

4.0 MARKET ACCESS

4.1 Import policy

Special import provisions

There are no special import provisions in Australia.

Prohibited imports

Australia has established stringent **prohibitions and quarantines** imposed against a number of products, particularly those considered to be of potential public danger and agricultural products that are considered to have the potential to introduce pests or disease (see section below). Restricted items include **drugs, steroids, weapons/firearms, heritage items, food, plants and animals, and protected wildlife**. It is important to note that while some items may be imported, their use may be prohibited under Individual State laws.

1. Phytosanitary Restrictions Affecting Imports of Fresh Fruit and Vegetables

Australia has stringent sanitary and phytosanitary **restrictions** affecting imports of **fresh fruit and vegetables and imports of meat and poultry products**. Under Australia's **quarantine and inspection process** introduced in August 1997 as a result of the Nairn Review, **foreign-grown agricultural commodities** must have an import risk analysis (IRA) before entering the country. An IRA to determine how and if the risk can be managed can take an average of two years to complete. **Australia's acceptable level of protection is considered extremely restrictive**, making access to the Australian market often **difficult, expensive, time-consuming**, and in some cases, virtually impossible.

All produce should have an **Australian import permit**. The import permit can be requested from the Department of Agriculture, Fisheries and Forestry Australia in Canberra, or from the appropriate State Departments of Agriculture, located in State capitals. The permit may specify additional import requirements.

When applying for import permits, as much detail as possible should be provided as to where the product is grown and how it is processed, so that the appropriate

advice on treatments can be given without having to request additional information from the exporter.

All meat and poultry products must be accompanied by an Australian Import Permit and appropriate USDA Animal Health Certificate, and must originate from a plant approved for export to Australia.

U.S. poultry, fresh and frozen, cannot be imported due to sanitary restrictions.

An IRA was carried out for cooked U.S. poultry, but the resulting cooking times and temperatures are excessively high and would render the product unpalatable. Restrictive plant health regulations prohibit or limit the entry of many fruits. The WTO has found Australia's prohibition on the importation of all fresh, chilled, and frozen salmon to be inconsistent with Australia's obligations under the WTO. As a result, Australia now permits the importation of salmon to all states except Tasmania.

The Australian Quarantine and Inspection Service (AQIS) has a detailed import conditions database on their website, called ICON, at

<http://www.aqis.gov.au/icon>. Click on ICON Search and enter the commodity name and end use and conduct a "pattern match" search.

The AQIS site (<http://www.aqis.gov.au>) also contains information on Australian labeling requirements for imported packaged food, requirements for animals and animal products, documents for public comment (including import risk analyses), fee schedules, on-line forms, SPS notifications, etc. This information is updated daily.

4.2 trade barriers

(A) Tariffs

After shielding its industry for most of the twentieth century behind a wall of tariff protection, Australia began reducing some of its tariffs in the early 1970s, followed in the mid-1980s by an economy-wide program of tariff reductions in the most

protected industries including automobiles and textiles. Australian industry has reaped the rewards of this three-decade long program of tariff reduction through lower prices on imported inputs, increased industry productivity, and improved international competitiveness.

The benefits of this tariff reduction program on the Australian economy have become clear. Over the last two decades, the share of exports in total output has doubled, reaching 20.4 percent in 2001.

The tariff reduction program has reduced 41 percent of Australia's tariff lines to zero, and 35 percent of tariff lines to five percent. The remainder of tariff lines above five percent apply almost entirely to passenger motor vehicles (PMV) and textiles, clothing and footwear (TCF).

Under an industry development program announced in 1998, PMV and TCF tariffs are to be frozen at their current levels -- 15 percent for PMVs, 25 percent for apparel, and 15 percent for footwear and linens -- until 2005, when they will drop again -- PMVs to 10 percent; apparel, footwear and fabrics to 17.5, 10 and 7.5 percent respectively. The PMV tariff change for 2005 is currently under review by a Federal Commission.

