live import list under the EPBC Act before they may be imported.

8. An application to DAFF for an import permit may only be refused under the ordinary criteria for such applications. Reasons for refusal will be advised. There are no formal structures in place under the quarantine legislation through which an appeal may be lodged regarding the refusal to grant an import permit.

For permit decisions under the EPBC Act, applicants may appeal on the merits of the decision to the Administrative Appeals Tribunal. Alternatively, an appeal may be made on the decision-making process itself under the Administrative Decisions (Judicial Review) Act 1977.

Eligibility of importers to apply for a licence

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. Applications for permission to import must be made in writing to DAFF. The form of the application and information required will depend on the nature of the animal/plant/product/derivative for which permission to import is required and are publicly available on the DAFF website at: <http://www.daff.gov.au/forms/aqisforms/import>.

11. Where the importation of the item comes under the jurisdiction of the DSEWPaC, the importer should contact that agency for advice regarding the relevant application form.

Importers should consult the ICON database (www.daff.gov.au/aqis) to determine if a commodity intended for import to Australia needs a quarantine permit and/or treatment or if there are any other quarantine prerequisites. Permits must be obtained prior to importation and are required on importation. Applications for permits may be lodged electronically (www.daff.gov.au/aqis). Other documentation required is dependent on the type of commodity and the import conditions of the permit or as listed on the ICON database. For the import of CITES listed specimens, both CITES export and import permits are generally required upon importation. The import of live specimens may also require an import permit.

12. Information on fees and charges for the importation of items that come under the jurisdiction of DAFF may be found at: <http://daff.gov.au/fees/aqisfees-charges/import>. Information regarding fees and charges relating to the application for CITES import permits, and live specimen permits, is available at: <http://www.environment.gov.au/biodiversity/wildlife-trade/permits/fees.html>.

13. There is no deposit or advance payment requirement associated with the issue of licenses. An application (processing) and assessment fee for a DAFF permit is charged automatically when a permit application is accepted, regardless of whether or not the permit is issued. There is a possibility that the fee may be reimbursed if an import permit is not issued. Assessment fees also apply for most DAFF permit applications. Further, DSEWPaC also charges an application fee at the time of application. The fee is not refundable.

Conditions of licensing

14. The period of validity of a permit depends on the nature of the importation: specific details to be supplied on enquiry. Legislation will normally not allow for continuing permission. Individual assessments of permit applications will determine the appropriate validity period, which is generally one or two years for DAFF permits. From time to time, a permit will be issued with a different

validity, such as short term importation of artefacts for a museum exhibition. CITES permits issued by DSEWPaC are valid for six months.

15. There is no penalty for the non-utilisation of a permit or a portion of a permit.
16. Quarantine import permits are not transferrable between importers. Permits issued under the EPBC Act may be transferred under some circumstances.
- 17.(a) Not applicable.
- (b) Conditions may be applied in respect of such issues as custody, end use, disposal or distribution of imported goods as well as pre-export treatment, testing, certification or on-arrival treatment or quarantine.

Other procedural requirements

18. No.
19. Not applicable.

II. ANZAC GOODS

Outline of system

1. There are two regulations under which the word "Anzac" is protected in Australia – Protection of Word "Anzac" Regulations and the Customs (Prohibited Imports) Regulations 1956.

Importation into Australia of goods the description of which includes or bears the word "Anzac", or advertising matter relating to those goods, is controlled by the Customs (Prohibited Import) Regulations 1956 and is prohibited except with the written permission of the Minister for Veterans' Affairs (the Minister) or an authorised officer.

It is highly likely that a person making an application to import "Anzac" goods under the Customs (Prohibited Imports) Regulations 1956 will also need to apply to use the word "Anzac" under the Protection of Word "Anzac" Regulations.

Purposes and coverage of licensing

2. Licensing system maintained and products covered include: Protection of Word "Anzac" Regulations and Customs (Prohibited Imports) Regulations 1956.

The Anzac Regulations prevent the use of the word "Anzac" without the written permission of the Minister for Veterans' Affairs.

The purpose of the Customs (Prohibited Import) Regulations is to prohibit the importation of all goods into Australia that include or bear the word "Anzac", unless: the person importing the goods is the holder of a written permit granted by the Minister for Veterans' Affairs or an authorised officer; and the permit is produced at or before the time of importation. The Minister or an authorised officer may specify conditions or requirements to be complied with by the holder of the permission or permit to import "Anzac" goods, and may, for any such condition or requirement, specify a time period before the permission expires. The Minister or an authorised officer may revoke permission where the conditions of the permit are not met.

In certain circumstances, providing the goods obtain approval status, importers are able to obtain retrospective import approval after the goods have arrived in Australia. However, if the "Anzac" goods in question do not receive ministerial approval they may be seized or retained by Customs.

3. The regulation applies to the importation of goods from all countries.
4. The Customs (Prohibited Import) Regulations are not intended to restrict the quantity or value of imports. The Customs (Prohibited Import) Regulations, in conjunction with the Protection of Word "Anzac" Regulations, seek to protect the inappropriate use and commercial exploitation of the word "Anzac" and to protect the significance of the word.
5. The controls on the importation of "Anzac" goods are statutory requirements and cannot be abolished without legislative approval.

Procedures

6. Not applicable.
- 7.(a) An application for the importation of "Anzac" goods into Australia should be made well in advance of the arrival of the goods. Permit applications may take between six to twelve weeks to process because of the checks made on the individual or company applying to import the "Anzac" goods. Checks are also undertaken on the nature of the goods and their intended use.

The importation of "Anzac" goods is prohibited without written approval from the Minister for Veterans' Affairs. Goods that arrive into port without approval will be seized by Customs.

In addition to the Customs (Prohibited Import) Regulations 1956, the Protection of Word "Anzac" Regulations prohibit the use of the word "Anzac" or any word resembling the word "Anzac" in connection with any trade, business, calling, or profession without the Minister or an authorised officer's written approval. Persons applying to import "Anzac" goods may also require written consent to use the said "Anzac" goods under the Protection of Word "Anzac" Regulations.

- (b) A permit cannot be granted immediately on request as certain conditions must be fulfilled. Processing and assessing applications includes extensive checks and the preparation of a brief for the Minister's consideration and decision.
 - (c) Applications can be made at any time of the year.
 - (d) The Department of Veterans' Affairs issues permits for the importation of "Anzac" goods in accordance with Regulation 4V of the Customs (Prohibited Import) Regulations 1956, and Permission to Use Word "Anzac" in accordance with the Protection of Word "Anzac" Regulations. When considering permit applications, other authorities may be contacted by the Department to verify application details.
8. An application for a permit may be refused if: the Minister considers that approving the application would cause offence; use of the word "Anzac" on the imported goods is inappropriate; the application does not fall within the intent of the Regulations, e.g. the use of the word "Anzac" on an inappropriate product; the applicant is not considered fit and proper; or further permission is required, but has not been obtained. A permit may be revoked if the applicant fails to comply with the conditions of the permit.

An unsuccessful applicant is advised in writing of the Minister for Veterans' Affairs' decision and the reason for it. There are no appeal provisions under the Regulations; however, the Minister will consider a request for reconsideration if the applicant is able to provide new information in support of their application. In addition, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Any person, firm or institution is eligible to apply to the Minister for Veterans' Affairs to import "Anza" goods.
- (b) Not applicable.

Documentational and other requirements for application for licence

10. An application can be submitted in the form of a letter or e-mail. There is no specific format. Every application is considered on its individual merits and if additional information is required the applicant will be contacted.

Applications should include, but are not restricted to:

- name of the applicant/importer (person and organisation);
- name and address of registered company/premises;
- nature of the business and purpose of the proposed "Anzac" goods;
- a current copy of the company Australian Business Number (ABN) or Australian Company - Number (ACN) registration;
- product description, full colour copy of item and text;
- letters of support from the ex-service community;
- proposed date of import;
- the duration permit is required; and
- where applicable, the name of the end user and the use of the end goods.

11. A copy of the signed permit is required at the time of importation.

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. The period of the import permit is specified in the permit issued to the applicant and is based on the requirements of each application. Unless otherwise noted, an import permit is usually required for every delivery.

The period of an existing permit cannot be extended, but a new permit may be issued upon request to the Minister.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits/licences are not transferable between importers.

17.(a) Not applicable.

- (b) Not applicable.

Other procedural requirements

18. No.
19. Not applicable.

III. ASBESTOS

For the purposes of these regulations, *amphibole asbestos* means asbestos in a form other than chrysotile.

Asbestos means any of the following fibrous forms of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthophyllite asbestos;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos.

Please also refer to the section on *Industrial Chemicals*, including details of the Rotterdam convention, as it applies to actinolite; amosite; anthophyllite; crocidolite and tremolite asbestos.

Outline of system

1. Under the Customs (Prohibited Imports) Regulations 1956, the import of asbestos or goods containing asbestos is subject to prohibition. The regulations allow for the Minister administering the *Work Health and Safety Act 2011* to grant permission to import asbestos.

Purposes and coverage of licensing

2. Under the Customs (Prohibited Imports) Regulations 1956, the import of asbestos, or goods containing asbestos, is prohibited unless:
- (a) The asbestos or goods are hazardous waste as defined in Section 4 of the Hazardous Waste (Regulation of Exports and Imports) Act 1989 (HW Act). Goods of this type must be imported in accordance with the provisions of the HW Act;
 - (b) The goods are raw materials containing naturally occurring traces of asbestos; or
 - (c) Permission has been granted by the Minister administering the Work Health and Safety Act 2011, to import chrysotile asbestos for research, analysis or display, or to import amphibole asbestos; or
 - (d) The asbestos or goods are imported from the Australian Antarctic Territory (chrysotile only); or
 - (e) The import is of a ship or resources installation that contains in situ amphibole asbestos or chrysotile (installed or affixed before 1 January 2005).

The exemption for the Department of Defence mentioned in Schedule 3B of the Customs (Prohibited Imports) Regulations 1956 has now expired and is no longer applicable.

3. The regulations apply to the importation of goods from all countries.

4. The importation of all forms of asbestos is regulated as a community and workplace safety measure. The importation of asbestos is subject to prohibition to reduce and prevent occupational and environmental exposures to asbestos fibres, and the possible adverse health outcomes attributed to these exposures. In addition to the prohibition of the import of asbestos, the use of asbestos is prohibited in all Australian state, territory and Commonwealth occupational health and safety regulations.

5. The control on importation of asbestos and goods containing asbestos is a statutory requirement under Regulation 4C of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Permission to import must be obtained in advance of arrival of the goods.

(b) A request for permission to import asbestos can be made at any time by writing to the Minister for Education, Employment and Workplace Relations. Upon consideration of the request, the Minister will reply to the applicant.

(c) Permission to import may be granted at any period of the year.

(d) Confirmation of Ministerial permission is to be available for presentation to Customs at the time of importation.

8. In the case of chrysotile asbestos, there are no circumstances outside the ordinary criteria (research, analysis or display) for which permission will be granted by the Minister for Education, Employment and Workplace Relations. Requests to import amphibole asbestos are assessed on a case by case basis on the merits of each case.

There are no specific appeal provisions in relation to asbestos available under the Customs (Prohibited Imports) Regulations 1956. However, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence (exemption)

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence (exemption)

10. For permission to import, applications must be made in writing to the Minister. The application should include the following information:

- importer's name and address;
- details of the goods to be imported including the reason or purpose for the importation, and where the goods are to be imported from;
- details of the procedures to be used to package, label, transport and dispose of the goods;
- an assurance the applicant will comply with relevant state/territory legislation relating to the use of asbestos.

11. The written permission of the relevant Minister or authorised person is to be available for presentation to Customs at the time of importation.

12. No.

13. No.

Conditions of licensing

14. Individual exemptions can be granted to import an individual consignment, or an on-going exemption can be granted to import a number of consignments over a certain period (usually one year).

15. Not applicable.

16. No.

17.(a) Not applicable.

(b) No.

Other procedural requirements

18. No.

19. Not applicable.

IV. CAT AND DOG FUR PRODUCTS

Outline of system

1. The importation of cat and dog fur and goods made from or using cat or dog fur is prohibited under provisions of the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956 unless the permission of the Minister for Home Affairs, or an authorised person, has been obtained.

Purposes and coverage of licensing

2. The goods covered are:

- raw, dressed or tanned dog fur of the species *canis familiaris*;
- raw, dressed or tanned cat fur of the species *feliscatus*;
- goods consisting, in whole or part, of dog fur or cat fur or both.

3. The system applies to importations from all countries.

4. The Customs (Prohibited Import) Regulations are not intended to restrict the quantity or value of imports. The importation of cat and dog fur products is regulated in response to animal welfare concerns.

5. The control on the specified goods is a statutory requirement under Regulation 4W of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.
 - 7.(a) Application should be made in advance of arrival of the goods. Import permission can be considered for goods which have inadvertently arrived in Australia.
 - (b) No.
 - (c) No.
 - (d) Permissions are granted by the Minister for Home Affairs or an authorised person. Importers may also need to approach the Australian Quarantine and Inspection Service for permission to import cat or dog fur or products thereof.
8. Apart from statutory or ordinary requirements there are no other criteria. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal on the merits of the decision to the Administrative Appeals Tribunal. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications must be made in writing to the Minister for Home Affairs or an authorised person. The application should include the following information: importers name and address; and details of the goods to be imported.
11. The original permission from the Minister for Home Affairs or authorised person is required to be produced upon importation.
12. There is no licensing fee or administrative charge.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. The Minister may specify a time period for the validity of the permission.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Permits/licences are not transferable between importers.
17. Conditions may be imposed on the permit. Quantitative limits, where appropriate, are specified as conditions.

Other procedural requirements

18. No.
19. Not applicable.

V. CETACEANS (WHALES, DOLPHINS AND PORPOISES)

Outline of system

1. All cetaceans are listed under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) as at least Appendix II. All cetaceans and cetacean products are treated as if they were CITES Appendix I for the purposes of import into Australia. Legislation implementing CITES (as outlined in Paragraph 5) is enforced at the ports of entry by the Australian Customs and Border Protection Service (ACBPS) which acts on behalf of the Department of Sustainability, Environment, Water, Population and Communities.

Purposes and coverage of licensing

2. All whale, dolphin and porpoise specimens are subject to control under this legislation.
3. The system applies to specimens originating in and coming from all countries.
4. The permit system is intended to strictly regulate trade in cetacean specimens to ensure that trade is not detrimental to the survival of the species, and thereby contribute to the conservation of cetaceans. The only circumstances in which cetacean imports are allowed are:
 - Appendix I listed non-live specimens may only be moved internationally in the following circumstances: (i) if the specimen was taken from the animal prior to that species being listed under CITES; (ii) scientific research purposes; (iii) educational purposes; and (iv) exhibition purposes.
 - Live Appendix I-listed specimens may only be moved internationally for conservation breeding purposes, research and education purposes unless the specimen originated from a CITES registered commercial captive breeding program.

The system is not intended to restrict the quantity or value of imports.

5. *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) and *Environment Protection and Biodiversity Conservation Regulations 2000*. It is not possible to change the system without legislative approval. The intention is to limit trade to non-commercial purposes and promote the conservation of cetaceans.

Procedures

6. Not applicable.
- 7.(a) Applicants should ensure required permits are in place before shipping specimens. Retrospective permits cannot be issued, and permits will not be issued once a specimen has arrived in Australia. There is no statutory limitation on the maximum period allowed in advance for an application for import to be made.
- (b) No.

- (c) No.
- (d) Consideration of licence applications is handled by the Department of Sustainability, Environment, Water, Population and Communities. Importers may, however, have to approach other government (Commonwealth, State and Territory) agencies for approval to import due to conditions that apply to the type of item in each state or Australian Government Jurisdiction. Examples of such agencies would be the Department of Agriculture, Fisheries and Forestry (DAFF) – Biosecurity [formerly known as the Australian Quarantine and Inspection Service (AQIS)], or a State Conservation Department.

8. Apart from statutory or ordinary requirements there are no other criteria. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal on the merits of the decision to the Administrative Appeals Tribunal. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply for licences.

Documentational and other requirements for application for licence

10. Applications for permission to import must be made in writing to the **Minister for Sustainability, Environment, Water, Population and Communities**. Application forms can be found at: www.environment.gov.au/biodiversity/trade-use/permits/forms/index.html.

11. CITES documentation from the country of export is required. An Australian CITES import permit is also required unless the specimens are pre-CITES and non-live.

12. Information regarding fees and charges relating to the application for CITES import permits, and live specimen permits, are available at the Department of Sustainability, Environment, Water, Population and Communities website at: <http://www.environment.gov.au/biodiversity/wildlife-trade/permits/fees.html>.

13. There is no deposit or advance payment requirement associated with the issue of licenses, other than the permit application fee (if applicable) which is payable at time of application and is not refundable.

Conditions of licensing

14. CITES permits may be issued with a validity period of no more than six months. The period of validity cannot be extended.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits issued under the EPBC Act may be transferred under some circumstances.

17.(a) Not applicable.

(b) Conditions may be imposed on the permit, and quantitative limits are specified as conditions. Conditions usually relate specifically to the nature of the import.

Other procedural requirements

18. No.
19. Not applicable.

VI. CHEESE, CERTAIN TYPES

Outline of system

1. Australia administers a tariff quota on imports of certain types of cheese and curd. Under the Cheese and Curd Quota Scheme the tariff quota applies to certain types of cheese and curd that can be imported at a concessional rate of duty (\$0.096/kg) and is restricted to 11,500 tonnes per annum. Imports can be made outside the 11,500 tonne quota allocated each year, but a higher rate of duty (\$1.220/kg) applies.

