

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

AUSTRALIA

The following notification has been received from the delegation of Australia in response to the questionnaire annexed to L/5640/Rev.2. It comprises two sections with the relevant information on:

1. Customs (Import Licensing) Regulations covering industrial products (pages 2-7); and
2. Customs (Prohibited Imports) Regulations - Regulation 5 and accompanying Fourth Schedule to the Regulations, covering narcotic drugs and certain psychotropic substances (pages 7-12).

The present document replaces the data previously made available to contracting parties in document L/5640/Add.13.

1. CUSTOMS (IMPORT LICENSING) REGULATIONS COVERING INDUSTRIAL PRODUCTS

Outline of System and Purpose of Controls

1. The Customs (Import Licensing) Regulations provide that the importation of all goods into Australia is prohibited unless:
 - the goods are excepted from the application of the Regulations, or
 - a licence is issued under the Regulations.

In practice all goods other than a limited range of secondhand, used or disposals machinery, equipment and certain types of four-wheel drive vehicles (see Answer 2) are excepted from the Regulations.

The Comptroller-General of Customs is responsible for the administration of the Regulations. Certain powers can be and have been delegated under the Regulations including the power to issue licences.

Coverage of Controls

2. A brief description of goods covered by import licensing is set out in the table below:
 - . Used, secondhand or disposals earthmoving or excavating vehicles, machinery or equipment (eg rock buggies, dumpers, dump trucks, graders, draglines, mechanical shovels, loaders, ditchers, excavators, scrapers, bulldozers) and parts thereof;
 - . Used, secondhand or disposals tractors (not being agricultural tractors), road rollers and parts thereof;
 - . Certain used, secondhand or disposals material handling equipment (eg cranes, forklift trucks) and parts thereof; and

Used, secondhand or disposals four wheel-drive vehicles incorporating an independent chassis, having a gross vehicle weight of less than 10.16 tonnes, excluding public service type passenger vehicles.

3. Import licensing controls are global.
4. Intention of all licensing is to restrict the quantity of goods imported, to assist local industry.
 - Licensing was introduced on the products referred to in answer 2 above as other measures were considered to be ineffective in protecting local industry due to the low prices at which large quantities of secondhand equipment are available overseas.
5. Import licensing is maintained under the Customs (Import Licensing) Regulations (statutory requirement).
 - Decision to apply licensing is at Ministerial level but generally follows Government decision on particular products.
 - The controls may be abolished without legislative approval but would only be so abolished by Government decision.

Procedures

- 6.(a) The usual procedures for advising of a change in assistance arrangements, including the imposition of licensing, involves a Ministerial press statement, and where appropriate a Notice published in a Government Gazette available to the public. A detailed explanation of administrative details is then published in an Australian Customs Notice (ACN).

The only goods currently subject to Australia's import licensing arrangements are certain used, secondhand or disposals machinery equipment and certain types of four-wheel drive vehicles. There is no limit to the quantity that can be imported and issue of licence is based on whether goods serving similar functions are produced or are capable of being produced in Australia in the normal course of business (See Answer 7)

6(b) - 6(k) not applicable.

7. Import licensing is not subject to quantitative limits or limitations as to the country of origin.

(a) An application for a licence may be made before the goods are ordered, however, licences must be issued before the goods are imported.

(b) A licence can be issued immediately on request provided the application meets the established criteria.

(c) There are no limitations as to the period of the year when applications for licences will be accepted and/or importation may be made. However, licences are generally valid for 12 months from the date of issue.

(d) Issue of licences is made by the Australian Customs Service.

8. Applications for licences are only refused on grounds of failure to meet specified criteria.

- Applicants are advised of reasons for refusal of the granting of a licence.

A number of avenues are available for applicants to appeal against a decision to refuse the issue of a licence. Internal reviews may be held by the Australian Customs Service or alternatively, some issues may be brought before the Administrative Appeals Tribunal or the Federal Court under the Administrative Decisions (Judicial Review) Act.

Eligibility of Importers to Apply for Licence

9. - There is no restriction on who may apply for a licence.
- No registration fee is payable.
 - Names, addresses and entitlements of importers are published six monthly in a Government Gazette which is available to the public.

