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Committee on Market Access

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**REPLIES BY AUSTRALIA TO THE QUESTIONS FROM SWITZERLAND REGARDING
AUSTRALIA'S NOTIFICATION ON QUANTITATIVE RESTRICTIONS
(G/MA/QR/N/AUS/3)**

COMMUNICATION FROM AUSTRALIA

The following communication, dated 13 November 2017, is being circulated at the request of the delegation of Australia.

Question No.1:

Could Australia provide more details regarding QR number 7 (Counterfeit credit cards). It seems that counterfeit credit, debit and charge [cards] can be exported if a permission has been given by the Minister for Immigration and Border Protection. Is this understanding correct?

Response:

Regulation 13D of the Customs (Prohibited Exports) Regulations 1958 prohibits the export of counterfeit credit, debit and charge cards without permission from the Minister for Justice. Counterfeit credit, debit and charge cards are also controlled under Regulation 4T of the Customs (Prohibited Imports) Regulations 1958.

In the regulations the *Minister* means the Minister administering the Australian Federal Police Act 1979. Currently, this is the Minister for Justice. The Australian Federal Police (AFP) are the relevant policy agency for this control.

Annual domestic credit card fraud, and international fraud involving Australian credit cards, is estimated to be in the hundreds of millions of dollars. There is also evidence that counterfeit cards are being manufactured overseas and brought into Australia to commit fraud against Australian businesses and financial institutions. Legislation to control the importation and exportation of counterfeit credit cards was introduced as a result of discussions with other agencies including the AFP, the Attorney-General's Department and the Treasury, which resulted in unanimous agreement to import and export prohibitions on counterfeit cards.

The ordinary meaning of the term "counterfeit" applies to these controls. This means that any non-genuine credit, debit and charge cards that are made to imitate and pass for genuine cards are intended to be subject to the controls. Examples of the situations that are intended to be covered include where a card has a name and number that do not match the issuing authority's records, and where more than one card has the same number embossed on it.

There may be limited circumstances where the importation or exportation of such cards is appropriate and the Minister may grant permission. For example, it is possible that law enforcement agencies, financial institutions or credit providers (such as the credit card companies) may seek to examine such cards to enable them to improve mechanisms to avoid counterfeiting, or for training or for law enforcement evidentiary purposes.

Question No.2:

QR number 17 (human blood and tissues): Could Australia explain the reason why the export of human blood and tissues is in principle prohibited instead of having a less restrictive measure in place?

Response:

The decision to require a permit to allow the export of human body fluids, organs and tissue is based on the concept of security of supply and ensuring the protection of the health of Australians, this includes blood components and plasma-derived products. Where export is justified, such as of plasma-derived products approved by Therapeutic Goods Administration or following an overseas request of a rare blood unit or HPC, a permit to allow its export can be readily issued.

Question No.3:

In general could Australia at least indicate the HS chapters for certain restrictions instead of "various"? Would it also be possible to include the link to the relevant legislation?

Response:

QR No. 1 - Asbestos –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s4.html

QR No. 2 – Agricultural and Veterinary Chemicals –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s4a.html

QR No. 3 – Biological Agents –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13e.html

QR No. 4 – Cat and Dog Fur –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s9ab.html

QR No. 5 – Certain Chemical Compounds –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13e.html

QR No. 6 – Cetaceans –

http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_reg/epabcr2000697/

QR No. 7 – Counterfeit Credit Cards –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13d.html

QR No. 8 – Cultural Heritage Goods –

http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/pomcha1986393/

QR No. 9 – Defence and Strategic Goods –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13e.html

QR No. 10 – Diamonds – Kimberley Process –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s9aa.html and
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cir1956432/s4ma.html

QR No. 11 – Dogs, Dangerous Breeds –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cir1956432/s3.html

QR No. 12 – Drugs, Narcotics and Related Chemicals –

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s10.html and
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s10aa.html and
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/sch8.html

QR No. 13 - Endangered animal and plant species – CITES and Australian native species -

http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/epabca1999588/

QR No. 14 - Firearms, parts, accessories and ammunition – commercial -
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13e.html

QR No. 15 - Firearms, parts, accessories and ammunition – personal -
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13e.html

QR No. 16 – Hazardous Waste –
http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/hwoeai1989548/

QR No. 17 – Human Blood and Tissue –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s8.html

QR No. 18 – Industrial Chemicals -
http://classic.austlii.edu.au/au/legis/cth/consol_reg/icaar1990574/s11c.html

QR No. 19 – Live Animals (livestock) –
http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/eca1982203/ and
<https://www.legislation.gov.au/Details/F2016C00854>

QR No. 20 - Ozone depleting substances/Synthetic Greenhouse Gases -
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13f.html

QR No. 21 – Objectionable Goods –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s3.html

QR No. 22 – Precursor Substances –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s10ab.html

QR No. 23 - Medication purchased under prescription (in respect of which a commonwealth benefit has been paid) - http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/nha1953147/

QR No. 24 – Radioactive Substances –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s9ad.html

QR No. 25 – Radioactive Waste –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13g.html

QR No. 26 – Suicide Devices –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s13ga.html

QR No. 27 – Therapeutic Goods –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/tga1989191/s26.html and
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/tga1989191/s26a.html

QR No. 28 – Toothfish –
http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/cer1958439/s6.html

QR No. 29 – Unprocessed Wood –
http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_reg/ecwr493/ and
http://classic.austlii.edu.au/au/legis/cth/consol_reg/ecwcr1996495/ and
http://classic.austlii.edu.au/au/legis/cth/num_reg/ecfar1997n77586/