Purposes and coverage of licensing

2. No licensing system is maintained for out-of-quota cheese imports. For in-quota cheese imports, individuals or companies which have historically imported dutiable cheese under quota are allocated a share of the tariff quota, allowing them to import a quantity of cheese at the concessional rate of duty. Individuals or companies who do not have a share of the tariff quota may still import cheese at the out-of-quota tariff rate. The products covered by the tariff quota are as follows:

Number 0406	Product Type Cheese and Curd	Rate of Duty
0406.10	Fresh (un-ripened or uncured) cheese, including whey cheese, and curd	\$A0.096/kg (a) \$A1.220/kg (b)
0406.20	Grated or powdered cheese, of all kinds	\$A0.096/kg (a) \$A1.220/kg (b)
0406.30	Processed cheese, not grated or powdered	\$A0.096/kg (a) \$A1.220/kg (b)
0406.40	Blue-veined cheese: Roquefort, Stilton Other	Free (c) \$A0.096/kg (a) \$A1.220/kg (b)
0406.90	Other Cheese: Cheese, of the following types: made wholly from goats' milk, other than feta or kasseri surface-ripened soft, having: a fat content in the dry matter of not less than 50% by weight, and a moisture content of not less than 65% by weight of the non-fatty matter Other includes Cheddar, Colby, Edam, Gouda, Havarti, Parmesan, Kasseri, Mozzarella, Provolone, Feta	Free (c) \$A0.096/kg (a) \$A1.220/kg (b)

- (a) Rate for cheese imported within the tariff quota.
(b) Out of quota rate for cheese imported in excess of tariff quota amount.
(c) Not subject to the tariff quota. Included in table only to indicate coverage of residual tariff item ("other").

Note: The rate for developing countries is as shown in the table above, less 5% of the customs value (fob price) of the product.

3. The scheme applies to cheeses originating in and coming from all countries except New Zealand, Papua New Guinea, South Pacific Forum Island Countries, Singapore, United States of America or Thailand.

4. The licensing system is used to administer the tariff quota.

5. The licensing system is maintained under the *Customs Act 1901*, and the *Customs Tariff Act 1995*. The system cannot be abolished without legislative approval.

Procedures

6.I. The names of annual tariff quota holders and their quota allocation are made public through publication in the Commonwealth of Australia Gazette.

II. The size of the tariff quota is 11,500 tonnes per annum. The allocation of the tariff quota to individual importers occurs on an annual basis.

III. Tariff quota allocations to individuals or companies are based on historical trade performance in the importation of cheese under quota. No tariff quota is allocated on the basis of domestic production of like product. Unused portions/amounts of the tariff quota allocation are not added to the tariff quota for the following year.

IV. Not applicable.

V. Not applicable.

VI. Not applicable.

VII. The Australian Customs and Border Protection Service administer all aspects of the scheme.

VIII. Tariff quotas are allocated to importers on the basis of historical trade performance involving quota usage. The allocations of the cheese and curd quota are made to importers in July each year based on the actual usage of quota to import cheese and curd in the 23 months ending 31 May of that same year. New importers are able to acquire tariff quota allocation on transfer from an existing holder of tariff quota.

IX. Not applicable.

X. Not applicable.

XI. No.

7. Not applicable.

8. No circumstances exist for refusal to make an allocation beyond failure to meet the standard criteria.

Allocations are made only in accordance with a Determination made in pursuance of Section 273B of the *Customs Act 1901*, and published documentation such as relevant Australian Customs Notices. Allocations of quota to new parties are enacted by transfer by use of an approved form.

The fixed annual amount of quota available for distribution is allocated to existing quota holders according to each quota holders' previous import history of use of quota in the 23 months ending 31 May prior to the next financial year allocation. The scheme does not provide for direct applications for quota and does not have a licensing system as such.

The Australian Customs and Border Protection Service has no record of refusals to make an allocation.

All decisions of an administrative nature are appellable on a case-by-case basis under the *Administrative Decisions (Judicial Review) Act*.

Eligibility of importers to apply for licence

- 9.(a) Only those firms that have a history of trade performance in importing cheese under quota are allocated a share in the tariff quota. The allocation of the tariff quota is made on the basis of historical trade performance. Firms are free to transfer their tariff quota allocation.
- (b) Not applicable.

Documentational and other requirements for application for licence

10. Applications are not required. Eligible importers are advised of their entitlement based on the Australian Customs and Border Protection Service records of import entries lodged during the preceding base period.

11. No quota specific document is required on importation. Product is entered into Australia under quota by use of unique Tariff Quota Numbers and security codes on Customs import clearance documentation (electronic or manual).

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Twelve-month period with no extensions.

15. There are no official penalties for individuals or companies that do not utilise their allocation. However, since allocations are based on historical trading performance, future allocations may be reduced for individuals or companies that do not utilise their allocation.

16. Tariff quota allocations can be transferred between individuals and companies without limitation. However, transfer transactions do not count as trade performance for the purpose of quota allocation.

17.(a) No.

(b) No.

Other procedural requirements

18. No.

19. Not applicable.

VII. CHEMICAL WEAPONS, CHEMICALS AND THEIR PRECURSORS

Outline of system

1. The importation into Australia of prescribed goods containing a chemical compound, or a chemical compound belonging to a group of compounds as mentioned in Part 2 or 3 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 from a country that is not a State Party to the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction* ("Chemical Weapons Convention") is prohibited, with one exception. Chemicals listed under Item 4 onwards of Part 3 of Schedule 11 may be imported (without requiring a permit) from non-State Parties, where they are in concentrations of less than 10 per cent by weight of the goods and there are no other Part 2, 3 or 4 chemical compounds in the goods.

The importation of the prescribed goods from a country that is a State Party to the Chemical Weapons Convention or prescribed goods in Part 4 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 from a Non-State Party is prohibited unless:

- the Minister for Foreign Affairs or an authorised person has given permission in writing to import the goods. The Minister has authorised the positions of Director General and Assistant Secretary of Australian Safeguards and Non-Proliferation Office (ASNO) to grant permits; and
- the permission is produced to the Australian Customs and Border Protection Service (Customs).

Purposes and coverage of licensing

2. Chemical compounds as mentioned in Part 2 or 3 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 from a country that is a State Party to the Chemical Weapons Convention and all Part 4 chemicals are regulated by a permit system. A permit must be granted by the Minister for Foreign Affairs or an authorised person and produced to Customs.

3. The regulations apply to the importation of goods from all countries.

4. Australia is a Party to the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction* commonly referred to as the CWC. Amongst other things, this treaty requires State Parties to declare trade in CWC-Scheduled chemicals and to impose trade restrictions on the transfers of more highly toxic chemicals listed in Part 2 and 3 to non-State Parties. Since implementing the treaty in 1997, Australia has regulated the Part 2 chemicals through use of permits. In 2000, the permit system was extended to apply to Part 3 and 4 chemicals in response to stricter CWC provisions relating to Part 3 transfers and because less formal means of controlling and tracking were assessed as inadequate. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or value of imports.

5. The control on importation of the specified goods is a statutory requirement under Regulation 5J of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901* but could also be relevant to the *Chemical Weapons (Prohibition) Act 1994*. This restriction does not apply to goods that contain a chemical compound listed in Part 3 (except Items 1, 2 or 3) or Part 4 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 that is less than 10 per cent by weight of the total and contain no other listed chemicals. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.
- 7.(a) Application should be made in advance of arrival of the goods. There are two types of permits: permits for chemicals in Part 2 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 (Schedule 1 of the Convention) and permits for chemicals in Part 3 and Part 4 of Schedule 11 Customs (Prohibited Imports) Regulations 1956 (Schedules 2 & 3 of the Convention). Chemicals from Part 2 require 37 days' notice for importation which cannot be varied due to concomitant international reporting requirements. The 37-day advance notification requirement is waived for imports of saxitoxin in quantities of 5 mg or less for medical/diagnostic purposes provided that the goods contain no other chemical listed in Part 2 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956. Permits for the chemicals listed in Part 3 and Part 4 of Schedule 11 require 7 days' notice which could be reduced if necessary.
- (b) Permits cannot be issued immediately for chemicals under Part 2 except in the saxitoxin case described in paragraph 7(a). Part 3 and 4 chemical permits could be issued immediately where practical.
- (c) Permits may be issued at any period of the year.
- (d) A permit is issued by the Minister for Foreign Affairs or authorised persons (i.e. Director General and Assistant Secretary of ASNO) and the original copy of the permit presented to Customs.
8. Application for permission to import can be refused on the discretion of the Minister for Foreign Affairs. There is no right of appeal on the merits of the decision. However, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. (a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply for permission to import, however the chemicals from Parts 2 and 3 can only be imported from a country which is a State Party to the Chemical Weapons Convention (as listed on the Internet at <http://www.opcw.org/>). Also, all of the prescribed chemical imports can only be used for purposes not prohibited by the CWC, as provided for under the *Chemical Weapons (Prohibition) Act 1994*.

Documentational and other requirements for application for licence

10. For permission to import applications must be made in writing to the relevant Minister or authorised person.

Permits for chemicals in Part 2 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 (Schedule 1 of the CWC)

The following details must be included:

- importer's name and address;
- supplier's name and address;

- name, CAS number, quantity, and percentage by weight and other descriptors of the chemical;
- date of export from supplying country and expected import date;
- end use details;
- country of export (this can only be another State Party) – the goods must be shipped directly, transshipment through another country is not allowed;
- security measures advice.

The original copy of the permit must be presented to Customs.

Permits for chemicals in Part 3 and Part 4 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 (Schedules 2 & 3 of the CWC)

The permit will be valid for multiple shipments of multiple chemicals over a specified time, usually one year.

The following details are required:

- importer's name, address, email address and other contact details;
- importer's ABN or Customs Client ID;
- names, CAS numbers and percentage by weight of the chemicals the Importer is proposing to import;
- exporting country;
- security measures advice.

The original of the permit should be submitted to Customs.

ASNO provides to Customs an updated list of import permit holders for Part 3 and 4 chemicals, as required, including the company name and all the chemicals listed on their import permit, and tariff classification code used by the Importer (if known).

11. The written permission of the relevant Minister or ASNO (i.e. the import permit) is required to be produced on import. Date of arrival of Part 2 chemicals must also be provided to ASNO within 30 days of shipment entry.

12. No.

13. No.

Conditions of licensing

14. Permits for chemicals in Part 2 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 apply to one consignment only and are valid for three months. Permits for chemicals in Part 3 and 4 of Schedule 11 of the Customs (Prohibited Imports) Regulations 1956 may be for multiple importations up to 12 months.

15. No.

16. No.

17. A permission granted under Regulation 5J of the Customs (Prohibited Imports) Regulations 1956 may specify conditions or requirements to be complied with by the holder of the permission. Permit requirements for chemicals in Parts 3 and 4 of Schedule 11 include the annual reporting of

chemical shipments covered by the permit for the previous calendar year. If the holder of any permission fails to comply with a condition or requirement the Minister may refuse the permission.

Other procedural requirements

18. For Part 2 and 3 chemicals, the recipient facility will require an operational permit under the *Chemical Weapons (Prohibition) Act 1994* (the "Act"), if certain activity thresholds for those chemicals are exceeded. However, the requirements for operational permits as specified under the Act are not linked to the timing of imports.

19. Not applicable.

VIII. COUNTERFEIT CREDIT CARDS

Outline of system

1. The importation of counterfeit credit, debit or charge cards is prohibited under provisions of the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956, unless the permission of the Minister administering the *Australian Federal Police Act 1979* – presently the Minister for Home Affairs – has been obtained.

Purposes and coverage of licensing

2. The goods covered are any non-genuine credit, debit and charge cards that are made to imitate and pass for genuine cards.

The following are examples of credit, debit and charge cards that could be subject to this regulation:

<i>Credit cards</i>	MasterCard, Visa, American Express etc.
<i>Debit cards</i>	phone cards, mobile phone debit cards, eftpos cards.
<i>Charge cards</i>	store cards such as Myer, David Jones, etc.

3. The system applies to any non-genuine credit, debit and charge cards that are made to imitate and pass for genuine cards originating from all countries.

4. The Customs (Prohibited Imports) Regulations are intended to prohibit the importation of counterfeit credit, debit or charge cards.

5. The control on the specified goods is a statutory requirement under Regulation 4T of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Applications for permission to import should be made in advance of arrival of the goods.

(b) Applications for permission to import can be processed immediately, provided all information is available and the application is considered to be urgent.

(c) Permits may be issued at any period of the year.

(d) Permits are granted by the Minister for Home Affairs.

8. Applications for permission to import can be refused at the discretion of the relevant Minister. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal on the decision-making process under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications must be made in writing to the Minister. The application should include the following information:

- Importers name and address;
- Details of the goods to be imported.

11. The original permission from the Minister or authorised person is required upon importation.

12. There is no licensing fee.

13. There is no deposit or advance payment requirement associated with the issue of these licenses.

Conditions of licensing

14. The Minister may specify a time period for the validity of the permission.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits/licenses are not transferable between importers.

17. Conditions may be imposed on the permission and quantities are specified.

Other procedural requirements

18. No.

19. Not applicable.

IX. DOG COLLARS – PROTRUSION

Outline of system

1. The importation of protrusion dog collars is prohibited under provisions of the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956, unless the permission of the Minister for Home Affairs, or an authorised person, has been obtained.

Purposes and coverage of licensing

2. The goods covered are: dog collars, incorporating apparatus designed to puncture or bruise an animal's skin.

3. The system applies to importations from all countries.
4. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or value of imports. The importation of protrusion dog collars is regulated in response to animal welfare concerns.
5. The control on the specified goods is a statutory requirement under Regulation 4 Schedule 2 of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.
- 7.(a) Application should be made in advance of arrival of the goods.
- (b) No.
- (c) No.
- (d) Permissions are granted by the Minister for Home Affairs or an authorised person.
8. Apart from statutory or ordinary requirements there are no other criteria for refusal. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal on the decision-making process under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications must be made in writing to the Minister Home Affairs or an authorised person. The application should include the following information:
 - importer's name and address;
 - details of the goods to be imported.
11. The original permission from the Minister for Home Affairs or authorised person is required to be produced upon importation.
12. There is no licensing fee.
13. Not applicable.

Conditions of licensing

14. The Minister for Home Affairs may specify a time period for the validity of the permission.
15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Licenses are not transferable between importers.
17. Conditions may be imposed on the permit. Quantitative limits, where appropriate, are specified as conditions.

Other procedural requirements

18. No.
19. Not applicable.

X. FLAGS, ARMS AND SEALS

Outline of system

1. The importation of goods with a representation of the arms, seal or flag of the Commonwealth or a State or Territory or the Royal Arms is prohibited under provisions of the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956 unless the permission of the Minister for Home Affairs, or an authorised person, has been obtained.

Purposes and coverage of licensing

2. The goods covered are:
 - goods to which, or to the coverings of which, there is applied a representation of the arms, a flag or a seal of the Commonwealth or of a State or Territory of the Commonwealth or a representation so nearly resembling the Arms, a flag or a seal of the Commonwealth or of a State or Territory of the Commonwealth as to be likely to deceive; and
 - goods to which, or to the coverings of which, there is applied a representation of the Royal Arms or a representation so nearly resembling the Royal Arms as to be likely to deceive.
3. The system applies to the importation of goods originating from all countries.
4. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or value of imports.

The importation of goods bearing the arms or having applied to them a representation of a flag or seal of the Commonwealth or a State or Territory was introduced to act as a quality control measure to ensure that representations are realistic, of good quality and do not breach other legislation.

5. The control on the specified goods is a statutory requirement under Regulation 4, Schedule 2 of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The Minister for Home Affairs requires the prior approval of the design by the Department of Prime Minister and Cabinet or the relevant State/Territory Protocol section before an import permission will be issued. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.

- 7.(a) Applications should be made in advance of the importation of the goods. As both design approval and import permission are required, it is recommended that the design be approved prior to the mass production of goods.
- (b) Permissions cannot be granted immediately on request.
- (c) Permits may be issued throughout the year.
- (d) Designs must be approved by the Department of Prime Minister and Cabinet or the relevant State/Territory protocol section and permission to import obtained from the Minister for Home Affairs, or an authorised person.

8. Apart from statutory or ordinary requirements, the only other criteria for refusal is if the design has not been approved by the relevant authority. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal on the decision-making process under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. Applications for permission to import goods should include:

- the importer's name and address;
- a description of the goods;
- a copy of the approved design; and
- the design approval.

11. The permission from the Minister for Home Affairs or authorised person is required to be produced upon importation.

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Import permissions are not subject to a validity period.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Permits/licences are not transferable between importers.
17. No.

Other procedural requirements

18. No.
19. Not applicable.

XI. HAZARDOUS GOODS

Outline of system

1. For health and safety reasons, the importation of goods deemed to be hazardous is prohibited under the *Customs Act 1901*, the Customs (Prohibited Imports) Regulations 1956 and the *Competition and Consumer Act 2010*. Only the responsible Minister or an authorised person can grant permission to import banned goods. The Customs (Prohibited Imports) Regulations 1956 is available via the following link:

[http://www.comlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/1105B77D1D0029B2CA2576DA0023EAE9/\\$file/CustomsProhImport1956.pdf](http://www.comlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/1105B77D1D0029B2CA2576DA0023EAE9/$file/CustomsProhImport1956.pdf)

Purpose and coverage of licensing

2. Goods covered under these Acts include:

Goods listed under Schedule 2 in relation to Regulation 4 of the Customs (Prohibited Imports) Regulations 1956:

- Cosmetic products containing more than 250 mg/kg of lead or lead compounds (calculated as lead), except products containing more than 250mg/kg of lead acetate designed for use in hair treatments.
- Erasers that resemble food in scent or appearance, that contain more than:
 - (a) 90 mg/kg of lead; or
 - (b) 25 mg/kg of arsenic; or
 - (c) 60 mg/kg of antimony; or
 - (d) 75 mg/kg of cadmium; or
 - (e) 500 mg/kg of selenium; or
 - (f) 60 mg/kg of mercury; or
 - (g) 60 mg/kg of chromium; or
 - (h) 1000 mg/kg of barium.
- Money boxes coated with a material that contains more than 90 mg/kg of lead.
- Toys coated with a material the non-volatile content of which contains more than:
 - (a) 90 mg/kg of lead; or
 - (b) 25 mg/kg of arsenic; or
 - (c) 60 mg/kg of antimony; or
 - (d) 75 mg/kg of cadmium; or
 - (e) 500 mg/kg of selenium; or
 - (f) 60 mg/kg of mercury; or
 - (g) 60 mg/kg of chromium; or
 - (h) 1000 mg/kg of barium.