Over 96 percent of Australia's tariff lines are bound by the WTO schedule of commitments. Most Australian tariffs are calculated as a proportion of the value for duty (i.e., ad volarem). This is in contrast to the United States, which has a high proportion of either specific, fixed amounts per unit or weight, or compound duties. Goods are classified according to the Harmonized System.

The Tariff Concession Scheme (TCS) allows eligible goods to be imported duty-free or at a concessional rate under certain circumstances. Importers can claim tariff relief for goods imported into Australia for which there is no substitute produced domestically. The TCS waives any duties payable on consumer goods, and requires that three- percent concessional duty be paid on "other goods".

The Project by-law Scheme (PBS) allows eligible capital equipment for major resource, agriculture and infrastructure projects to be imported free of import duty, in the absence of Australian-produced equipment of similar technological

sophistication. The total value of equipment imported must exceed A\$10 million (US\$5.7 million at exchange rate as of July 2002).

Import Entry Costs

A customs import entry must be lodged for goods above the following values:

- Postal: \$1000 per consignment
- Non-postal: \$250 per consignment.

Consignments valued at or below these amounts may be cleared on an approved form which is available at Customs offices.

Documentation

The minimum documentation required to be submitted with customs import entries or Informal Clearance Documents includes an air way-bill or bill of lading, invoices, and any other papers (including packing lists, insurance documents, etc) relating to the shipment.

The *Customs Act 1901* requires importers to retain commercial documents relating to a transaction for five years from the date of entry. These documents may be required for Customs audit purposes. Failure to meet the requirement may attract a penalty of \$2000.

Duty Rates

Rates of duty payable by an importer are determined by the classification of goods within the Australian Customs Tariff. As the Tariff contains more than five thousand headings and sub-headings it is impossible to list specific rates here.

In some circumstances, anti-dumping or countervailing measures, which result in the imposition of additional rates of duty, may also apply.

how duty and GST are calculated

Customs duty applies to the customs value of the goods - normally the purchase price converted to Australian dollars. With a number of specific exceptions, namely:

- passenger motor vehicles and related items;
- textiles, clothing and footwear and related items; and

- excisable goods i.e. alcohol and tobacco

Customs duty is applied at the rate of either free or 5 percent. The majority of goods identified in the Customs Tariff attract these rates. **GST is applied at 10% of the value of the taxable importation.**

The value of the taxable importation is the sum of:

- the customs value of the imported goods, and
- any customs duty payable, and
- the amount paid or payable to transport the goods to Australia and to insure the goods for that transport, and
- any wine tax payable (see following section).

gifts from overseas

Customs will not collect duty or GST on unsolicited gifts where:

- the consignment value of the included item(s) is \$200 or less; or
- in the case of a consignment exceeding that value, on the first \$200 of the consignment's value.

This concession does not apply to:

- tobacco products as follows:
 - in excess of 250 cigarettes; or
 - in excess of 250 grams of cigars or tobacco products;
- alcoholic liquor in excess of 1 litre;
- goods imported by a passenger arriving in Australia from overseas; · goods imported by a member of the crew of a ship or aircraft arriving from overseas; or
- goods forming part of a bulk order.

To be considered an “unsolicited gift”, the documentation accompanying the consignment would have to indicate that it has been sent as a gift to an individual in Australia by or on behalf of an individual outside Australia for a specific event or occasion e.g. birthday, wedding, anniversary, etc.

The \$200 concession would apply to the total value of the consignment irrespective of whether the consignment itself contained a number of gifts for more than just the consignee e.g. gifts for a number of family members packed into a single parcel.

Although a formal Customs entry may be used, most imported goods, including gifts, valued at or below \$1000 for those imported by post or \$250 for those imported other than by post, can be cleared on an Informal Clearance Document. If the formal entry is used, a Customs processing charge would apply.

If a courier or broker is used, they will charge for their services. Accordingly, they should be consulted beforehand to find out their costs and charges.

Advice on general duty rates can be obtained from your nearest Customs Information Centre, and this is best done before goods are ordered from overseas.

