

GENERAL AGREEMENT ON

RESTRICTED

DPG/Notif.89.1

22 December 1989

TARIFFS AND TRADE

Limited Distribution

Working Group on Domestically Prohibited Goods

Original: English

NOTIFICATION BY AUSTRALIA

The attached notification, dated 28 November 1989, has been received from Australia and updates the information in notification DPG/Notif.86.8.

AUSTRALIAN LEGISLATION AND PRACTICES ON THE EXPORT OF
DOMESTICALLY PROHIBITED GOODS AND OTHER DANGEROUS SUBSTANCES

THERAPEUTIC GOODS

Australia is a signatory to the WHO Certification Scheme on the Quality of Pharmaceutical Products moving in International Trade. As such, the Department of Community Services and Health has been issuing export certificates for presentation to importing countries when requested by those countries. In cases where the importing country has not requested a certificate, the Department of Community Services and Health has no knowledge of exported products.

Unfortunately, until recently, some exporting companies were approaching State authorities and obtaining so-called "certificates of free sale" which were being presented to importing countries in lieu of certificates issued by the Department of Community Services and Health under the WHO Scheme. Following an inquiry by the Joint Committee on Public Accounts, all States agreed earlier this year, to cease this practice. In any event it will be prohibited by legislation currently before Parliament.

Currently there is no monitoring of pharmaceutical products exported from Australia. Of course, where a WHO certificate is requested the Department of Community Services and Health becomes aware of export products, but as mentioned earlier the issuing of such certificates is not routine.

Under the Therapeutic Goods Bill 1989, currently before Parliament, there is a requirement that all products which have not been approved for marketing in Australia and which it is proposed to export be "listed" on an Australian Register of Therapeutic Goods. From this the Department of Community Services and Health will be aware of the nature, composition, etc. of such products being exported and will be able to identify any which have either been rejected for marketing in Australia or about which they have some major concern. In such instances the competent authority in the importing country will be notified of the Department's concerns and will have to signify their continuing wish that the product be imported from Australia before the Department will consider its release.

VETERINARY CHEMICALS

The use of agricultural and veterinary chemicals in Australia is regulated under the Agricultural and Veterinary Chemicals Act 1988, which is carried by the Department of Primary Industry and Energy. There is no specific control mechanism for the export of these chemicals. However, the Department of Primary Industry and Energy will issue, on request from the exporter, certification of a specific chemical's clearance and registration status in Australia.

HAZARDOUS WASTES

The Hazardous Waste (Regulation of Exports and Imports) Bill 1989 was passed by the House of Representatives on 24 October 1989 and introduced into the Senate on 30 October 1989, with the Second Reading Speech being adjourned. Key features of the Bill are outlined below.

Object

The purpose of the Bill is to place controls on the import and export of hazardous wastes in order to ensure that wastes which are moved between Australia and another country are disposed of in an environmentally acceptable manner.

Issue of Permits

The Bill provides for a permit system under which a person must have been granted a permit by the Minister before importing or exporting hazardous wastes.

- A number of criteria must be met before a permit is granted. A fundamental requirement is that the wastes in question are disposed of in an environmentally acceptable manner.
- The Minister may place conditions on any permit granted.
- The Minister may vary or revoke permits.
- Particulars of permit applications, permits granted and permit variations and revocations must be published in the Gazette.

Orders

The Minister may order the import or export of hazardous wastes if they have been moved across international borders illegally, that is without a permit or in contravention of permit conditions.

- The Basel Convention requires that illegally transported wastes be returned to the country of export if they cannot be disposed of in an environmentally sound manner elsewhere.

Penalties

Penalties of up to five years imprisonment apply for exporting or importing hazardous waste without a permit or in contravention of conditions on a permit.

Administration

The Minister for Arts, Sports, the Environment, Tourism and Territories may appoint inspectors under the Bill, with appropriate enforcement powers.

- Inspectors will have the power to control the movement of vessels and aircraft suspected of importing or exporting hazardous waste.
- Warrants may be issued to inspectors by a magistrate to enter and search places.

Appeals

Third parties with an interest may appeal to the Administrative Appeals Tribunal against the Minister's decisions relating to the administration of the legislation. Decisions covered include:

- the granting of permits;
- the placing of conditions on permits;
- the variation or revocation of permits; and
- the making of orders to deal with waste.

OZONE DEPLETING SUBSTANCES

Under the Ozone Protection Act 1989, and associated Regulations, the Department of Arts, Sport, the Environment, Tourism and Territories has responsibility for the control of exports of Ozone Depleting Substances, and fulfilling Australia's obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer.

DOCUMENTS

Upon receipt from relevant Departments, the Australian Authorities will pass to the GATT secretariat copies of the following documents:

- the Ozone Protection Act 1989;
- the Ozone Protection Regulations;
- the Hazardous Waste (Regulation of Exports and Imports) Bill 1989 in its current, unfinalized state, and
- the Therapeutic Goods Bill 1989 in its current, unfinalized state.