- Pencils or paint brushes coated with a material the non-volatile content of which contains more than:
 - (a) 90 mg/kg of lead; or
 - (b) 25 mg/kg of arsenic; or
 - (c) 60 mg/kg of antimony; or
 - (d) 75 mg/kg of cadmium; or
 - (e) 500 mg/kg of selenium; or
 - (f) 60 mg/kg of mercury; or
 - (g) 60 mg/kg of chromium; or
 - (h) 1000 mg/kg of barium.

Goods listed under Schedule 7 in relation to Regulation 4E of the Customs (Prohibited Imports) Regulations 1956:

- Glazed ceramic articles normally used for or in connexion with the storage or consumption of food containing lead or cadmium in an amount per volume beyond permissible levels specified in schedule 7 of the Customs (Prohibited Imports) Regulations 1956.

Goods listed in Regulation 4S of the Customs (Prohibited Imports) Regulations 1956:

- Certain cigarette lighters.

Goods listed under Schedule 12 in relation to Regulation 4U of the Customs (Prohibited Imports) Regulations 1956:

- Glucomannan in tablet form;
- Seat belt accessories and similar goods designed to induce and maintain slack in retractor seat belts;
- Sun visors that do not comply with Australian Design Rule No. 11;
- Victim toys;
- Chewing tobacco and snuffs intended for oral use, imported in amount greater than 1.5 kilograms;
- Underwater breathing apparatus consisting of an air pump, powered by the user's legs, that supplies air drawn down from the water's surface in a compressed state dependent on the user's effort;
- Devices that enable a water skier to be released quickly in the event of a mishap in the water.
- Gas masks that contain asbestos;
- Candles with wicks that contain greater than 0.06 per cent lead by weight and candle wicks containing greater than 0.06 per cent lead by weight;
- Jelly confectionery product containing "konjac" (also known as glucomannan, conjac, konnyaku, konjonac, taro powder and yam flour) and supplied in a container that has a height or width of less than or equal to 45mm.

3. The regulations apply to the importation of goods from all countries.

4. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or value of imports. The importation of these goods is regulated due to safety concerns for people and animals if the goods are used inappropriately.

5. The control on importation of the specified goods is a statutory requirement under the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.
- 7.(a) Applications should be made in advance of arrival of the goods. In certain circumstances, import permission can be given to goods that have inadvertently arrived at the point of entry.
- (b) Permission to import is granted by the responsible Minister or an authorised person.
- (c) There are no such limitations.
- (d) Permission to import is granted by the responsible Minister or an authorised person.

Importers may be required to provide written confirmation from an analytical laboratory recognised by the National Association of Testing Authorities Australia (NATA), or a NATA accredited authority, that their goods comply with the requirements of the regulations.

8. Apart from statutory or ordinary requirements there are no other criteria. Reasons for refusal are given to applicants. In certain circumstances applicants refused permission to import may appeal on the merits of the decision to the Administrative Appeals Tribunal. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications for permission to import must be made to the responsible Minister or authorised person. The application must include the following information:

- Importer's name and address;
- Details of the goods to be imported, including quantity to be imported and intended use and distribution.

11. The original permission from the responsible Minister or authorised person is required to be produced upon importation.

Alternatively, for the importation of lighters under Regulation 4S of the Customs (Prohibited Imports) Regulations 1956, the importer may complete a statutory declaration stating that a certificate of compliance has been issued and produce that statutory declaration to the responsible customs administration.

12. There is no licensing fee or administrative charge.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. The responsible Minister or authorised person may specify a time period for the validity of the permission.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Permits/licences are not transferable between importers.
- 17.(a) Not applicable.
- (b) Permission to import goods specified under Regulations 4, 4E, 4S and 4U of the Customs (Prohibited Imports) Regulations 1956 may be subject to conditions regarding custody, use, disposal or distribution of the imported goods.

Other procedural requirements

18. No.
19. Not applicable.

XII. HAZARDOUS WASTE

Outline of system

1. The import, export and transit of hazardous waste is regulated under the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act) to ensure that hazardous waste is managed in an environmentally sound manner to protect human beings and the environment, within and outside Australia. The Act implements Australia's obligations under the *Basel Convention for the Control of Trans-boundary Movements of Hazardous Waste and their Disposal* (Basel Convention).

Purposes and coverage of licensing

2. In accordance with Australia's obligations under the Basel Convention and in the Organisation for Economic Co-operation and Development (OECD), the Act applies to hazardous wastes as listed in the schedules of the Basel Convention.

3. The system applies to hazardous wastes originating in and coming from all countries that are a party to the Basel Convention or OECD.

4. The licensing system ensures that Australia's commitments as a party to the Basel Convention are upheld. To that effect, trans-boundary movements of hazardous wastes and other wastes is to be reduced to the minimum consistent with the environmentally sound and efficient management of such wastes and to be conducted in such a manner which will protect human health and the environment against the adverse effects which may result from such movement. The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* is not intended to restrict the quantity or value of imports.

5. *Hazardous Waste (Regulation of Exports and Imports) Act 1989*. Licensing is a statutory requirement for the import of any hazardous waste listed in schedules to the Basel Convention or OECD Council Decisions. It is not possible to abolish the system without legislative approval.

Procedures

6. Not applicable.
- 7.(a) The Act requires that a permit be obtained before hazardous waste is exported from Australia, imported into or transited through Australia. All applications are assessed according to the relevant sections of the Act on a case by case basis.
- (b) No. Permits are issued only after authorisation by the the **Minister for Sustainability, Environment, Water, Population and Communities** or a delegate, with a requirement under the Act for determination of the justification for import and the fitness of the processing organisation to treat the material in an environmentally sound manner.
- (c) No.
- (d) Consideration of licence applications is undertaken by the the **Department of Sustainability, Environment, Water, Population and Communities**. Importers may, however, have to approach other government (Commonwealth, State and Territory) agencies for approval to import due to conditions that apply to the type of item. Examples of such agencies would be the Australian Quarantine and Inspection Service (AQIS), Therapeutic Goods Administration or the appropriate State or Territory environment agency.
8. Apart from statutory requirements, there are requirements under the Basel Convention for all States of Transit to control the trans-boundary movement of hazardous waste. Refusal to accept the movement by any such state shall cause the State of export to deny a permit. Under the Act, the reasons for refusal of an export permit are given to applicants. Applicants refused permission to exports may appeal to the Administrative Appeals Tribunal on the merits of the decision. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) Any person, firm or institution may apply for a licence.

Documentational and other requirements for application for licence

10. As with all applications, the decision of the Minister or delegate will be based on information provided as required under the Act.

The Minister will consider (amongst other things) whether the proposed manner in which the hazardous waste is being dealt with is environmentally sound, and whether the competent authority of the transit countries and importing country have given written consent to the grant of the permit (and that the consent was given in accordance with Article 6 of the Basel Convention).

In general the application requests the following information:

- identity and suitability of the applicant, including applicant's name and address and financial situation;
- description of the material to be imported and/or exported;
- method of transportation, ports of entry/exit for importation/exportation; and
- method of disposal of the waste.

More details of what the Minister will give consideration to as part of an application process can be found at:

[http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/CBCAE9AC22A9B70BCA256F71004E3EE1/\\$file/HazWasteRegExImp89.rtf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/CBCAE9AC22A9B70BCA256F71004E3EE1/$file/HazWasteRegExImp89.rtf).

Additional documentation required with the application includes verification that the disposal is environmentally sound and safe, the capability of the processors to treat the material, and proof that appropriate insurances and contracts have been obtained/arranged.

11. The import permit is required and a valid export permit from the country of origin may be required as a condition of this permit.

12. There are fees associated with the application process. The amounts are based on the staff and ancillary costs of administering a permit application. The Minister may determine in writing that the prescribed fee payable in relation to a specified application or a specified notice is reduced by a specified amount. Application fees are specified in the Hazardous Waste (Regulation of Exports and Imports) (Fees) Regulations 1990.

13. The fee must be paid at the time of application. The fee is not refundable. Full payment of the fee applies (unless the Minister has determined in writing that the prescribed fee payable in relation to a specified application or a specified notice is reduced by a specified amount) - there is no requirement for an advance payment which is retained for a defined period.

Conditions of licensing

14. Under the Basel Convention the import permit is valid for a period of up to twelve months and covers the amount and number of shipments of the hazardous waste as noted in the application. The OECD Council Decision allows the period for permits up to 36 months for pre-authorised facilities.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits/licences are not transferable between importers.

17.(a) No.

(b) All applications must identify the maximum amount of the hazardous wastes that is intended to be covered by the permit. This limit cannot be exceeded. In addition, the applicant is provided with specific conditions that form part of the permit that usually relate specifically to the transport, treatment and/or disposal of the hazardous waste.

Other procedural requirements

18. In some cases the approval/certification of other agencies is required prior to the issue of a permit. The permit applicant is responsible to obtain all relevant approvals and licenses.

19. Not applicable.

XIII. ICE PIPES

Outline of system

1. The importation of Ice Pipes is prohibited under provisions of the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956 unless the permission of the Minister for Home Affairs, or an authorised person, has been obtained.

Purposes and coverage of licensing

2. Ice Pipes are defined as a device that is capable of being used for administering methylamphetamine, or any other drug mentioned in Schedule 4, by the drawing or inhaling of smoke or fumes resulting from heating the drug, in the device, in a crystal, powder, oil or base form. Components are also controlled and these are defined as a device which appears, on reasonable grounds, to be part of an ice pipe; and is capable of being used for administering a drug mentioned in Schedule 4, in the way described in the definition of ice pipe, only if adjusted, modified or added to.

3. The system applies to the importation of goods originating from all countries.

4. The Customs (Prohibited Imports) Regulations 1956 are not intended to restrict the quantity or volume of imports. A permission can specify conditions or requirements including times for compliance and the number of Ice Pipes allowed to be imported. The Minister or an authorised person has the power to revoke permission where the holder does not comply with a condition or requirement.

The control on ice pipes has been introduced as a result of the Australian Government's commitment to reduce the abuse of illicit drugs. Amphetamine Type Stimulants (ATS) have been identified by the Australian Crime Commission as one of the three highest organised crime priorities for the Australian Government. While ATS can be administered in a range of ways, smoking its crystalline form (known as ice) is particularly dangerous, due to high drug purity levels, which can result in serious physical and emotional harm.

5. The control on the specified goods is a statutory requirement under Regulation 4I of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7. Where there is no quantitative limit on importation of a product or on imports from a particular country:

(a) Application should be made in advance of arrival of the goods.

(b) Applications for permission to import can be processed immediately provided all information is available and the application is considered to be urgent.

(c) Permits may be issued at any period of the year.

8. Application for permission to import can be refused at the discretion of the relevant Minister or authorised person. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal on the decision-making process under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications must be made in writing to the Minister for Home Affairs or an authorised person. The application should include supporting documentation to possess the goods and/or any relevant end user evidential documentation.

11. The original permission from the Minister or authorised person is required upon importation.

12. There is no licensing fee.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. The Minister may specify a time period for the validity of the permission.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits/licenses are not transferable between importers.

17. Conditions may be imposed on the permission and quantities are specified.

Other procedural requirements

18. No.

19. Not applicable.

XIV. IMPORTS TO ANTARCTICA

Outline of system

1. Under the *Antarctic Treaty (Environment Protection) Act 1980* as amended, and in line with the requirements of the *Protocol on Environmental Protection to the Antarctic Treaty* (the Madrid Protocol), persons are not permitted to import certain items into Antarctica. This legislation applies to Australian nationals for all areas south of 60° South and for foreign nationals to the Australian Antarctic Territory only.

Purposes and coverage of licensing

2. The import licensing system is implemented via the *Antarctic Treaty (Environment Protection) Act 1980*. It provides:

- that a person shall not bring into the Antarctic an animal, plant, virus, bacterium, yeast or fungus that is not indigenous to the Antarctic unless the animal (not being a live bird), plant, virus, bacterium, yeast or fungus, as the case may be, was brought into the Antarctic to be used as food. None of these items may be brought into Antarctica for research purposes unless authorised by a permit (s19(1)(c));
- that a person shall not bring into, or keep in, the Antarctic non-sterile soil, or polychlorinated biphenyls, or polystyrene beads or chips or any similar kind of packaging material (s19(1)(ca)); and,
- that a person shall not bring into, or keep in, the Antarctic any pesticide unless for scientific, medical or hygienic purposes (s19(1)(cb)).

3. The system applies to goods from all countries.

4. The above restrictions have been put in place to implement the Madrid Protocol. The objective of the Madrid Protocol is the comprehensive protection of the Antarctic environment and its dependent and associated ecosystems.

The *Antarctic Treaty (Environment Protection) Act 1980* is not intended to restrict the quantity or value of imports.

5. The *Antarctic Treaty (Environment Protection) Act 1980* may not be repealed without legislative approval.

Procedures

6. Not applicable.

7.(a) Proponents are encouraged to submit permit applications as far in advance of their intended activity as practicable. Proponents should allow six weeks for the assessment of a permit application.

(b) Permits cannot be granted immediately upon request. The permit-holder must obtain a permit prior to their arrival in Antarctica. Permits cannot be issued retrospectively.

(c) Permit applications may be lodged at any time of the year.

(d) Permit applications are assessed by one organisation – i.e. the Australian Antarctic Division (AAD) of the Commonwealth Department of Sustainability, Environment, Water, Population and Communities. Corresponding permits are also prepared by the AAD. Accordingly, proponents need only approach one organisation.

8. An application for a permit will only be refused if it does not meet the ordinary criteria. Particulars of refusals to grant permits are provided to the applicant and those particulars are accompanied by a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for the review of the merits of a decision to refuse to grant a permit by or on behalf of the person or persons whose interests are affected by the decision. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9.(a) Not applicable.

- (b) All Australian proponents of Antarctic activities are eligible to apply for a permit. No fee is charged.

Documentational and other requirements for application for licence

10. The project proponent (in the case of research projects, the Chief Investigator) completes an application form for a permit. The application should include the following information:

- name and address of applicant;
- research location and research methodology;
- any non-indigenous species being introduced to Antarctica;
- intended access to specially protected areas; sample specimens to be extracted;
- members of research team or field project; and
- organisation affiliated to research project.

Permits are applied for online. The process is described at: <http://www.antarctica.gov.au/protecting-the-environment/environmental-impact-assessment-approvals-and-permits/permits>.

11. Inspectors appointed under the Act monitor actions to ensure they are undertaken in accordance with the approved permit.

12. There is no fee or administrative charge.

13. Not applicable.

Conditions of licensing

14. A permit's period of validity is dependent on a project's planned length. A proponent may apply to extend a permit's period of validity.

15. There is no penalty for the non-utilisation of a permit or a portion of a permit.

16. Permits are not transferable. However, a permit may be varied to:

- include additional names; and
- omit existing names.

A person to whom a permit has been granted (a principal) may authorise other persons to accompany one or more of the principals to carry on activities authorised by the permit.

17. No.

Other procedural requirements

18. There are no other administrative processes required.

19. Not applicable.

XV. IMPORTS TO TERRITORY OF HEARD ISLAND AND MCDONALD ISLANDS

Outline of system

1. The purpose of the *Territory of Heard Island and McDonald Islands Environment Protection and Management Ordinance 1987* is to preserve and manage the Territory so as to protect the environment and the indigenous wildlife of the Territory. The Territory of Heard and McDonald Islands is an external territory of Australia. It is taken to comprise the islands, all offshore rocks and shoals, and the 12 nm territorial sea.

Purposes and coverage of licensing

2. The *Territory of Heard Island and McDonald Islands Environment Protection and Management Ordinance 1987* prohibits:

- the importation of any diseased organism or live poultry into the Territory (s13);
- the importation of any organism, or any dead poultry or poultry products into the Territory unless in accordance with a permit (s14).

3. The system applies to goods from all countries (and from other parts of Australia).

4. The *Territory of Heard Island and McDonald Islands Environment Protection and Management Ordinance 1987* is not intended to restrict the quantity or value of imports.

5. The *Territory of Heard Island and McDonald Islands Environment Protection and Management Ordinance 1987* may not be repealed without legislative approval.

Procedures

6. Not applicable.

7.(a) Proponents are encouraged to submit permit applications as far in advance of their intended activity as practicable. Proponents should allow six weeks for the assessment of a permit application.

(b) Permits cannot be granted immediately upon request. The permit-holder must obtain a permit prior to their arrival in the Territory. Permits cannot be issued retrospectively.

(c) Permit applications may be lodged at any time of the year.

(d) s15(1) permit applications are assessed by a single organisation – i.e. the Australian Antarctic Division (AAD) of the Commonwealth Department of Sustainability, Environment, Water, Population and Communities. Corresponding permits are also prepared by the AAD. Accordingly, proponents need only approach one organisation.

8. An application for a permit will be refused if it is inconsistent with the requirements of the Heard Island and McDonald Islands Marine Reserve Management Plan (2005), which includes the Territory. The reasons for refusals are given to the applicant and the applicant has a right of appeal. Particulars of refusals to grant permits are published in the Commonwealth Government Gazette and those particulars are accompanied by a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for the review of the merits of a decision to refuse to grant a permit by or on behalf of the person or persons

whose interests are affected by the decision. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) Any person is eligible to apply for a permit to import into the Territory.