Goods	Documents required	Customs Prescriptions	Remarks
Removal Goods	<ul style="list-style-type: none"> • Customs form B534, • Inventory of goods. • Owner-packed goods require list of contents from owner. 	Duty free entry provided Removal goods consist of household and personal effects, which have been owned and used for 12 months or more preceding owner's departure for Australia.	<p>The customs form B534 may be completed by the owner abroad prior to the shipment of his goods or in Australia upon his arrival.</p> <p>The owner's goods may be cleared through customs in advance of the owner's arrival provided the client will arrive in the country within 6 months following arrival of goods.</p> <p>In some states, the Department of</p>

			Customs require a photocopy of the importer's passport including both front and back covers.
Inheritance, Deceased Estates	<ul style="list-style-type: none"> • Statutory Declaration, • Copy of will or certified relevant extract of will, • Copy of death certificate (optional). 	Duty free entry provided legatee is permanently domiciled in Australia and will not use the goods for trade or business purposes.	Statutory declaration is obtained in Australia prior to customs inspection.
New furniture and household goods	<ul style="list-style-type: none"> • Customs Form B534, • Purchase invoices. 	Items are dutiable.	Items should be declared if not owned and used for 12 months.
Antiques	Customs Form B534	Duty free entry.	Antiques may have to be verified for authenticity of age on instructions from the customs department.
Precious Metal Objects.		Duty free entry as Household and Personal effects.	
Motor Cars	<ul style="list-style-type: none"> • Customs Form B357 • Customs Entry required • Copy of Passport • Police report • Sales invoice • Paid receipt • Car condition report • Vehicle Import Approval • OBL 	<p>All motor vehicles are subject to customs duty and sales tax.</p> <p>If customs value under AUS\$ 25,691 combined duty and sales tax 51.68%.</p> <p>If customs value over AUS\$ 25,691 combined duty and sales tax 51.68% plus 84.8% of value exceeding AUS\$ 25,691.</p> <p>Motor vehicles over 30 years of age: If</p>	<p>The duty rates and customs values change. It is suggested that prior to importers shipping the vehicle they check and ascertain that these rates are still current.</p> <p>The importation of motor vehicles into Australia is strictly controlled and there are no duty free concessions available. This means that all vehicles will be</p>

		<p>customs value under AUS\$ 30,830 sales tax 26.4 %.</p> <p>If customs value over AUS\$ 30,830 sales tax 26.4% of AUS\$ 30,830 plus 54% of value exceeding AUS\$ 30,830.</p> <p>Off Road vehicles: If customs value under AUS\$ 29,362 combined duty and sales tax 32.72%.</p> <p>If customs value over AUS\$ 29,362 combined duty and sales tax 32.72% of AUS\$ 29,362 plus 61.7% of value exceeding AUS\$ 29,362</p> <p>Camper vans and mobile homes : Any customs value, combined duty and sales tax 51.68%.</p> <p>Motor vehicles for the transport of goods: Any customs value, combined duty and sales tax 32.72%.</p> <p>Australian manufactured vehicles: are not subject to Customs Duty, but are liable to sales tax, unless sales tax was paid prior to original exportation, and no refund or drawback</p>	<p>subject to duty and/or sales tax, which will be calculated on the value of the vehicle. In addition to the duty and sales tax there are also strict regulations for the registration of motor vehicles including motorcycles for road use in Australia.</p> <p>All vehicles must comply with Australian Design Regulations, which, in almost every case, will require modification to be undertaken to the vehicle to bring it up to the required standard. It is possible that in some instances a vehicle may not be able to be modified or alternatively may require extensive modification so as to allow registration. All such modifications must be undertaken and certified by an accredited automotive engineer and can be a very costly undertaking which often results in an uneconomical</p>
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		of sales tax was obtained when the vehicle was exported.	situation arising in preparing a vehicle for road use. There is some relief given to these compliance regulations if a vehicle is imported as a personally imported vehicle.
Foodstuffs, meat, plants & vegetable products.		Meat, poultry, eggs, dairy products, seeds, herbs and spices, and many other food products containing these are prohibited items or have special import conditions. They should NOT be included in personal and household effects shipments.	Do not use fruit boxes for packing.
Alcoholic beverages	<ul style="list-style-type: none"> List of all bottles, their type and content. 	All alcoholic beverages will be subject to customs duty and sales tax. Beer, Wine, and Spirits all attract extremely high levels of duty and sales tax.	Actual duty rates will be based on the nature of the liquor, and the alcoholic strength. If liquor is included in a consignment, ensure it is clearly labelled and accessible so as to facilitate customs examination.
Narcotics, Drugs.		IMPORT PROHIBITED	
Certain feathers, furs, skins, tusks, etc. of animals coming under the protected species regulations.		Importation of products from endangered species is prohibited. Other products are subject to Inspection and treatment if necessary.	