Documentational and Other Requirements for Applications for Licences

10. Application forms are not required for issue of a licence. However applications should be in writing and provide the following details:
- . name and address of applicant;
 - . intended port of importation;
 - . tariff item;
 - . quantity and full description of goods including origin; and
 - . Customs Value of the goods (ie value for duty).
11. To enable clearance of the goods a Customs Entry (Goods Declaration), invoices and the licence are required to be produced.
12. There is no licensing fee or administrative charge payable.
13. Not applicable.

Conditions of Licensing

14. The period of validity of a licence is generally twelve months, but may be extended by a request in writing.
15. No penalties apply where underuse of licences occurs.
16. Individual licences are not transferable but licence entitlement may be transferred.
17. Other than as specified above, no other conditions apply to the issue of an import licence.

Other Procedural Requirements

18. No.
19. Goods subject to import licensing are not subject to any different or separate treatment in relation to the provision of foreign exchange.

2. CUSTOMS (PROHIBITED IMPORTS) REGULATIONS - REGULATION 5 AND ACCOMPANYING FOURTH SCHEDULE TO THE REGULATIONS, COVERING NARCOTIC DRUGS AND CERTAIN PSYCHOTROPIC SUBSTANCES.

Outline of System

- Import licensing is used to control the importation of narcotics and certain psychotropic substances into Australia. The system is a two-tiered structure in which an importer must first be licensed and then an import permit must be obtained for every importation of the controlled drugs.
- In special circumstances, an importer may be licensed for a single importation if certain conditions are satisfied. This enables a university or other institution to import drugs for a specified purpose, although they do not normally hold an import licence.

In such cases an import permit is issued and endorsed to constitute a licence for that consignment.

- These controls ensure that importation is restricted to quantities necessary to meet medical and scientific requirements and that Australia's international obligations and domestic regulations are observed.

Purpose and Coverage of the Licensing

2. - The licensing system covers all narcotic drugs and certain psychotropic substances. These are listed in the Fourth Schedule of the Customs (Prohibited Imports) Regulations.¹ It includes all of the drugs required to be controlled under the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971. In addition, a number of other drugs not covered by the Conventions are similarly controlled in Australia.
3. - The system applies to imports of controlled drugs from all countries. Narcotics are imported only from countries which are Parties to the Single Convention on Narcotic Drugs, 1961.
4. - The use of import licences and permits enables the Government to restrict and monitor the quantities of the controlled drugs imported. By monitoring imports, the origin, quality, quantity and end-use of drugs can be checked. Restricting imports to the level required for legitimate medical and scientific use is one means of protecting the public health and welfare of the population from over-supply, diversion and abuse of controlled drugs. The system is based on the requirements of the international treaties.

1. A copy of this document is available for consultation in the GATT secretariat (Centre William Rappard, Office No. 1059).

5. The Customs Act 1901: The Customs (Prohibited Imports) Regulations.

- Licensing of importers is a statutory requirement under the above regulations.
- The drugs subject to licensing control are determined by statutory rules.
- The system cannot be abolished without legislative approval.

Procedures

- 6(a) - Allocation of quotas for narcotics are not published. Each year licensed importers are invited to nominate their annual requirements. The quota allocated is based on the quantities imported by each holder of a quota in previous years and the expected medical demand. Importers are advised of the quotas allocated to them. A new licensed importer may be granted a quota if it is appropriate to the existing circumstances. Details of quotas are not made available to exporting countries. Estimates of narcotic consumption and stocks are forwarded to the International Narcotics Control Board (INCB) Similar estimates are forwarded for all drugs listed in Schedule 2, Convention on Psychotropic Substances. Estimates from all Parties to the international Conventions are published in United Nations documents.
- (b) - Quotas are determined annually. Quantities imported are reviewed with every application for an import permit. Additional quotas may be issued if the quota holder can demonstrate that the original quota is insufficient.

- (c) - Import permits are only issued to licensed importers. To be a domestic producer is not a requirement for a licence. If an import permit is not used within the specified time, it lapses. Unused allocations are not added to quotas for succeeding periods. The names of licensed importers would be disclosed on request, but quota allocations being information of a commercial or confidential nature would not.
- (d) - Not applicable; individual determinations are made for licences and permits.
- (e) - In urgent situations an import permit can be issued immediately. (This can also constitute a licence in special circumstances - see question 1 above.) Applications for import licences and import permits are reviewed as they are received. An import permit is usually issued within five to ten days.
- (f) - If an import licence is granted, the date of opening of the first import permit issued under that licence could be the same.
- (g) -
 - (i) When an application for an import permit involves the importation of a new drug or new formulation etc, approval must first be obtained from the Australian Drug Evaluation Committee. The applicant must apply initially to the Drug Evaluation Branch of the Australian Department of Health and have the product approved for distribution in Australia.
 - (ii) All applications for import licences and import permits for controlled drugs or substances which have, or are exempt from the need for, general marketing approval, are forwarded to the Drug Dependence Branch, Australian Department of Health.