Documentational and other requirements for application for licence

10. The application should include the following information:

- name and address of applicant;
- details of research location;
- any non-indigenous species being introduced to the Territory;
- use of radioisotopes;
- details of sample specimens to be extracted;
- members of research team or field project; and
- organisation affiliated to research project.

11. Permit requirements and the application process are described at:

<http://www.heardisland.aq/protection-and-management/management-plan/permits11>.

Visitor self-regulation is an important component of the Territory's environmental management regime.

12. No fees or administration charges are currently imposed. s15(4) does, however, provide for the imposition of a permit issue fee not exceeding A\$50.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. A permit's period of validity is dependent on the length of time that the applicant is scheduled to stay in the Territory. A proponent may apply to extend a permit's period of validity.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits are not transferable. However, a permit may be varied to:

- include additional names; and
- omit existing names.

17. No.

Other procedural requirements

18. There are no other administrative processes required.

19. Not applicable.

XVI. INCANDESCENT (FILAMENT) LAMPS

Outline of system

1. The import licensing is part of an overall policy to phase-out inefficient incandescent lighting as part of Australia's efforts to reduce energy consumption and greenhouse gas emissions. The prohibition was brought into effect in advance of point of sale restrictions for these products. Note that as no incandescent lighting of this type is manufactured in Australia this is an effective means of implementing the phase-out. The Licensing system is administered by the Lighting and Equipment Energy Efficiency Team, Department of Climate Change and Energy Efficiency (energyrating@climatechange.gov.au, Ph. 61 2 6159 7000).

Purposes and coverage of licensing

2. The licensing scheme covers inefficient GLS electric filament lamps as set out in Australian Standard 4934.2(Int):2008- *Incandescent Lamps for General Lighting Services, Part 2: Minimum Energy Performance Standards (MEPS) Requirements*.

Incandescent General Lighting Service Lamps (GLS) have the following attributes:

- (a) Shapes: A50-A65, PS50-PS65, M50-M65, T50-T65 (as generally outlined in IEC 60630) or E50-E65.
- (b) Caps: E14, E26, E27, B15 or B22d.
- (c) Nominal voltage ≥ 220 V.
- (d) Nominal wattage < 150 W.
- (e) Not including primary coloured lamps.

Under the Combined Australian Customs Tariff Nomenclature and Statistical Classification (incorporating the WCO's Harmonized Commodity Description and Coding System) the controlled goods are classified to 8539.22.00 statistical codes 32 and 33.

The Standard specifies that it does not apply to appliance lamps, special purpose lamps and automotive lamps. The proposed exclusions encompass the range of products for which import permissions have been issued to date. Once this is available it is intended that a final standard be referred to in the Customs (Prohibited Imports) Regulations 1956. The excluded products would then no longer require import permission.

3. The system applies to goods from all countries.

4. Permissions will only be granted in a limited number of circumstances – these have been given in cases where effective and efficient lighting alternative lighting products are not available for important applications such as aircraft navigation signal lighting. The standards are not intended to restrict the quantity or value of imports.

5. Australian Customs Notice No. 2009/04 published in February 2009.

<http://www.climatechange.gov.au/what-you-need-to-know/~media/publications/lighting/import-controls-general-lighting-services.ashx>.

This system was put into place by virtue of regulations published on the Australian Government's Federal Register of Legislative Instruments website on 18 December 2008. The system took effect on 1 February 2009.

Procedures

6. Not applicable.

7. What are the time periods involved in processing?

Processing normally takes two to three weeks.

8. No applications have been refused to date however an application for import that:

- did not provide evidence of an essential need for a prohibited lamp; and / or
- concerned the import of lamps for which an effective and efficient alternative was available.

Should a permit to import be refused then the importer could appeal on the merits of the decision to the Federal Administrative Appeals Tribunal. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. All persons are eligible to apply for licenses.

10. Not applicable.

11. Applicants may contact the Department of Climate Change and Energy Efficiency in relation to a proposed import. Applicants are asked to provide information regarding the products proposed to be imported, the intended use of the products and why this use cannot be satisfied by using other available lighting products. Applicants are also required to provide information on the quantity of products, number of import events and duration. Permission is required from the Minister prior to importation.

12. No fees are charged.

13. No deposit or advanced payment.

Conditions of licensing

14. Licences are not extended, however persons are able to apply for a further permission for a further period.

15. There is no penalty for non-utilization of a licence.

16. Licences are intended for the applicant only.

17. Not applicable.

Other procedural requirements

18. As part of the approval importers are instructed that product packaging must include the specification "Not for Domestic Use". A licence number is provided for reference in Customs procedures.

19. There are no licence fees.

XVII. INDUSTRIAL CHEMICALS

Outline of system

1. Industrial chemicals are regulated by the Australian Government under the *Industrial Chemicals (Notification and Assessment) Act 1989*, administered by the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) and located within the Australian Government Department of Health and Ageing.

The Australian Inventory of Chemical Substances (AICS) lists the chemicals that are available for use in Australia. Some chemicals may only be available for specified/conditional use. Any chemical not included in AICS or any listed chemical whose importation and/or manufacture is subject to a condition of use, is regarded as a new industrial chemical unless it is outside the scope of the Act. New industrial chemicals must be notified and assessed by NICNAS before being manufactured or imported into Australia unless they qualify for an exemption.

All individuals and businesses intending to import and/or manufacture relevant industrial chemicals for commercial purposes are required to register with NICNAS.

NICNAS is responsible for implementing the obligations of the Rotterdam Convention domestically for industrial chemicals. Australia's import decision for industrial chemicals listed in Annex III of the Convention reflects the current regulatory status of that chemical in Australia. More information can be obtained from: http://www.nicnas.gov.au/Treaties/Rotterdam_Convention.asp.

The importation of polychlorinated biphenyls (PCBs), triphenyls (PCTs) and polyphenyls is prohibited under the provisions of the *Customs Act 1901* and Customs (Prohibited Imports) Regulations 1956 unless the permission in writing of the Minister for Home Affairs is granted and presented to Customs at the time of importation. The permission must be issued in the name of the owner. It may include strict conditions as to the application, disposal and destruction of the industrial chemicals. The Minister also has the power to stipulate methods for the accounting for the goods to ensure they are used for the stated purpose.

Purposes and coverage of licensing

2. The purpose of the notification and assessment process for new chemicals is to ensure that no new chemicals are introduced into Australia unless they have been assessed for risks to public health, occupational health and safety and the environment.

The purpose of the Rotterdam Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm.

Certain industrial chemicals including polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls are all considered to be persistent organic pollutants. PCBs, PCTs and polychlorinated polyphenyls are used in electrical appliances (such as transformers and capacitors), as coolants (often in light fittings), hydraulic fluids, plasticisers and dye carriers.

3. The systems and regulations apply to the importation of goods from all countries.

Systems for chemicals covered by the Rotterdam Convention apply to goods originating in and coming from countries that are parties to that Convention. NICNAS also provides a regulatory

framework for chemicals imported from countries which are not a Party to the Convention; for example: Tetraethyl Lead.

4. The notification and assessment process is to ensure that no new chemicals are introduced into Australia unless they have been assessed for risks to public health, occupational health and safety and the environment. It is not intended to restrict the quantity or value of imports.

The licensing of chemicals covered by the Rotterdam Convention is for the purpose of fulfilling Australia's obligations under that Convention. The monetary value is not a criterion for control.

The importation of PCBs, PCTs and polychlorinated polyphenyls is regulated as a community protection measure. These chemicals are considered to be highly toxic and virtually indestructible and a considerable danger to the environment. The Australian and New Zealand Environment Conservation Council (ANZECC) prepared the Australian PCBs Management Plan in 1996. The aims of the plan are the phasing out, disposal and destruction of PCBs. The *Industrial Chemicals (Notification and Assessment) Act 1989* is not intended to restrict the quantity or value of imports.

5. The control on importation of PCBs, PCTs and polychlorinated polyphenyls is a statutory requirement under Regulation 4AB of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*.

The notification and assessment process, the registration process and the control on the importation of other industrial chemicals are prescribed in the *Industrial Chemicals (Notification and Assessment) Act 1989*.

These systems cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Registration must be in place before industrial chemicals may be imported. The registration process required for individuals and companies intending to import relevant industrial chemicals may take up to 30 days. Subject to section 80N of the *Industrial Chemicals (Notification and Assessment) Act 1989*, the Director (of NICNAS) must deal with an application for registration, or renewal of registration, as follows: (a) if the application is in relation to the registration year in which the application is made or a previous registration year—as soon as practicable but, in any case, within 30 days after receipt of the application; and (b) if the application is in relation to the next registration year—as soon as practicable but, in any case, not later than the later of: (i) 30 days after the start of that next registration year; and (ii) 30 days after receipt of the application.

The notification and assessment of new chemicals may take several months depending on the amount of data available about the chemical.

For the importation of polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls application for a permit should be made in advance of arrival of the goods.

(b) For the importation of polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls permits cannot be issued immediately as they are only issued

on the advice of the Department of the Environment, Water, Heritage and the Arts and the National Industrial Chemicals Notification and Assessment Scheme (NICNAS).

For the remaining chemicals listed on the Rotterdam Convention importers are advised to allow at least ten business days.

- (c) Permits may be issued throughout the year.
- (d) For the importation of polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls a permit is issued by the Minister for Home Affairs on the advice of the Department of Sustainability, Water, Population and Communities and NICNAS. Permissions to import PCBs are normally granted by NICNAS for research purposes. However PCB waste may also be imported under the Hazardous Waste (Regulations of Exports and Imports) Act 1989, provided all the requirements of that Act have been met.

For the remaining industrial chemicals listed on the Rotterdam Convention authorisations are issued by NICNAS.

8. For the importation of polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls an application for permission to import can be refused on the discretion of the Minister for Home Affairs. There is no right of appeal against the Minister's decision. For the remaining chemicals listed on the Rotterdam Convention permits are issued by NICNAS and there is no right of appeal against a decision by the Director not to issue a permit. However applicants may appeal on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. Applications for permits to import polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls must be made in writing to the Minister for Home Affairs. The application should include the importer's name and address and details of the goods to be imported; NICNAS Registration forms for companies and individuals that import or manufacture relevant industrial chemicals can be found at <http://nicnas.gov.au/Forms/Registration.asp>.

11. For the importation of polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls the written permission of the relevant Minister is required to be produced on import. For the remaining chemicals listed in the Rotterdam Convention, authorisation from NICNAS is required to be in force at the time of importing the chemical.

12. There is no fee to import chemicals listed in the Rotterdam Convention. NICNAS registration fees and charges apply to the import or manufacture of relevant industrial chemicals. The fees and charges are available at: http://nicnas.gov.au/Industry/Registration/Registration_Fees_2012_2013.pdf.

There is no fee for permits for the importation of polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and polychlorinated polyphenyls.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Permits (granted by the Minister for Home Affairs) apply to one consignment only. NICNAS Registration is valid for one year commencing on 1 September and finishing on 31 August.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Permits/licences are not transferable between importers. Except as set out in subsections (2), (3) and (4) of the *Industrial Chemicals (Notification and Assessment) Act 1989*, the registration of a person is not transferable. (2) If a registered person dies, the legal personal representative of the person's estate becomes the registered person for the purposes of this Act. (3) If a registered person becomes bankrupt, the trustee of the estate of the bankrupt becomes the registered person for the purposes of this Act. (4) If a body corporate that is registered is being wound up, the person appointed to be the liquidator of the body corporate becomes the registered person for the purposes of this Act.

17. All authorisations to import the chemicals listed in the Rotterdam Convention can be subject to conditions including the quantity. Permission granted under Regulation 4AB of the Customs (Prohibited Imports) Regulations 1956 may specify conditions or requirements to be complied with by the holder of the permission.

Other procedural requirements

18. No.

19. Not applicable.

XVIII. MOTOR VEHICLES

Outline of system

1. Importation into Australia of new and used road motor vehicles is controlled under the *Motor Vehicle Standards Act 1989* (MVSA) and the Motor Vehicle Standards Regulations 1989 and Determinations.

Purpose and coverage of vehicle approvals

2. Import approvals are required for all road vehicles imported into Australia.

3. The *Motor Vehicle Standards Act 1989*, the Motor Vehicle Standards Regulations 1989, Determinations and Australian Design Rules (ADR), apply to the importation of all new and used road vehicles from all countries.

4. The importation of standard vehicles is not restricted in quantity or value. Importation of new and used vehicles that do not meet relevant ADRs is restricted and subject to controls to ensure that Australian safety and environmental standards are not compromised.

The Department of Infrastructure and Transport administers the *Motor Vehicle Standards Act 1989* and applies national standards for road vehicles. In practical terms, these standards deliver levels of vehicle safety and environmental performance that are generally expected by the Australian community. The standards are recognised as contributing towards safer roads and cleaner air.

Under the Act, several concessional arrangements also exist to allow the limited importation of used vehicles that may not meet all of the Australian Design Rules (ADRs). These schemes are outlined on the department's website, at:

http://www.infrastructure.gov.au/roads/vehicle_regulation/bulletin/importing_vehicles/general/index.aspx.

In addition to these concessional schemes, the Registered Automotive Workshop Scheme (RAWS) is the primary mechanism for the import of used vehicles that are specialist and enthusiast in nature. A general introduction to the scheme is available from the Department's website at <http://raws.dotars.gov.au/index.htm>.

5. Legislative requirements are set out in the *Motor Vehicle Standards Act 1989*, the *Motor Vehicle Standards Regulations 1989* and associated Determinations. Controls on the import of vehicles are statutory requirements and cannot be abolished without legislative approval.

Procedures

6.I. As identified above, information about the requirements and procedures for applying for a vehicle import approval is published on the Department's website: <http://www.infrastructure.gov.au/vehicles/imports/index.aspx> or can be supplied to applicants upon request to the Department of Infrastructure and Transport. Attention is also drawn to the requirements for approvals through other government agencies, such as the Australian Customs and Border Protection Service. Information is also readily available from shipping agents and Australian diplomatic posts around the world.

II. Restrictions are applied to individuals importing used road vehicles in commercial quantities through the Registered Automotive Workshop Scheme (RAWS). There is no limit on the number of individuals that may be licensed; the only restriction is on the individual importer. The current licence period for a Registered Automotive Workshop (RAW) is two years.

Returning Australian citizens and migrants may import their previously owned vehicle if they comply with the requirements set out in regulation 13 of the *Motor Vehicle Standards Regulations 1989*. There is a restriction of one vehicle every five years to eligible persons. There are no restrictions on the importation of vehicles that comply with Australian Design Rules (i.e. that are "standard" vehicles).

III. Import approvals are not dependent on whether an applicant is a domestic producer of like goods. Approvals are issued on the basis of prescribed circumstances set out in the *Motor Vehicle Standards Regulations 1989*. There is no follow-up action taken if a vehicle is not imported following the issue of an import approval.

The names of individuals who have been issued with import approvals are not made available to governments and export promotion bodies of exporting countries upon request. This information is subject to Australian information privacy legislation and can only be released if information privacy requirements are met.

IV. Not applicable.

V. The target processing period for issuing approvals is within 15 business days of receipt of a complete application with appropriate supporting documentation. This processing time will be longer if the submitted application is incomplete or all relevant supporting documentation is not provided.

- VI. Not applicable.
- VII. Under the requirements set out in regulation 13 of the Motor Vehicle Standards Regulations 1989, imports of previously owned vehicles are restricted to Australian citizens or permanent migrants. The latter category is required to have a valid visa provided by the Department of Immigration and Citizenship. Importers must satisfy Australian Customs requirements to have the vehicle released.
- VIII. For used vehicles imported in commercial quantities, each applicant on satisfying the legislative provisions, may import not more than 130 eligible vehicles per vehicle category (e.g. passenger car, off road vehicle, light commercial vehicle etc.) per year. New importers are required to satisfy the provisions of the *Motor Vehicle Standards Act 1989* and Motor Vehicle Standards Regulations 1989 before a licence is issued. Applications are examined on receipt.
- IX. Not applicable.
- X. Not applicable.
- XI. The *Motor Vehicle Standards Act 1989* includes provisions to allow the importation of vehicles imported for export that do not meet Australian Design Rules. These vehicles may not be used in transport or on public roads, nor are they allowed to be sold in the domestic market and must be exported.
- 7.(a) The target processing period for issuing import approvals is within 15 business days of receipt of a complete application and all relevant information. The actual processing time will depend on the completeness of the application, the type of approval being processed and the complexity of the information provided in support of an application.
- (b) Yes, providing all statutory requirements are met.
- (c) There are no limitations on the date of submission of applications.
- (d) The Department of Infrastructure and Transport administers the vehicle import approval regime. However, issues relating to Customs, immigration and quarantine must be dealt with through the relevant agencies.
8. There are no circumstances under which applications for import approval are refused other than failure to meet the statutory criteria in the *Motor Vehicle Standards Act 1989*, Regulations, and Determinations. Reasons are provided to the applicant where a refusal is issued.

Applicants may appeal to the Administrative Appeals Tribunal (AAT) in the event of refusal to issue an import approval. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for import approval

9. All persons, firms and institutions may apply for approval to import vehicles. The granting of an approval is dependent on whether the applicant and the vehicle(s) meet the applicable criteria under the *Motor Vehicle Standards Act 1989*.
- (a) Under regulation 13 of the Motor Vehicle Standards Regulations 1989 (personal import arrangements) a person, who is an Australian citizen or an Australian permanent resident, or

has applied to become an Australian citizen or an Australian permanent resident, may apply for approval to import a vehicle that they have owned and used for a continuous period of at least 12 months, where they have not imported another personal vehicle within the previous 5 years.

Where a vehicle is to be imported and used exclusively for racing or rallying purposes an application for import approval must be made. Approval will be granted where it is established that the vehicle is solely for racing purposes and for a particular event and/or is imported by a person holding an appropriate recognised racing licence.