Source: <http://www.customs.gov.au/resources/>

- Handicrafts are free of duty and sales tax provided that they can be verified as complying with the handicraft tariff concession, otherwise they would be subject to normal duty/sales tax dependent on the particular item.
- Kitchenware, towel rolls and bathroom wooden fittings are 4% if they are subject to DCS rates (i.e. more than 50% of the manufacturing process and costs are of Sri Lankan origin), if DCS rates don't apply then the general rate of 5% is applicable.

Source: Australian Customs Services-2000

(B) Non-Tariff Barriers

Although Australia is a signatory to the GATT Standards Code (March 1, 1992) and is in accord with the World Trade Organization (WTO) Agreement on Technical Barriers to Trade, it maintains some **restrictive standards requirements and design rules** that may have an impact on the free flow of goods. Some have argued that Australia's strict sanitary and phytosanitary (quarantine) controls may have the effect of a trade barrier to agricultural imports.

Import Taxes and Sales Taxes

Indirect taxes

Imported goods may be subjected to one or more indirect taxes. These indirect taxes comprise the goods and services tax, the wine equalisation tax and the luxury car tax.

Goods and Services Tax (GST)

On July 1, 2000, the Australian Government introduced a **ten percent General Services Tax (GST)** to replace various wholesale sales taxes, which was applied at varying rates on a select range of products. The GST is charged upon the purchase of generally all goods and services in Australia, including hotels and restaurants,

and on goods imported into Australia. Tourists may be able to claim a refund at the airport upon departure from Australia for GST paid on goods purchased in Australia to be taken out of the country. Conditions apply and further details on the Tourist Refund Scheme can be obtained from information brochures available at the airport upon arrival, or from the Australian Customs Service web site: www.customs.gov.au

The liability to pay GST to the Australian Tax Office rests on the producer/supplier, it is the consumer who ultimately bears the cost of GST. **In the case of imports, the importer pays the GST, together with customs duty, to the Australian Customs Service on a monthly/quarterly basis. However, payment of customs duty and GST may not be required if the goods are being imported temporarily.** This concession applies where the importer provides an undertaking to Customs for payment of duty and tax if the goods remain in Australia. Duty and tax are also not payable on goods that are imported under bond directly into a licensed customs warehouse. However, the duty and tax become payable when the goods are removed from the warehouse. Imported second-hand goods are treated the same way as any taxable goods and are therefore subject to GST.

The first step in calculating GST is the calculation of duty against the Customs value. The duty is then added to the Customs value. Under the GST, the amount paid or payable for international transport and insurance is then also added to arrive at the value of the taxable importation (VOTI). GST, at a rate of 10 percent, is then calculated against that figure. For imports of motor vehicles and wine, the Luxury Car Tax or the Wine Equalization Tax may also apply. Further information on GST can be found on the Australian Tax Office Website: www.ato.gov.au

Dumping occurs when goods are exported to Australia at a price that is below the "normal value" of the goods. The "normal value" will usually be set as the domestic price of the goods in the country of export. This pricing is not a prohibited practice under international trade agreements, but remedial action may be taken where dumping causes, or threatens to cause, material injury to an Australian industry. The duty imposed on imported goods to offset the effects of dumping is called a "dumping duty". Dumping duties are usually imposed for up to a five-year period.

An alternative remedy to a dumping duty is for the government to accept a price undertaking from the exporter. Under this arrangement, the exporter agrees that future trade will be at or above a minimum export price, equal to the normal value. Such undertakings also usually apply for a five-year period.