- (iii) Certain categories of controlled drugs or substances may be subject to additional control eg. Quarantine, Australian Radiation Laboratories, Therapeutic Goods Act etc. Intending importers of goods likely to be affected by these controls are advised to request additional information from the Australian Department of Health.

- (h) - Licences are issued on the basis of normal trade requirements. Applicants are approved if they meet specified conditions including previous history in the market, security provisions, record keeping, State approval, etc. Import permits are issued to licensed importers as required, within quota limits, based on medical and scientific needs. Quotas for narcotics and certain psychotropic substances are set within national estimates submitted to the INCB. The system is flexible enough to allow part of individual quotas to be transferred from one licensee to another and for new licence holders to enter the market.

- (i) - Narcotics covered by an import permit must also be covered by an export permit issued by the appropriate authority in the exporting country. It is a provision of the Single Convention on Narcotic Drugs, 1961, that an export permit is only issued after an import permit is issued. In addition, export permits are also required from exporting countries for drugs covered by the Convention on Psychotropic Substances and certain other specified drugs. (These are listed in the Fourth Schedule of the Customs (Prohibited Imports) Regulations.)

- (j) - Not applicable

- (k) - Yes; when quantities are imported for the purposes of re-export and where such quantities exceed the domestic requirements.

7. (a) - There is no specified time for an importer to apply for a licence in advance of an importation, but an import permit would not be issued unless the importer is licensed. Similarly, there is no specified time for a licensed importer to apply for an import permit in advance of an importation, but a consignment cannot be imported without a permit.
- (b) - A licence could be issued immediately, but this would not be the usual practice. An import permit can be issued immediately to a licensed importer on request.
- (c) - No.
- (d) - Yes; both import licences and import permits are issued by the Secretary, Australian Department of Health.
8. - An import licence is issued subject to certain conditions - see question 10 below. Prior to being issued with a licence applicants must demonstrate that they can comply with these conditions. Reasons for refusal would be given to an applicant. Applicants may appeal against a refusal to issue a licence or against a decision to revoke a licence. Import permits for narcotics may be refused if there is insufficient quota balance, security measures are inadequate or if any of the required conditions are not satisfied. Import permits for other controlled drugs may be refused if the importation is excessive to normal requirements, or if any of the required conditions are not satisfied.
- New drugs or formulations must be approved before a permit can be issued.

- There is no provision to appeal against a decision not to issue or to revoke an import permit.

Eligibility of importers to apply for licence

9. - Yes. Import licences are granted by the Secretary of the Australian Department of Health subject to certain conditions and subject to applicants meeting specified criteria.
- Import permits are only issued to licensed importers except in special circumstances - see question 1 above. A list of licensed importers is available. There is no registration fee.

Documentational and other requirements for application of licence

10. - An application for a licence must be made in writing to the Secretary, Australian Department of Health, and include information as required. A copy of the regulations is attached. An application for an import permit is made in writing and must include the following:
- Name of importer; address for consignment; number and size of packs; name, pharmaceutical form and strength of drug; name (INN if any); controlled drug content (grams); name of exporter; address of exporter.
11. - The import permit is the required document and in some instances the complementary overseas export permit.
12. - There is no charge for a licence or a permit.
13. - Not applicable for a licence.
- Not required for a permit.

Conditions of licensing

14. - Import licences are valid for a finite period usually five years.
- Import permits are usually valid for six months, but the period can be varied to suit particular circumstances.
15. - There is no penalty for non-use of a licence or permit. However, if a licence is not operated on for a period of approximately three years the licence may be revoked.
16. - Licences and permits are not transferable.
17. - Licences are issued subject to the holder's meeting certain conditions.
- Import permits may be endorsed for specific purposes, eg. for veterinary use only, for re-export only, etc.

Other procedural requirements

18. - No.
19. - Not applicable.