Applications for import approvals for used imported vehicles can also be submitted by approved Registered Automotive Workshops, or by a workshop importing one vehicle in the initial process of becoming an approved workshop. Workshops must be a company in Australia, or have an appointed company in Australia as a sponsor.

- (b) Applications can be made for import approval of new standard vehicles (i.e. new vehicles complying with Australian Design Rules or new vehicles that are to be modified to comply with the Australian Design Rules by the person(s) or organisations that have been issued with Identification Plate Approvals for the make and model of the vehicles being applied for. The numbers of vehicles imported under these import approvals are not restricted.

There are no restrictions on the applicant or the number of vehicles that can be imported where the vehicles have been manufactured before 1 January 1989. Application must be made, and approval granted, in relation to each such vehicle.

Documentational and other requirements for application for licence

10. Applicants are required to provide name or company details including address and contact phone numbers. Relevant details of the vehicles to be imported are required to determine if the vehicle is eligible under the legislative requirements. Eligible persons seeking to import a previously owned vehicle are also required to provide confirmation of overseas travel and ownership and use. Copies of the application form are available from the website at: <http://www.infrastructure.gov.au/vehicles/imports/application_forms.aspx#io1>.

11. Importers must obtain a Vehicle Import Approval before a vehicle can be imported into Australia.

12. An administrative charge of \$50 is required for the lodgement of a vehicle import approval application.

13. Payment of relevant fees must accompany the lodgement of an application for vehicle import approval or, in the case of used imported vehicles, be paid online upon the application form being received by the electronic application form submission process. The lodgement fee is not refundable.

Conditions of approvals

14. Most import approvals do not have an expiry date. Approvals issued to entities holding authorities to supply new vehicles to the Australian market generally apply for the life of the vehicle model. The import approvals granted for vehicles imported for test purposes normally require that such a vehicle be exported or destroyed within 12 months unless modified to legislative requirements. Approvals issued in relation to used vehicles imported by Registered Automotive Workshops also contain a condition that vehicles must be modified to meet Australian Design Rules within 12 months or must be exported or destroyed.

15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Licenses are not transferable between importers.
- 17.(a) Conditions may be applied to a Vehicle Import Approval for a vehicle that does not comply with Australian Design Rules.
- (b) Conditions may be applied to a Vehicle Import Approval.

Other procedural requirements

18. Administrative requirements of the Australian Customs and Border Protection Service and the Australian Quarantine Inspection Service must be met before a vehicle is imported into Australia. In cases of immigrants importing their personal vehicle the requirements of the Department of Immigration and Citizenship must also be met.

19. Not applicable.

XIX. NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES AND RELATED CHEMICALS

Outline of system

1. Licences and permits are issued to control the import of specified narcotic drugs, psychotropic substances and related chemicals, including kava.

Purposes and coverage of licensing

2. This system fulfils part of Australia's obligation under three United Nations Conventions in relation to restricting the supply of controlled substances to that necessary to meet medical and scientific need and preventing diversion to the illicit drug market. The drugs covered are substances listed in Schedule 4 of the Customs (Prohibited Imports) Regulations 1956. The licensing system covers persons involved in international trade of those substances listed in Schedule 4, their derivatives, precursors and related substances. These include the drugs and chemicals required to be controlled under the *Single Convention on Narcotic Drugs, 1961*, the *Convention on Psychotropic Substances, 1971*, and Table I and Table II of the *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*.

An exemption applies in the case of a drug that is imported by a passenger on a ship or aircraft where the drug:

- (a)
 - (i) is required for the medical treatment of the person or another passenger under the care of the person;
 - (ii) was prescribed by a medical practitioner for the purpose of that treatment; and
 - (iii) was supplied to the person in accordance with the prescription of the medical practitioner.
- (b)
 - (i) is required for the medical treatment of an animal that is being imported and is under the care of the person;
 - (ii) was prescribed by a veterinarian for use in the animal for the purposes of that treatment; and
 - (iii) was supplied to the person in accordance with the prescription of the veterinarian.

Incoming passengers who are over the age of 18 years are allowed to bring 2 kg of kava (*piper methysticum*) either in the root or dried form, other than a product listed or registered under the *Therapeutics Goods Act 1989*, into Australia in their accompanied baggage.

3. The system applies to importers of controlled substances from all countries.
4. The use of import licences and permits enables the Government to restrict and monitor the quantities of controlled substances imported. This is intended to prevent the over-supply and diversion of controlled substances and is one strategy adopted to address drug misuse. The system is based on the requirements of the international treaties. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.
5. The *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956 govern the importation of drugs. The licensing of importers is a statutory requirement under paragraphs 50(3) (a) and (b) of the *Customs Act 1901*. The drugs subject to control are specified in Schedule 4 under Regulation 5 of the Customs (Prohibited Imports) Regulations 1956. This system cannot be abolished without legislative approval.

Procedures

- 6.I. National import limits for substances controlled by the Single Convention on Narcotic Drugs are set by an estimates system administered by the International Narcotics Control Board (INCB). The INCB publishes the estimates (import limits) for all parties to the Conventions. Allocation of limits for imports from particular countries is not applicable. Requests for exceptions and derogations from the licensing requirements must be directed to the Office of Chemical Safety, Commonwealth Department of Health and Ageing.
- II. An annual estimate of Australia's requirements for controlled drugs is established each year based on historical records of manufacture, import, export current inventory and projected domestic consumption. Australia's estimates are published by the INCB and specific imports are only authorised where they would not be in excess of the established limit. Import licences are issued annually but in themselves do not authorise the import of any specific quantity of drug. A permit is required to import a specific drug in a specific quantity.
- III. Import permits are required for each shipment and are issued to licensed importers and the requested import quantity must not cause the total imports of the drug to exceed the Australian limit approved by the INCB. In accordance with INCB procedures Australia must establish annual estimates at the appropriate times. There is no carryover of quantity if the limit from the previous year was not reached. A list of licensed importers is available to governments on request.
- IV. Applications for licences are accepted at any time.
- V. Licence applications may take six to eight weeks to process because of the stringent checks made on the personnel involved and on the security arrangements in place. Licences are issued annually. Almost all permits are issued within 30 days of the application being submitted.
- VI. An import permit may be issued immediately following the granting of a licence. Importation could then proceed.
- VII. Licences and permits are administered by the Commonwealth Department of Health and Ageing. State licence or legislative exception must be supplied at the time of applying for a

licence to import. . Additional controls are imposed on some substances (for example, if the drug is not approved in Australia, quarantine restrictions, etc.) and the appropriate procedures for these controls must also be completed.

- VIII. There is no limit on the number of licences and permits to be issued. However where relevant, the total imports cannot exceed the INCB administered estimate.
- IX. Import permits are required for all shipments of controlled substances regardless of whether an export permit is also required. In fact, for many of the controlled substances, the conventions require that the export permit can only be issued after an import permit has been sighted.
- X. As required by the *Single Convention on Narcotic Drugs* and the *Convention on Psychotropic Substances*, copies of all import and export permits are forwarded to the competent authority of the importing or exporting country.
- XI. No.
- 7.(a) There is no minimum advance notice required for a licence. However, stringent checks of applicants for licences are undertaken in order to issue a licence. Applications for an import permit should be made a minimum of 30 days prior to import. Permits will only be issued to a licensed importer. Goods arriving at the port without a permit cannot be imported and retrospective permits cannot be issued.
- (b) No.
- (c) No.
- (d) Import licences and import permits are both issued by the Commonwealth Department of Health and Ageing. When considering licence applications, State licence or legislative exception must be supplied at the time of applying for a licence to import, the company applying contacts the relevant State Authority. Other authorities may be contacted by the Department to verify application details (for example, Customs for personnel checks of the company applying). The applicant does not need to approach these authorities.
8. An application may be refused for any of the following reasons:
- The criteria are not met. These criteria require the importer to be a "fit and proper person" and maintain adequate security for storage;
 - The import would be excessive to national requirements;
 - If other permission is required but has not been obtained (for example, quarantine, State licences).

A licence or permit may be revoked if the licence holder fails to comply with the conditions of the licence or permit.

The affected person is notified in writing of any refusal or revocation. A request for review of the refusal can be made to the Australian Government Minister administering the *Therapeutic Goods Act 1989*, within 90 days after the decision first comes into the importer's notice. In the case of the applicant being dissatisfied with the Minister's finding, an application for a review of the Minister's decision can be made to the Administrative Appeals Tribunal.

Eligibility of importers to apply for licence

- 9.(a) Any person, firm or institution may apply for a licence. A licence shall not be granted unless the applicant is a fit and proper person to be granted a licence to import drugs and suitable security arrangements for the holding of drugs are in place. A licence is granted subject to conditions concerning use, sale and distribution of the substances. Import permits are only issued to licence holders. State licence or legislative exception must be supplied at the time of applying for a licence to import.

A list of licensed importers is available to other governments from the Commonwealth Department of Health and Ageing.

- (b) Not applicable.

Documentational and other requirements for application for licence

10. Applications for licences and permits must be submitted on either an "Application for a Licence to Import Controlled Substances" or "Application for a Permit to Import Controlled Substances" respectively.

The following information must be supplied for a licence application:

- name of the applicant (person or organisation);
- address of the premises on which the controlled substance will be held;
- nature of the business (e.g. pharmaceutical manufacture, chemical distribution, etc.);
- classes of controlled substances to be held (e.g. narcotic drugs, psychotropic substances, precursor chemicals, laboratory standards, etc.);
- details of licences held relating to the storage, manufacture or distribution of the substances;
- details of any losses and/or thefts of controlled substances;
- details of all persons who will have access to the controlled substances, including their positions and qualifications and specific background information to enable a security check;
- details of the security arrangements for the storage, distribution and handling of the substances;
- details relating to the applicant's appointment of an agent (e.g. shipping agent, customs agent);
- proposed importing activity for the period of the licence including drug names and proposed quantities.

The following information must be supplied for a permit application:

- importer's name and address;
- overseas exporter's name and address;
- product description (name, form and strength);
- number and size of the packs;
- quantity of drug;
- proposed date of import;
- mode of transport (e.g. airfreight, sea freight);
- where applicable, the name of the end user and the use of the end substance.

A separate Permit to Import is required for every shipment of a controlled substance and will not be issued unless a licence is already held. All permits must be obtained in advance of the controlled substance arriving in Australia.

11. The import permit is the required document and, for some substances, the complementary overseas export permit.
12. There is no licensing fee or administrative charge.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Import licences are valid until the end of the calendar year (year of application if applied for before 30 September, or following year if after 30 September). Import permits are usually valid for six months, but may be amended if necessary.
15. No. However, if a licence holder has not used the licence during the year and applies for a renewal, the applicant may need to justify retention of the licence.
16. Licences and permits are not transferable.
17. For licences, conditions apply to the keeping of records and the reporting of movements. For permits, specific conditions may be endorsed on the permit, (for example for re-export only or for veterinary use only).

Other procedural requirements

18. Importers of narcotic drugs, psychotropic substances and related chemicals for commercial supply should familiarise themselves with the requirements of the *Therapeutic Goods Act 1989* in relation to the importation of therapeutic goods for supply in Australia.
19. Not applicable.

XX. OBJECTIONABLE ITEMS

Outline of system

1. Import controls exist on offensive publications and goods entering Australia. Material which is prohibited under Regulation 4A, Importation of Objectionable Goods, of the Customs (Prohibited Imports) Regulations 1956 may not be imported without the prior written approval of the Attorney-General or by an authorised person.

Purposes and coverage of licensing

2. Objectionable goods include: computer games; computer generated images; films; interactive games; publications and any other goods that describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be imported.

The goods may also be considered objectionable if the goods describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or who appears to be, a child under 18 (whether the person is engaged in sexual activity or not). In relation to a computer game the goods may be considered objectionable if the game is unsuitable for a person under 18 to see or play. The goods may also be considered objectionable if they promote, incite or instruct in matters of crime or violence, or promote or incite the misuse of a drug specified in Schedule 4 of the Customs (Prohibited

Imports) Regulations 1956. The goods may also be considered objectionable if they advocate the doing of a terrorist act.

3. The regulations apply to the importation of goods from all countries.

4. The importation of these goods is regulated as a community protection measure. Goods included are considered to be detrimental to the well-being of the community. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or value of imports.

5. The control on importation of the specified goods is a statutory requirement under Regulation 4A of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Application should be made in advance of arrival of the goods. Applications generally take up to 20 working days to process assuming the applicant has provided sufficient information to allow a decision to be made. Applications may be made retrospectively if goods land and are seized by the Australian Customs and Border Protection Service. This may happen when the applicant inadvertently fails to apply in advance, or does not realise the goods would be prohibited. The same processing time applies, and Customs will delay destruction of the goods once they are notified an application for permission has been made. If the permission to import is refused or granted subject to conditions the applicant will be notified of the decision by notice in writing within 30 days of the decision.

(b) No.

(c) Permits may be issued at any period of the year.

(d) Applications for import permission required by Regulation 4A of the Customs (Prohibited Imports) Regulations 1956 are processed and issued by the Attorney-General's Department. Under Regulation 4A(2A) of the Customs (Prohibited Imports) Regulations 1956 the Attorney-General has appointed the Director and Deputy Director of the Classification Board as authorised persons to grant permissions to import. The responsibility for determining whether goods are "objectionable" rests with the Australian Customs and Border Protection Service.

8. An application for permission to import can be refused, or granted subject to conditions, on the discretion of the Attorney-General, or a person nominated by the Attorney-General. Where an application is refused, or granted subject to conditions, application for review of this decision may be made to the Administrative Appeals Tribunal (AAT), and except where subsection 28(4) of the Administrative Appeals Tribunal Act 1975 applies, the applicant may request a statement of reasons for the decision. The Attorney-General may certify in writing that in the public interest the responsibility for permission or refusal should remain solely with the Attorney-General and should not be reviewable by the AAT. The certificate must include a statement of the grounds on which the certificate was issued.

Eligibility of importers to apply for licence

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. For permission to import applications must be made in writing to the Commonwealth Attorney-General or an authorised person (the Director, or Deputy Director of the Classification Board). The application should include the following information:

- importer's name and address;
- details of the goods to be imported;
- quantity and distribution (end use);
- the purposes for which the goods are to be imported;
- explanation and evidence of the extent to which the person to whom permission would be granted conducts activities of an artistic, educational, cultural or scientific nature to which the goods relate;
- evidence of the reputation of the person both in general and in relation to the activities described above; and
- explanation of the person's ability to meet any conditions that may be imposed in relation to the goods under sub-regulation 3 (i.e. custody, use, reproduction, disposal, destructions, exportation or accounting for the goods);
- any other relevant matters.

11. Proof of authorisation is required on importation.

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Permits apply to one consignment only.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Licenses are not transferable between importers.

17. Conditions may be applied regarding the custody, use, reproduction, disposal, destruction or exportation of the imported goods or with respect to accounting for the goods for the purpose of ensuring that the goods are not used otherwise than for the purposes for which permission was granted.

Other procedural requirements

18. No.

19. Not applicable.

XXI. ORGANOCHLORINE CHEMICALS

Outline of system

1. The importation of certain organochlorine chemicals as listed in Schedule 9 of the Customs (Prohibited Imports) Regulations 1956 is prohibited unless written permission, either from the Minister responsible for the Commonwealth Department of Agriculture, Fisheries and Forestry or an authorised officer, is provided to the Australian Customs and Border Protection Service (Customs) at

the time of importation. An authorised officer means an officer of the Department of Agriculture, Fisheries and Forestry who is authorised in writing by the relevant Minister for the purposes of this regulation.

Purposes and coverage of licensing

2. The organochlorine pesticides (OCPs) group of chemicals were once commonly used pesticides in agriculture and industry, however, they have since been found to produce harmful effects on animals, people and the environment. The OCP range that is subject to Australian import controls includes the intentionally produced persistent organic pollutants that are listed under the *Stockholm Convention on Persistent Organic Pollutants* (Stockholm Convention), methoxychlor and oxychlorodane.

3. The regulations apply to the importation of goods from all countries.

4. The importation of OCPs is regulated as a community protection measure. These chemicals are considered to be harmful as they are generally persistent in the environment and bio-accumulative in organic tissue. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.

5. The control on importation of the specified goods is a statutory requirement under Regulation 5I of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Australia is a Party to the Stockholm Convention and these import controls are required of all Parties. Australia would need to withdraw from the Convention in order to abolish these import controls.

Procedures

6. Not applicable.

7.(a) Application should be made in advance of arrival of the goods.

(b) Permits are not normally issued immediately. Applications for permits are made to the Department of Agriculture, Fisheries and Forestry.

(c) Permits may be issued at any period of the year.

(d) Permits are issued by the Commonwealth Department of Agriculture, Fisheries and Forestry and are presented to Customs at the time of importation.

8. Application for permission to import can be refused on the discretion of the Minister for Agriculture, Fisheries and Forestry. Reasons for refusal would be explained to applicants. There is no right of appeal against the Minister's decision. However, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. For permission to import, applications must be made in writing to the relevant Minister. The application should include the following information:

- importer's name and address; and
- details of the goods to be imported including the appropriate international codes, quantity, intended use, exporting country, date of import.

11. The written permission of a relevant Minister or authorised officer is required to be produced on import.

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Permits usually apply to one consignment only, typically valid for three months but may be extended given sufficient justification. However, permits can be issued for multiple imports for a year.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Licenses are not transferable between importers.

17. Permission granted under Regulation 5I of the Customs (Prohibited Imports) Regulations 1956 may specify conditions or requirements to be complied with by the holder of the permission. If the holder of the permission fails to comply with a condition or requirement the Minister may revoke the permission.

Other procedural requirements

18. No.

19. Not applicable.

[Further information can be found at <http://www.daff.gov.au/agriculture-food/ag-vet-chemicals/stockholm-rotterdam>]

XXII. OZONE-DEPLETING SUBSTANCES AND SYNTHETIC GREENHOUSE GASES

Outline of system

1. Australia manages its obligations for ozone depleting substances controlled by the *Montreal Protocol on Substances that Deplete the Ozone Layer* and, for synthetic greenhouse gases, the *United Nations Framework Convention on Climate Change (UNFCCC)* through the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. The import, export and manufacture of the ozone depleting substances chlorofluorocarbons, halons, carbon tetrachloride, methyl chloroform, bromochloromethane and methyl bromide, for non-quarantine and pre-shipment use, is prohibited under the Montreal Protocol except where an essential or critical use exemption has been granted by the parties to the Montreal Protocol. Australia's Montreal Protocol obligations are implemented through a system of licensing and quota restrictions on ozone depleting hydrochlorofluorocarbons

(HCFC). Australia controls the import and manufacture of synthetic greenhouse gases (hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride) and applies an equivalent carbon price to the import and manufacture of these gases, in bulk form or contained in equipment, as part of its Clean Energy Future Plan to manage greenhouse gas emissions in accordance with its obligations under the UNFCCC. A licence is required to import and manufacture synthetic greenhouse gases and to import products containing synthetic greenhouse gases.

Purposes and coverage of licensing

2. The requirements of the licensing system are:

- Controlled substances:
 - import, export or manufacture of bulk HCFC and methyl bromide, with import quotas set in line with Montreal Protocol phase-out obligations and Australia's domestic policy to accelerate phase-out of HCFCs;
 - import, export or manufacture of bulk hydrofluorocarbons and perfluorocarbons, and sulfur hexafluoride, with no restrictions on quantity.
- Essential use:
 - import, export or manufacture of bulk chlorofluorocarbons, halons, carbon tetrachloride, methyl chloroform and bromochloromethane approved for essential use by the parties to the Montreal Protocol.
- Used substances:
 - import and export of bulk used chlorofluorocarbons, halons, carbon tetrachloride, methyl chloroform, bromochloromethane, methyl bromide and hydrochlorofluorocarbons.
- Precharged equipment containing synthetic greenhouse gases and HCFCs.

In September 2009, the Government introduced the partial fee waiver for the importation of equipment charged with HCFC or HFC refrigerant. The partial fee waiver reduces the licence application fee from \$3,000 to \$400, and is available to one-off or low volume importers importing up to five pieces of equipment imported in one shipment, providing the total quantity of ozone depleting substance or synthetic greenhouse gas being imported does not exceed 10Kg of gas.

Strict conditions and reporting requirements apply in relation to all licenses issued.

The import and manufacture of refrigeration and air conditioning equipment charged with an HCFC refrigerant, designed to operate using a HCFC refrigerant or containing insulating foam manufactured with an HCFC is prohibited under the legislation, unless an exemption has been granted. Exemptions have been granted to:

- HCFC pre-charged refrigeration equipment;
- HCFC pre-charged air conditioning equipment imported by the holder of a pre-charged equipment licence who has been granted a partial fee waiver for a one-off low volume import; chillers charged with HCFC-123;
- replacement parts for existing HCFC air conditioning equipment;
- components for existing high static ducted split system air conditioners;
- equipment insulated with foam manufactured with HCFC.

The exemptions apply up to 30 June 2015, unless the regulations are modified to provide for an alternative date.

In addition, certain products containing, manufactured with or designed to operate using some controlled substances are prohibited from import, export or manufacture unless the Minister has

granted an exemption. An exemption under Section 40 of the Act is issued only where the use of a substance is essential for medical, veterinary, defence, industrial safety or public safety purposes and no practical alternative exists.

Exemptions in limited circumstances can be given for the import or manufacture of certain products containing synthetic greenhouse gases. Exemptions have been approved for metered dose inhalers and imported foam products. The exemption for imported foam products will be reviewed by 30 June 2013.

3. The system applies to goods from all countries, with restrictions applying to trade of ozone depleting substances with countries that are not party to the Montreal Protocol.

4. The licensing system implements Australia's legal obligations under the Montreal Protocol. As well as limits on production and consumption of ozone depleting substances leading to eventual phase-out, the Protocol requires the establishment of a licensing and quota system.

5. The legislation under which licences are maintained includes:

- Ozone Protection and Synthetic Greenhouse Gas Management Act 1989;
- Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995;
- Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995;
- Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995;
- Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Regulations 2004;
- Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Regulations 2004.

Licensing is a legislative requirement. It is an offence to import, export or manufacture a scheduled substance without a licence. It is not possible to abolish this system without legislative approval.

The legislation does not leave designation of products to administrative discretion. All substances that require licenses are specified in a schedule to the legislation. No other substances require licensing under this legislation.

Procedures

6. The quantity of controlled ozone depleting substances that can be imported into Australia is limited through the Montreal Protocol. These limits and the quota system are also outlined in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. There is no import limit on synthetic greenhouse gases.

I. Information on licences is published in customs notices, trade journals, on the Commonwealth Department of the Sustainability, Environment, Water, Population and Communities website and in an Australian database for business. The Government deals directly with holders of existing licences and new applicants. There are no quotas on amounts to be imported from specific countries, but imports and exports of ozone depleting substances must be from countries that are Parties to the Montreal Protocol and its relevant amendments. The legislation does not provide for any exception or derogation from licensing requirements.

II. Controlled substances, used substances and pre-charged equipment licences are issued biennially. Fixed end dates apply to controlled substances and used substances licences, while pre-charged equipment licences are valid for two years from the date of issue. Each grant of a controlled substance licence for an ozone depleting substance specifies the amount permitted to be imported or manufactured during the entire quota period. Essential use licences are

issued annually. Each licence specifies the amount and type of substance to be imported for the entire duration of the licence.

Quotas are based on the total annual consumption (i.e. production plus imports, minus exports) limit under the Montreal Protocol, adjusted for Australia's accelerated phase-out policy as applicable. Individual HCFC licence quotas are based on imports in the previous licence period.

- III. Australia has no domestic manufacture of ozone depleting substances. All quota holders are importers of substances. Any company wishing to manufacture these substances in Australia would be subject to the same licensing and quota requirements as importers.

Unused quotas are not added to those of the succeeding period as limits under the Montreal Protocol and domestic legislation are not cumulative. The names of Australian importers are available to the public on the Commonwealth Department of the Sustainability, Environment, Water, Population and Communities website.

- IV. Licence applications may be made at any time. The Government will seek licence reapplications for a new licence period up to six months prior to the commencement of the licence period.

A licence application may take up to 60 days to be processed. Licences may not take longer than this as the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* provides that if after 60 days the Minister has not granted a licence or sought more information, the application is deemed to be refused, unless a formal request for information has been made. A request for more information provides 60 days from the date of the request for more information, for the application to be granted or refused. If it is not granted in this period it is deemed to be refused.

- V. See IV above.

- VI. Licences can be granted at any time before or during a licence period.

- VII. The authority to grant or refuse licences lies with the **Minister for Sustainability, Environment, Water, Population and Communities**. This power has been delegated to certain officers in the Commonwealth Department of the Sustainability, Environment, Water, Population and Communities. Applicants need only apply to the Department of the Sustainability, Environment, Water, Population and Communities.

- VIII. There is no limit to the number of licences that can be issued under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. The quantity of ozone depleting substances that can be imported is limited under the Montreal Protocol. HCFC imports are managed through a quota system, based on relative imports in the previous licence period.

- IX. Not applicable.

- X. Not applicable.

- XI. Not applicable.

- 7.(a) A licence for import of pre-charged equipment may be applied for at any time, including if necessary after goods have arrived. Applicants are discouraged from organising an import until a permit or a licence has been granted. Under the *Ozone Protection and Synthetic*

Greenhouse Gas Management Act 1989, licence applications must be assessed within 60 days of receipt.

- (b) The application must be assessed within the terms of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. There is no minimum waiting period for assessment once all information has been provided and the application fee paid.
- (c) Licences can be granted at any time during the licence period. If granted, the licence will expire at the end of the current licence period, regardless of when the licence was actually granted, unless it is a pre-charged equipment licence which is valid for two years from the date of issue.
- (d) Licence applications are considered by the Department of the Sustainability, Environment, Water, Population and Communities. No other agencies are involved

8. A licence may be refused if the applicant does not meet ordinary criteria. Where applications are refused, applicants will be given the reasons for such refusal on request. An applicant may apply to the Administrative Appeals Tribunal for a review of the decision not to issue a licence. Alternatively, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Noting the quota restrictions for HCFC imports, all persons, firms and institutions are eligible to apply for licences.
- (b) All persons, firms and institutions are eligible to apply for licences.

Documentational and other requirements for application for licence

10. Controlled Substance, Essential Use, Used Substance and Pre-charged Equipment application forms are available on the Department of Sustainability, Environment, Water, Population and Communities website at:<http://www.environment.gov.au/atmosphere/ozone/licences/index.html>.

11. Upon importation, an importer must present standard customs documentation along with a valid licence issued under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

12. Licence application fees are charged. Fees are: Controlled substances - \$15,000; Essential Use - \$3,000; Used Substance - \$15,000; and Pre-charged Equipment - \$3,000.

In addition, holders of a controlled substance licence are required to pay a quarterly activity fee which is calculated by reference to the ozone-depleting or global warming potential of the substances imported: HCFC - \$3,000 per ODP tonnes; Methyl Bromide - \$135 per tonne; Synthetic greenhouse gases - \$165 per tonne. An equivalent carbon price applies to imports and manufacture of synthetic greenhouse gases from 1 July 2012, based on the species and Global Warming Potential. The rate for 2012-13 is \$23 per carbon dioxide equivalent tonne.

13. There is no deposit or advance payment requirement associated with the issue of licences.

Conditions of licensing

14. Licences are valid for the licence period and cannot be extended.

15. There is no penalty for the non-utilisation of a licence or a portion of a licence.
16. Yes. Transferee must be a fit and proper person to be a licence holder. A joint application by the transferor and transferee is made to the Department of the Sustainability, Environment, Water, Population and Communities.
17. Licensees are not permitted to trade in ozone depleting substances with non-parties to the Montreal Protocol. General conditions of the licence are that the licensee must have arrangements in place to manage their product at its end of life, generally through a product stewardship scheme; and must provide quarterly activity reports and pay the appropriate import levy, as per the *Ozone Protection and Synthetic Greenhouse Gas Act 1989*.

Conditions may also apply to the purpose to which the imported substance is to be applied if its consumption has been approved for a specific purpose through the Montreal Protocol.

Other procedural requirements

18. No.
19. Not applicable.

XXIII. PLASTIC EXPLOSIVES

Outline of system

1. The importation of plastic explosives is generally prohibited under provisions of the *Customs Act 1901*, the Customs (Prohibited Imports) Regulations 1956 and the *Criminal Code Act 1995* (Cth) (Criminal Code). Importation is lawful if the Commonwealth Attorney-General has issued a Permit under the Customs (Prohibited Imports) Regulations 1956 and, if applicable, an Authorisation under the provisions of the Criminal Code. The Criminal Code regime fulfils part of Australia's obligation under the *United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 1991) (the Convention).

Purposes and coverage of licensing

2. The goods covered are plastic explosives. Different requirements apply depending on whether plastic explosives are "marked" with a chemical marker specified in the Criminal Code.
3. The Customs and State and Territory import licensing and permissions systems apply to importers of plastic explosives from all countries, regardless of whether the explosives are marked.

The Criminal Code requirements apply to both imported and domestically produced explosive products from all countries. That Authorisation scheme applies to importers of plastic explosives that are not marked.

4. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports. There are no restrictions in relation to the quantity or value of imports of unmarked plastic explosives under the Criminal Code regime. However, in exercising power to grant an Authorisation, the Attorney-General may have regard to whether the import of unmarked plastic explosives is reasonable.
5. The control of plastic explosives is a statutory requirement under Regulation 4AA of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The control

cannot be abolished without legislative approval. The provisions requiring Authorisation to be obtained for certain dealings with unmarked plastic explosives under the Criminal Code cannot be abolished without legislative approval.

Procedures

6. Not applicable.
- 7.(a) No specific timeframe. However, it is recommended that the application forms are completed and submitted at least six weeks before the goods' expected arrival in Australia.

In addition, the importer must provide the State or Territory Permit or Licence to import plastic explosives on the Application for Permission to import plastic explosives form and on the Manufacturers Certificate, relevant to the Customs and Criminal Code regimes respectively. In the case of unmarked plastic explosives, an Application for Authorisation to import unmarked plastic explosives should be lodged with the Attorney-General's Department at the same time as the Permission form.

- (b) A Permit under the Customs scheme would not normally be granted immediately as some conditions must be fulfilled. Checking of applicants' suitability to hold a Permit generally takes some time and therefore Permits cannot generally be issued immediately upon request.

An Application for an Authorisation under the Criminal Code regime must be submitted to the Attorney-General for his or her consideration and, if the Application is approved, an instrument of Authorisation is executed and provided to the applicant. The process may take approximately two to three weeks.

- (c) No.
- (d) Granting permission for the importation of plastic explosives involves State and Territory licensing authorities, Australian Customs and Border Protection Services and the Attorney-General's Department. Authorisations and Permissions to import unmarked plastic explosives and Permissions to import marked plastic explosives are granted by the Attorney-General or an authorised officer.

8. Unless otherwise stated, the regulations allow a Minister to consider whatever he or she believes necessary in forming a view as to whether or not to grant a Permit. An import Permit under the Customs scheme may be revoked if the Permit holder engages in conduct that contravenes a condition or requirement of the Permission.

An Authorisation to import unmarked plastic explosives may be refused by the Attorney-General if he or she considers that the proposed importation is unreasonable and/or considers that the Authorisation ought not be granted having regard to such matters as he or she considers relevant. An application may be made to the Administrative Appeals Tribunal for review of the Attorney-General's decision to refuse to grant an Authorisation or the Attorney-General's decision to specify a condition or restriction in an Authorisation made under section 72.18(1) (authorisation for research), section 72.19(1) (authorisation for defence and police purposes), section 72.20(1) (authorisation for use of existing stocks) or section 72.21(2) (authorisation for manufacturers).

The Attorney-General or his or her authorised officer would be required to give reasons for refusing to grant an Authorisation. If the Attorney-General's decision is affected by jurisdictional error or error of law, it is susceptible to judicial review under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) Any person, firm or institution may apply for a Permit. A Permit shall not be granted unless the applicant is a fit and proper person to be granted a Permit to import plastic explosives. Individuals, institutions, or corporations are eligible to apply for an Authorisation to import unmarked plastic explosives.

Documentational and other requirements for application for licence

10. In order to import unmarked plastic explosives importers will need to complete:
- an Application for Authorisation to either manufacture, possess, traffic in, import or export unmarked plastic explosives;
 - an Application for Permission to Import Unmarked Plastic Explosives; and
 - a Manufacturers Certificate.

In order to import marked plastic explosives importers will need to complete:

- an Application for Permission to Import Marked Plastic Explosives, and
- a Manufacturers Certificate.

A State or Territory Licence or Permit must be obtained before the Attorney-General's Authorisation to import plastic explosives can be granted. A State or Territory Licence or Permit must be obtained in advance of the plastic explosives arriving in Australia. If the Permission to import plastic explosives (and Authorisation if the plastic explosives are unmarked) is obtained from the Attorney-General, a Permit number will be issued. This Permit number must be presented to the Australian Customs and Border Protection Service at the time of lodging an import declaration.

11. A State or Territory import Licence or Permit is required on actual importation of marked or unmarked plastic explosives. In addition to the State or Territory Licence or Permit, additional documentation must be completed as specified in response to question (10) above.

12. No licensing fees are applicable.

13. No deposit or advance payment is required for Customs purposes. No deposit or advance payment is associated with the issue of Permissions or Authorisations by the Attorney-General.

Conditions of licensing

14. The Attorney-General is able to issue Authorisations for importation of unmarked explosives for defence or police purposes until 25 August 2022. Existing Authorisations cannot be extended. If an existing user wishes to engage in an activity other than one which is covered by the terms of an existing Authorisation, a new application must be made.

15. There is no penalty for non-utilisation of a Permit. However, if a Permit holder has not used the Permit during the year and applies for a renewal, the applicant may need to justify retention of the Permit. There is no penalty for non-utilisation of an Authorisation issued by the Attorney-General.

16. Permits issued under the Customs scheme are not transferable. Similarly, Authorisations issued by the Attorney-General apply only to those applicants to whom/which the Authorisation was initially granted.

- 17.(a) Not applicable.
- (b) The importation of unmarked plastic explosives (which are not subject to quantitative restriction) may be subject to such conditions and restrictions as the Attorney-General may specify in the Authorisation. Such conditions may include a requirement that future stocks of unmarked plastic explosives be purchased only from a specified source and/or that the applicant inform the Attorney-General's Department of any additional consignments of unmarked plastic explosives acquired following the grant of an Authorisation.

Other procedural requirements

18. No.
19. Not applicable.

Weblinks to the relevant Acts and Regulations are as follows:

- *Criminal Code Act 1995*:
<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/3A5F446649A6CE6BCA25773C001A6973?OpenDocument>
- *Customs Act 1901*:
<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/9E55A8CA0D3361D2CA257781001BCB82?OpenDocument>
- Customs (Prohibited Imports) Regulations 1956:
<http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/87EFF41BDFD47D37CA2576DA0022AAD6?OpenDocument>
- *United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 1991):
<http://treaties.un.org/doc/db/Terrorism/Conv10-english.pdf>.

XXIV. RADIOACTIVE SUBSTANCES

Outline of system

1. The importation of radioactive substances and goods containing radioactive substances is prohibited under the provisions of the *Customs Act 1901* and Customs (Prohibited Imports) Regulations 1956 unless the permission in writing is granted by the Commonwealth Minister for Health and Ageing, the CEO of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) appointed in writing by the Minister, or an Australian Public Service employee assisting the CEO appointed in writing by the Minister as an authorised officer, and presented to Customs at the time of importation. In order for a permit to be considered the applicant must be in possession of a Radioactive Substances Licence from the relevant Commonwealth, State or Territory radiation regulatory control jurisdiction, where required.

Purposes and coverage of licensing

2. The goods covered include any radioactive material or substance including radium, any radioactive isotope or any article containing any radioactive material or substance.
3. The regulations apply to the importation of goods from all countries.

4. The importation of radioactive substances is regulated as a community protection measure and to comply with Australia's international obligations under the *Basel Convention on the Control of trans-boundary Movements of Hazardous Wastes*. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.

5. The control on importation of the specified goods is a statutory requirement under Regulation 4R of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Application should be made in advance of the arrival of the goods.

(b) Permits to import are granted when it is established that the importer is in possession of a valid Radioactive Substances Licence, where required, from the relevant Commonwealth, State or Territory radiation control authority. For certain classes of radioactive substances the relevant Commonwealth, State or Territory radiation control authority is advised of the application for permission to import and allowed five working days to submit an objection to the granting of the permit.

(c) Permits may be issued at any period of the year.

(d) A permit is issued by the Minister for Health and Ageing, the CEO of ARPANSA or an Australian Public Service employee assisting the CEO appointed in writing by the Minister as an authorised officer. Applications to import radioactive materials or articles containing radioactive materials must be made to ARPANSA on an ARPANSA20 Form, "Application for Customs Prohibited Import Release of Medical Radioisotopes", or an ARPANSA Form 1, "Application for Customs Prohibited Import Release of Non-Medical Radioisotopes". These forms, and instructions for completing the Forms are available on the ARPANSA Web site (<http://www.arpansa.gov.au/Regulation/Permits/index.cfm>).

Before submitting an application for permission to import, the importer must be in possession of a valid Radioactive Substances Licence, where required, from the relevant Commonwealth, State or Territory radiation control authority. The licence number and licence details must be stated on the application Form.

8. Application for permission to import can be refused on the discretion of the Minister for Health and Ageing. There is no right of appeal against the Minister's decision. However, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence.

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. For permission to import, applications must be made in writing to ARPANSA. The application should include the following information:

- importer's name and address;
- end users name and address;
- details of the mode of transportation;
- details of the goods to be imported; and
- details of the Radioactive Substance Licence.

Application forms are available on the ARPANSA Web site (<http://www.arpansa.gov.au/Regulation/Permits/index.cfm>).

11. The written permission of the Minister of Health and Ageing, or an authorised officer, is required to be produced on import.

12. ARPANSA has an administrative charge of \$130 for the granting of a single shipment permit and \$1500 for the granting of a Twelve Month Permit.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Permits for the importation of medical or non-medical radioisotopes may apply to one consignment only, or may apply to an unlimited number of importations for a specified twelve month period (Twelve Month Permit). Twelve Month Permits are issued for the importation of radiopharmaceutical drugs registered on the Australian Register for Therapeutic Goods (ARTG) and for low hazard radioactive materials. The holder of a Twelve Month Permit is required to ensure that the radioactive materials are only supplied to valid licence holders.

15. There is no penalty for the non-utilisation of a license or a portion of a license.

16. Licenses are not transferable between importers.

17.(a) Not applicable.

(b) Permission granted under Regulation 4R of the Customs (Prohibited Imports) Regulations 1956 may specify conditions or requirements to be complied with by the holder of the permission.

All forms and requirements for import of radioactive substances can be found on our website at <http://www.arpansa.gov.au/Regulation/Permits/index.cfm>.

Other procedural requirements

18. No.

19. Not applicable.

XXV. SECURITY SENSITIVE AMMONIUM NITRATE

Outline of system

1. The importation of security sensitive ammonium nitrate (SSAN) is prohibited under the provisions of the *Customs Act 1901* and Customs (Prohibited Imports) Regulations 1956 unless:

- (a) Permission has been granted for the importation by the State/Territory authority where the goods will be located immediately after arrival and that is presented to Customs at the time of importation; or
- (b) the State/Territory does not require permission to import.

A licence is required to import SSAN into the following States and Territories: Queensland, New South Wales, Australian Capital Territory, Victoria, Tasmania, Western Australia and South Australia.

Purposes and coverage of licensing

2. The goods covered include security sensitive ammonium nitrate (SSAN). SSAN is ammonium nitrate, a mixture or emulsion made up of more than 45% ammonium nitrate, but not ammonium nitrate in solution.

3. The regulations apply to the importation of goods from all countries.

4. The importation of SSAN is regulated as a community protection measure. SSAN is a chemical of security concern and is regulated by the States/Territories under Dangerous Goods legislation. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.

5. The control on importation of the specified goods is a statutory requirement under Regulation 4X of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Applications for import licences should be made at least 7 working days in advance of the importation. Licences are granted by State/Territory authorities. Where other licences for SSAN are held (e.g. export) a shorter timeframe may apply.

(b) Licences cannot be issued immediately as the licence holders need to satisfy a number of conditions under the relevant State/territory legislation that the licence is granted under.

(c) Licences may be issued at any period of the year.

(d) The licences are specific to each State/Territory within Australia. This means that to import SSAN into more than one jurisdiction, multiple authorities need to be approached. The licensing authority in each State/Territory consults other government agencies in the licensing process.

8. Licence applicants must satisfy the requirements of the legislation in the relevant jurisdiction. Appeal provisions are managed by those jurisdictions.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply for permission to import although they must satisfy the requirements of the legislation in the jurisdiction where they are applying for the licence.

Documentational and other requirements for application for licence

10. Applications for licences must be made to the relevant State/Territory authority on the approved form for that State/Territory and include all relevant particulars. The documents required to be submitted vary depending on the jurisdiction and whether the applicant holds other licences for SSAN or other dangerous goods.

The relevant agencies are:

State/Territory	Agency
Queensland	Department of Mines and Energy
New South Wales	WorkCover Authority NSW
Australian Capital Territory	WorkSafe ACT
Victoria	WorkSafe Victoria
Tasmania	WorkPlace Standards Tasmania
Western Australia	Department of Mines and Petroleum
South Australia	SafeWork South Australia

11. Where permission is required in the State/Territory of importation, the permission from the relevant State/territory authority must be produced to Customs on import.
12. Licensing fees are charged by the State/Territory licensing authorities and vary depending on the type of licence sought.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Licensing periods vary in each jurisdiction. They range from 1 year to 5 years.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Licenses are not transferable between importers.
17. Licences may impose conditions to be complied with.

Other procedural requirements

18. Not applicable.
19. Not applicable.

XXVI. TABLET PRESSES

Outline of system

1. The importation of tablet presses is prohibited under provisions of the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956 unless the permission of the Minister for Home Affairs, or an authorised person, has been obtained.

Purposes and coverage of licensing

2. Tablet presses are defined as manual, semi-automatic or fully automatic equipment which can be used for the compaction or moulding of powdered or granular solids, or semi-solid material to produce coherent solid tablets.

3. The system applies to the importation of goods originating from all countries.

4. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports. A permission can specify conditions or requirements including times for compliance and the number of tablet presses allowed to be imported. The Minister or an authorised person has the power to revoke permission where the holder does not comply with a condition or requirement. The manufacture and distribution of amphetamine type stimulants is a serious problem in Australia and preventing the importation of tablet presses for use in illicit markets is an important way of reducing domestic production.

5. The control on the specified goods is a statutory requirement under Regulation 4G of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7. Where there is no quantitative limit on importation of a product or on imports from a particular country:

(a) Application should be made in advance of arrival of the goods.

(b) Applications for permission to import can be processed immediately provided all information is available and the application is considered to be urgent.

(c) Permits may be issued at any period of the year.

8. Application for permission to import can be refused at the discretion of the relevant Minister. Reasons for refusal are given to applicants. Applicants refused permission to import may appeal the decision-making process under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications must be made in writing to the Minister for Home Affairs or an authorised person. The application should include supporting documentation to possess the goods and/or any relevant end user evidential documentation. The application form can be found at: <http://www.customs.gov.au/webdata/resources/files/B712JUNE2010.pdf>.
11. The original permission from the Minister or authorised person is required upon importation.
12. There is no licensing fee.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. The Minister may specify a time period for the validity of the permission.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Permits/licenses are not transferable between importers.
17. Conditions may be imposed on the permission and quantities are specified.

Other procedural requirements

18. No.
19. Not applicable.

XXVII. THERAPEUTIC SUBSTANCES AND GOODS

Outline of system

1. Importation into Australia of therapeutic goods for human use is controlled under the *Therapeutic Goods Act 1989*, and its Regulations, and the Customs (Prohibited Imports) Regulations 1956.

Under the *Therapeutic Goods Act 1989*, therapeutic goods may not be imported into Australia unless they are registered, listed or included in the Australian Register of Therapeutic Goods or specifically exempt from this requirement. One exemption is for personal importation of therapeutic goods. Under Schedule 5 of the Therapeutic Goods Regulations 1990, an individual may import a therapeutic good into Australia on their person, or arrange from within Australia for a therapeutic good to be sent to them from an overseas supplier, subject to the following:

- the goods are to be used by that individual or a member of his/her immediate family and are not sold or supplied to any other person;
- the quantity imported may not exceed three months' supply per importation and the total quantity imported per year cannot exceed 15 months' supply at the manufacturer's recommended maximum dosage;
- substances, which are a prohibited import under the Customs (Prohibited Imports) Regulations 1956, may not be imported without an import permit;

- products which are injections containing material of human or animal origin (except insulin) may not be imported as personal imports, without permission from the Therapeutic Goods Administration;
- products which are "biological", as defined under the *Therapeutic Goods Act 1989*, may not be imported as personal imports, without permission from the Therapeutic Goods Administration; and
- in order to import any product which is a prescription medicine (substances in Schedules 4 or 8 of the Standard for the Uniform Scheduling of Medicines and Poisons), the importer must have a prescription issued by a medical practitioner registered in an Australian State or Territory (Note: medicines carried by a passenger on a plane or ship are an exception to this requirement, however, an import licence is still required in the case of medicines in Schedule 4 of the Customs (Prohibited Imports) Regulations 1956 if the passenger does not have a prescription).

Importation of certain substances is prohibited under regulations 5A, 5G and 5H of the Customs (Prohibited Imports) Regulations 1956 except with the permission of the Secretary of the Commonwealth Department of Health and Ageing. These substances include antibiotics, certain hormones (included in Schedules 7A of the Customs (Prohibited Imports) Regulations 1956) and other substances, including anabolic or androgenic substances (included in Schedule 8 of the Customs (Prohibited Imports) Regulations 1956). Substances of human or animal origin are not prohibited imports *per se*.

Importation of narcotic drugs, psychotropic substances and related chemicals, including kava, is also controlled under the Customs (Prohibited Imports) Regulations 1956. Those controls are described separately in this document, in the section titled "Narcotic Drugs, Psychotropic Substances and Related Chemicals".

Purposes and coverage of licensing

2. Import permits are issued under the Customs (Prohibited Imports) Regulations 1956 both for goods approved for marketing in Australia and for "unapproved" goods where supply is considered appropriate (e.g. in the context of clinical trials or special patient access). The therapeutic substances/goods covered are:

- Substances named in regulation 5A (1) of the Customs (Prohibited Imports) Regulations 1956. Currently, only antibiotic substances are so specified. Exemption applies in the case of:
 - antibiotics carried by a passenger on a ship or aircraft where the antibiotics are for the sole use of the passenger or the passenger's relative, and the amount does not exceed 3 months' supply of the substance at the maximum dosage recommended by the manufacturer of the substance; or
 - antibiotics required for the use of an animal that is being imported and is under the care of a passenger on the same ship or aircraft and the amount does not exceed 3 months' supply of the substance at the maximum dosage recommended by the manufacturer of the substance; or
 - antibiotics imported by a member of a group of persons visiting Australia to participate in a national or international sporting event, and for use in the treatment of a member or members of that group or an animal that is being imported and is under the care of the group.
- Goods to which regulation 5G of the Customs (Prohibited Imports) Regulations 1956 refer, that is, goods, which are, listed in Schedule 7A to the Regulations. Schedule 7A currently lists therapeutic goods which are mostly, hormones. Exemption applies where:

- the substance is required for the medical treatment of a person who is a passenger on a ship or aircraft; and
- the substance is imported into Australia on the ship or aircraft; and
- the substance was prescribed by a medical practitioner for that treatment; and
- the amount of the substance imported does not exceed the amount of the substance prescribed by the medical practitioner for the person receiving the treatment.

However, the above exemption does not apply if the goods are required for the medical treatment of a person who is an athlete within the meaning of section 4 of the *Australian Sports Anti-Doping Authority Act 2006*; or a person who has come to Australia for purposes relating to the performance of a competitor or the management of a competitor or a competitor's interest.

Goods to which Regulation 5H of the Customs (Prohibited Imports) Regulations 1956 refers, that is, goods listed in Schedule 8 to the Regulations. Schedule 8 includes anabolic or androgenic substances.

3. The regulation applies to the importation of therapeutic goods from all countries.
4. The controls under the *Therapeutic Goods Act 1989* safeguard public health in Australia through regulation of the quality, safety and efficacy or performance of therapeutic goods intended for supply in Australia.

The controls under the Customs (Prohibited Imports) Regulations 1956 are intended to restrict entry to Australia of substances that may be the subject of abuse in one form or another, or pose a risk to public health such that they should not be accessible to the general public via personal import arrangements. The importation of antibiotics is regulated as a public health measure. It also allows information on the distribution and consumption of antibiotics in Australia to be obtained. Goods listed in Schedules 7A and 8 to the Regulations are those known to be associated with particular hazards or concerns, which warrant restriction or prohibition of their use. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.

5. The controls on importation of therapeutic goods are statutory requirements under the *Therapeutic Goods Act 1989*, and associated regulations, and under the *Customs Act 1901*, and associated Customs (Prohibited Imports) Regulations 1956. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.
- 7.(a) Application for importation should be made in advance of the arrival of the goods. In certain circumstances, import permission can be given for goods which have inadvertently arrived at the point of entry.
- (b) Permits may be issued immediately if a genuine emergency exists.
- (c) Permits may be issued at any period of the year.
- (d) Applications for import permits under regulations 5A, 5G and 5H of the Customs (Prohibited Imports) Regulations 1956 are processed and issued within the Commonwealth Department of Health and Ageing.

8. If an import permit under regulations 5A, 5G or 5H of the Customs (Prohibited Imports) Regulations 1956 is refused, the applicant is notified in writing of the reasons for refusal. A request for review of the refusal can be made to the Australian Government Minister who administers the *Therapeutic Goods Act 1989*, within 90 days after the decision first comes into the importer's notice. In the case of the applicant being dissatisfied with the Minister's finding, an application for a review of the Minister's decision can be made to the Administrative Appeals Tribunal. In addition, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply for permission to import provided they are domiciled in Australia. They must also comply with any State/Territory legislation relating to manufacture and wholesale.

Documentational and other requirements for application for licence

10. For permission to import antibiotics under Regulation 5A (1) of the Customs (Prohibited Imports) Regulations 1956, applications should be made in writing, including the following information:

- importer's name and address;
- name of the manufacturer and location of the manufacture;
- details of the goods to be imported (whether raw material or formulated product);
- quantity and distribution (end-use);
- State/Territory Schedule 4 (prescription only medicine) licence number.

For permission to import goods specified in Schedule 8 (Regulation 5H of the Customs (Prohibited Imports) Regulations 1956 refers) the written application must include:

- importer's name and address;
- full details of the product proposed for import;
- supervising doctor's prescription, if applicable;
- State/Territory Schedule 4 (prescription only medicine) licence number (if applicable);
- depending on the nature of the goods and the intended purposes, further documentation or evidence may be required.

11. Import authorisation is usually issued in the form of a permit, but may be by letter of authority.

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Import permits may apply to one consignment only, or remain valid for successive consignments within a stated period (usually one year).

15. There is no penalty for the non-utilisation of a permit or a portion of a permit.

16. Permits are not transferable between importers.

17. Conditions are not usually related to the quantity imported for substances named in Regulation 5A (1) of the Customs (Prohibited Imports) Regulations 1956. Permits issued for substances in Schedules 7A and Schedule 8 of the Regulations are subject to individual quantitative restrictions. However, there is no annual quota or annual quantitative restrictions applicable to these goods required under the legislation or under an international agreement.

The quantitative restriction applies to individual importers as a condition of the import permit and is based on established need and end use.

Import permits may also cite such matters as:

- compliance with other State, Territory and Commonwealth laws;
- the subsequent use of the therapeutic good;
- the custody, use, disposal or distribution of the imported goods;
- the keeping of records relating to the imported goods; and/or
- a time restriction within which the importation must occur.

Other procedural requirements

18. Importers of therapeutic goods for commercial supply should familiarise themselves with the requirements of the *Therapeutic Goods Act 1989* in relation to the importation of therapeutic goods for supply in Australia. Further information is available at <http://www.tga.gov.au/>.

19. Not applicable.

XXVIII. UNMANUFACTURED TOBACCO LEAF

Outline of system

1. The importation of unmanufactured tobacco leaf is prohibited under provisions of the *Customs Act 1901* (Customs Act) and the Customs (Prohibited Imports) Regulations 1956 (Customs PI Regulations) unless the permission of the Commissioner of Taxation, or an authorised person, has been obtained. Permission from the Commissioner requires an Excise licence to manufacture tobacco or a licence to deal in tobacco products, granted under the *Excise Act 1901* (Excise Act). In addition, the site where imported tobacco leaf is to be dealt with must be licensed under the Customs Act.

Purposes and coverage of licensing

2. The goods covered include tobacco that is not stemmed or stripped and includes whole tobacco plants or leaves in the natural state, or as cured or fermented leaves. Licensed tobacco manufacturers and dealers who also hold a permission to import unmanufactured tobacco leaf (permission) are able to import these goods as an input to manufacture or more generally deal in tobacco seed, plant or leaf

3. The system applies to unmanufactured tobacco leaf originating from all countries.

4. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.

The importation of unmanufactured tobacco leaf is regulated to limit access to those licensed as manufacturers or dealers and therefore reduce illicit production.

5. The control on the specified goods is a statutory requirement under Regulation 4D of the Customs PI Regulations made under the Customs Act. The control cannot be abolished without legislative approval.

An Excise licence for tobacco is a legislative requirement under Sections 25 (Manufacturers) and 33 (Dealers) of the Excise Act. There is no administrative discretion – manufacturers or dealers in tobacco leaf must be licensed under the Excise Act. The control cannot be abolished without legislative approval.

A Customs warehouse licence is issued under Section 79 of the Customs Act. Anyone intending to use imported goods in excise manufacture must enter those goods for warehousing in a Customs licensed warehouse. Those goods must then be administratively transferred to a warehouse licensed by the ATO as a manufacturer or dealer under the Excise Act. There is no administrative discretion – imported tobacco leaf must be entered for warehousing. The control cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) The time frame for granting or refusing licence applications is 28 days from the date the ATO receives a complete application. If an incomplete application is received, the ATO will contact the applicant within 14 days of receipt to request further information. The same 28 day time frame applies to processing an application for permission.

(b) No.

(c) No.

(d) Yes, the application for an Excise licence and a permission is considered in its entirety by the ATO. From 1 July 2010, the ATO took over the administration of excise equivalent goods (EEGs) under delegation from the Australian Customs and Border Protection Service (Customs and Border Protection). As imported tobacco leaf can only be imported into Australia by entering it into a warehouse licensed under the Customs Act, the ATO has responsibility for licensing any warehouse that would store this product.

8. Failure to meet the ordinary criteria, as described in sections 39, 39A, 39B & 39C of the Excise Act, are grounds for refusing to grant a manufacturer or dealer licence. These grounds include where the applicant is not deemed fit and proper, the applicant does not have the skills and experience to carry out the activity, or the applicant does not have a market for the goods. When a licence is refused, the applicant is provided with reasons for the decision in writing. Applicants have a right to object under section 39Q of the Excise Act.

Sections 80 and 81 of the Customs Act are the key requirements that are considered when assessing an application for a Customs warehouse licence. These grounds are similar to those listed in the Excise Act. When a licence is refused, the applicant is provided with reasons for the decision in writing. Applicants have a right to object to the Administrative Appeals Tribunal under section 273GA(1)(b) of the Customs Act.

Regulation 4D of the Customs PI Regulations states that consideration must be given to the applicant's compliance with the Excise Act and any other relevant matters when assessing a permission to import unmanufactured tobacco leaf. The same regulation allows a person who is dissatisfied with a decision to object to it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Eligibility of importers to apply for licence

9. Yes. As long as the person or business has a site to be licensed in Australia they can apply. Excise and Customs licences are linked to sites as well as the individual or company applying. Each site operated by a single entity must be licensed separately so that the licence application can be assessed in terms of appropriateness of site security, plant and equipment, and stock recording for each site.

In relation to the permission, the entity must hold either an Excise manufacturer or dealer licence, and the site where imported tobacco is to be dealt with must be licensed under the Customs Act.

- (a) Not applicable.
- (b) Not applicable.

Documentational and other requirements for application for licence

10. An application for a Licence to Manufacture Tobacco provides details of the information required during the licence application process. Copies of the application form, along with an Application for Dealer Licence, are attached at Appendices A & B.

Since the transfer of administration of EEGs to the ATO in July 2010, the application form for a warehouse licence has been revised to reflect a number of changes. A copy of the revised application is at Appendix C.

If the applicant is not already registered for Excise, then they will also need to complete an Excise registration form. A copy is attached at Appendix D.

If an applicant is applying for the first time, that applicant will be required to complete a Consent to a Criminal Record History Check and a Consent to Obtain Information form (individual or company). Copies are attached at Appendices E & F.

The applicant must also provide certified copies of the floor plan of the proposed licence site.

Finally, during the review process the applicant may be required to send additional documents in support of their claims - for example, a business plan, evidence of a market, details of security arrangements or insurance policy details.

There is no specified application form for the permission, although a written application must be lodged providing the Commissioner with any information he reasonably requires to make his decision.

11. The original permission from the Commissioner or authorised person must be produced upon importation in addition to the normal importation documentation required by Customs.

12. There are no fees associated with the Excise licences or the permission. There are fees associated with the warehouse licence that are determined by the type of activity associated with the licence. The initial fee is A\$7000 and there is an annual renewal fee of A\$4000. If the licence holder is only dealing in imported goods to be used in the manufacture of excisable goods, then the initial fee is A\$1000 and there is no renewal fee.

13. No.

Conditions of licensing

14. A licence to manufacture or deal in tobacco is valid for 3 years and must be renewed before the end of the 3 year period. The validity of a licence can be extended if it is approved for renewal by the ATO. The associated permission is valid for the same period as the licence although, rather than being renewed, it must be re-issued. This is an administrative requirement only.

In contrast, a warehouse licence is valid for 1 year only and must be renewed annually. The validity of a licence can be extended if it is approved for renewal by ATO staff operating under Customs delegation.

15. No.

16. Excise manufacturer, dealer or Customs warehouse licences are not transferable. Although the ATO licenses the site, the licence cannot be transferred and any change in ownership would require a new licence application. The permission also is not transferable.

17.(a) Not applicable.

(b) Section 39D of the Excise Act and section 82 of the Customs Act allow the ATO to apply conditions to a licence in order to protect the revenue or to ensure compliance with the relevant Acts. There are no limitations on the conditions that can be applied on a permission under Regulation of the Customs PI Regulations.

Other procedural requirements

18. No.

19. Not applicable.

Links to legislation

Excise Act 1901

<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/0F665CB0FC49A6CFCA257758001AC994?OpenDocument&mostrecent=1>.

Customs Act 1901

<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/9E55A8CA0D3361D2CA257781001BCB82?OpenDocument&mostrecent=1>.

Customs (Prohibited Imports) Regulations 1956

<http://www.comlaw.gov.au/comlaw/Legislation/LegislativeInstrumentCompilation1.nsf/current/bytitle/87EFF41BDFD47D37CA2576DA0022AAD6?OpenDocument&mostrecent=1>.

Taxation Administration Act 1953

<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/1B186AA9BA BE49ECCA25777C0008DD9C?OpenDocument&mostrecent=1>.

XXIX. VIABLE MATERIAL DERIVED FROM HUMAN EMBRYO CLONES

Outline of system

1. The *Prohibition of Human Cloning for Reproduction Act 2002* (section 23C) required the Minister who administers the *Customs Act 1901* to make regulations "permitting, subject to appropriate conditions or restrictions, the import and export of human embryonic stem cell lines which have been derived from human embryo clones using practices consistent with Australian legislation".

The relevant regulations are the Customs Amendment Regulations 2009 (No. 3) (Select Legislative Instrument 2009 No. 186), the Customs (Prohibited Exports) Amendment Regulations 2009 (No. 1) (Select Legislative Instrument 2009 No. 187) and the Customs (Prohibited Imports) Amendment Regulations 2009 (No. 3) (Select Legislative Instrument 2009 No. 188). The regulations prohibit the import or export of viable material derived from human embryo clones unless the Minister or an authorised person has granted permission in writing and the permission is produced at or before the time of import or export.

Details of the scheme have not been finalised because as of August 2012 no-one has reported successfully establishing an embryonic stem cell line derived from a human embryo clone. Consequently a request for permission to import or export such material has not yet been made.

Purposes and coverage of licensing

2. The permit system relates to the import or export of viable material derived from human embryo clones and is necessary to give effect to the legislative requirements of the *Prohibition of Human Cloning for Reproduction Act 2002* and the related *Research Involving Human Embryos Act 2002*. Viable material means living tissues and cells.

3. The system applies to any viable material derived from human embryo clones originating in Australia or coming from other countries.

4. The *Prohibition of Human Cloning for Reproduction Act 2002* is intended to prohibit the import or export of viable material derived from human embryo clones unless the Minister or an authorised person has granted permission.

5. The relevant legislation is cited above at question 1.

Obtaining a permit under the legislation is a statutory requirement in all circumstances. All materials covered by the definition of "viable material" derived from a "human embryo clone" will require a permit. This is not subject to administrative discretion. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) An application for a licence should be made well in advance of the proposed import or export. As the details of the scheme have not been finalised it is not possible to provide specific information. However, the time taken to consider an application for a licence will vary depending on the circumstances of the import or export and the completeness of information provided.

- (b) It is unlikely that immediate granting of a permit will be possible given the information required and the time needed to assess it.
- (c) No.
- (d) The National Health Medical Research Council (NHMRC) will have responsibility for administering the permit scheme and will provide advice to Customs on any permits issued. Customs requirements relating to the volume and packaging of the material will also apply.

8. An application that meets the criteria will be granted a permit. Where an application is refused, reasons are provided and applicants have a right of appeal to the Administrative Appeals Tribunal. In addition, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) Yes. However, a person or organisation seeking an import permit must satisfy the Authorised Person specified in the regulations that they are capable of complying with any conditions attaching to the permit.

In relation to persons or organisations applying for an export permit it is expected that only the person or organisation that derived the viable material in Australia would be eligible to apply. Such persons or organisations would need to hold a licence issued under the *Research Involving Human Embryos Act 2002* authorising the creation of the human embryo clone and derivation of viable material from it.

Documentational and other requirements for application for licence

10. As noted above the details of the permit scheme have not been finalised. However, the importer or exporter will be required to demonstrate that the viable material has been obtained using practices consistent with Australian legislation. This will include providing evidence that the viable material has been derived or obtained legally and ethically. Information and application forms will be available from the NHMRC website (<http://www.nhmrc.gov.au>).

11. An approval under the Legislation, such as a permit, must be obtained prior to import or export and is required to be produced at the time of import or export.

12. There is no licensing fee or administrative charge.

13. There is no deposit or advance payment requirement associated with the issue of permits.

Conditions of licensing

14. The period of validity of a permit will be the period set out in the permit. Details are not yet available.

15. No.

16. Given the requirements for obtaining the permit, it is unlikely that the scheme will allow for transfer of permits between importers or exporters.

17. The regulations allow for conditions to be attached to permits. The details of such conditions have not yet been finalised. Failure to comply with the conditions can lead to revocation of the permit.

Other procedural requirements

18. Customs and quarantine controls may be relevant.

19. Not applicable.

XXX. WEAPONS AND CROWD CONTROL GOODS

Outline of system

1. The importation of weapons including, daggers, crowd control goods and laser pointers are regulated by the *Customs Act 1901* and the Customs (Prohibited Imports) Regulations 1956.

The Act can be found at: <http://www.comlaw.gov.au/Details/C2012C00618>.

The Regulations can be found at: <http://www.comlaw.gov.au/Details/F2012C00563>.

Purposes and coverage of licensing

2. The goods covered are weapons, crowd control goods and laser pointers as specified at Schedule 3 and Schedule 13 of the Customs (Prohibited Imports) Regulations 1956 (the Regulations), and firearms, firearm accessories, firearm parts, firearms magazines, ammunition, components of ammunition and replicas as specified at Schedule 6 of the Regulations.

The importation of goods specified in Schedule 13 of the Regulations is prohibited unless the conditions, restrictions or requirements specified are complied with and the written permission of the Minister, or an authorised person, is granted - applications are processed through the Australian Customs and Border Protection Service. Some goods specified in Schedule 13 may be imported with certification from the Police in the State or Territory of residence or importation.

The importation of goods specified in Schedule 3 anti-personnel sprays, chemicals, grenades and canisters is prohibited unless they are being imported for the Government of the Commonwealth, the Australian Federal Police, a Police force of a State or Territory, a correctional facility of a State or Territory, or other State or Territory government agency specified in the Regulations and the written permission of the Minister, or an authorised person, is granted - applications are processed through the Australian Customs and Border Protection Service.

The importation of goods specified in Schedule 6 is prohibited unless the conditions, restrictions or requirements specified are complied with and the written permission of the Minister, or an authorised person, is granted - applications are processed through the Attorney-General's Department. Some goods specified in Schedule 6 may be imported with certification the Police in the State or Territory of residence or importation.

3. The regulations apply to importations from all countries.

4. The Customs (Prohibited Imports) Regulations 1956 are not intended to restrict the quantity or volume of imports, however, import permission for these goods is valid for a quantity specified on the permission and is valid for one importation only.

Controls on importation have been introduced as a community protection measure. The monetary value is not a criterion for control.

5. The control on importation of the specified goods is a statutory requirement under the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

7.(a) Application should be made in advance of arrival of the goods.

(b) Applications for permission to import can be processed immediately provided all information is available and the application is considered to be urgent. Permission itself cannot be granted immediately, as the decision-maker must consider whether the importation meets the requirements specified in the Regulations before giving written permission.

(c) Permits may be issued at any period of the year.

(d) The permission of the Minister may also require State or Territory approval for the possession and sale of the goods. Applications for import permits required under Schedule 3 and Schedule 13 are processed by the Australian Customs and Border Protection Service or the relevant State or Territory Police where appropriate. Applications for import permits required under Schedule 6 are processed by the Attorney-General's Department, or the relevant State or Territory Police where appropriate.

8. Application for permission to import can be refused at the discretion of the relevant Minister, or Police representative where appropriate. Reasons for refusal are given to applicants. An appeal may be made on the decision-making process under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

9. All persons, firms and institutions are eligible to apply.

Documentational and other requirements for application for licence

10. Applications must be made in writing to the Minister, or an authorised person. The application must include supporting documentation showing the importation complies with the relevant conditions, restrictions or requirements specified are complied with and confirmation that the goods can be possessed or sold on the relevant State or Territory.

The application form for Schedule 3 and Schedule 13 goods can be found at: <http://www.customs.gov.au/webdata/resources/files/B710AUG2009.pdf>.

The application form for Schedule 6 goods can be found at: <http://www.ag.gov.au/Firearmsregulation/Documents/Application%20Form%20for%20Firearms%20Importation%20-%20November%202010.PDF>.

11. The original permission from the Minister or authorised person is required upon importation.

12. There is no licensing fee.

13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. The Minister may specify a time period for the validity of the permission.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Permits/licenses are not transferable between importers.
17. Conditions may be imposed on the permission and quantities are specified.

Other procedural requirements

18. No.
19. Not applicable.

XXXI. WOOLPACKS

Outline of system

1. The importation of woolpacks and woolpack caps is prohibited under the provisions of the *Customs Act 1901* and Customs (Prohibited Imports) Regulations 1956 unless the permission of the Australian Government Minister for Agriculture, Fisheries and Forestry, or an authorised person, is granted; or a test certificate issued by a prescribed testing authority certifying that the woolpacks conform to Australian standards, is produced.

Purposes and coverage of licensing

2. The goods covered are new woolpacks and woolpack caps: unless the permission of the Minister for Agriculture, Fisheries and Forestry, or an authorised person is obtained; or a test certificate issued by a prescribed testing authority, certifying that the woolpacks or woolpack caps conform to Australian Wool Exchange (AWEX) standards, is produced.

Second-hand woolpacks and woolpack caps: unless the permission of the Minister for Agriculture, Fisheries and Forestry or an authorised person is obtained. The importation of second-hand woolpacks for use as containers of wool is not permitted.

3. The regulations apply to the importation of woolpacks and woolpack caps from all countries.
4. The importation of woolpacks is regulated to ensure adequate pack strength and to minimise fibre contamination of the Australian wool clip. The Customs (Prohibited Imports) Regulations are not intended to restrict the quantity or volume of imports.
5. The control on importation of the specified goods is a statutory requirement under Regulation 4K of the Customs (Prohibited Imports) Regulations 1956 made under the *Customs Act 1901*. The system cannot be abolished without legislative approval.

Procedures

6. Not applicable.

- 7.(a) Application should be made in advance of arrival of the goods. In certain circumstances, import permission can be given for goods which have inadvertently arrived at the point of entry.
- (b) Permits may be issued promptly if a genuine emergency exists.
- (c) Permits may be issued at any period of the year.
- (d) A test certificate may be issued by a prescribed testing authority in Australia or overseas to certify that the woolpacks or woolpack caps conform to Australian Wool Exchange (AWEX) standards. Applications for import permission are issued by officers of the Department of Agriculture, Fisheries and Forestry authorised by the Minister for Agriculture, Fisheries and Forestry.
8. Application for permission to import can be refused at the discretion of the Minister for Agriculture, Fisheries and Forestry, or an authorised person, if the ordinary criteria are not met. There is no right of appeal against the Minister's (or authorised person's) decision. However, an appeal may be made on the decision-making process itself under the *Administrative Decisions (Judicial Review) Act 1977*.

Eligibility of importers to apply for licence

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply for permission to import.

Documentational and other requirements for application for licence

10. For permission to import applications must be made in writing to the Minister for Agriculture, Fisheries and Forestry. The application should include the following information:
- importer's name and address;
 - details of the goods to be imported;
 - quantity and distribution (end use) ;
 - manufacturer;
 - port of lading;
 - bill of lading number;
 - ETA date and place.
11. Proof of authorisation or a Test Certificate is required on importation.
12. There is no licensing fee or administrative charge.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

Conditions of licensing

14. Permits apply to one consignment only.
15. There is no penalty for the non-utilisation of a license or a portion of a license.
16. Licenses are not transferable between importers.

17. Conditions may be applied regarding the custody, use, disposal or destruction of the imported woolpacks or woolpack caps for the purpose of ensuring that they are not used otherwise than for the purpose for which the permission is granted.

Other procedural requirements

18. No.

19. Not applicable.