GST is applied at 10% of the value of the taxable importation.

The value of the taxable importation is the sum of:

- the customs value of the imported goods, and
- any customs duty payable, and
- the amount paid or payable to transport the goods to Australia and to insure the goods for that transport, and
- any wine tax payable (see following section).

Customs valuation

The Australian Customs valuation system is based on self-assessment, i.e., the importer is responsible for valuing imports correctly. While Australian legislation conforms generally to the terms of the GATT/WTO Code on Customs Valuation, there are important differences. Imported goods are valued under one of nine different methods of valuation in a sequence established in the legislation. The first and most common, is the transaction value method. There are alternative methods, for example, when goods are exported to Australia on consignment.

The 1989 amendment also increases the amount of inland freight that can be included in the dutiable value of the goods. While not inconsistent with the GATT/WTO Agreement on Customs Valuation, the amended Australian law may impair or nullify tariff concessions on products that are exported on an ex-factory basis. Customs and quota information is available from the Australian Customs Service.

The way in which the customs value and customs duty are determined has not changed.

The following example shows how GST liability is calculated:

	\$	
Customs value	1,000.00	

Customs duty @ 5% x \$1,000	50.00	(Payable)
International transport and insurance	150.00	
Wine tax (if applicable - see following section)	0.00	
VoTI	1,200.00	
GST @ 10% x \$1,200	120.00	(Payable)
Total payable (Customs duty + GST)	170.00	

Wine Equalisation Tax (WET)

Wine tax for imported wine is calculated as:

- 29% of the purchase price at inwards duty free; OR
- for other importations, 29% x (Customs value + Customs duty + international transport and insurance).

Import licenses

Australian Customs does not require companies or individuals to hold licenses to import goods. However, depending on the nature of the commodity, permits may be required to clear the goods. Where goods are subject to import controls under the Customs (Prohibited Imports) Regulations, the importers must apply to the appropriate department or agency for a permission to import. The permission to import must be obtained prior to the goods arriving in Australia. Failure to obtain the permission to import prior to the arrival of the goods may result in the forfeiture of the goods.

The following is a list of categories of goods subject to import control. Please note that the categories listed here are examples only, not a list of all goods that are subject to import controls.

- Certain drugs and goods containing those drugs
- Animals and animal products - food and plant imports
- Firearms and other weapons
- Protected wildlife (animals) and related products

- Protected cultural heritage items
- Motor vehicles
- Currency.

Relevant authorities for goods clearance may be found at,

www.customs.gov.au/osgoods.htm

Export controls

Australia is recognized as an important contributor to international control regimes relating to weapons of mass destruction. As such, it maintains a system of export controls on defense and dual-use items. Export controls on strategic goods are enforced through the Customs Prohibited Exports regulation, and administered by the Australian Department of Defense. Controlled goods are consolidated into one list, containing defense and related, nuclear, and dual-use goods (Defense and Strategic Goods List). Controls are applied through permits or licenses issued by the Department of Defense Trade Control and Compliance Section, which also provides information to exporters on the status of applications and control status of their goods. Goods are listed with numbering common to major trading partners in strategic goods, and the numbering system of the Munitions List is derived from the Wassenaar Arrangement.

Guidance to Australia's controls on exports is documented on, and downloadable from, the Defense Acquisition Organization web site at www.defence.gov.au/dmo

The Australian Customs Service (ACS) is responsible for enforcement of the regulations at the point of export. ACS issues Export Clearance Numbers, based on export data lodged by exporters, which are checked electronically against required permits and licenses. Cargo may not leave Australian points of departure unless allocated an Export Clearance Number.

Australia was a member of COCOM until its conclusion and is a signatory to the Missile Technology Control Regime.

4.3 Trade concessions

Australia operates a General Rate of tariffs for imports from the more developed economies (Japan, USA, United Kingdom etc). In addition to this rate, certain

concessions are offered to many countries either as a group (for example, to eligible Developing Countries and the Forum Island Countries) or under bilateral trade agreements with Papua New Guinea and New Zealand.

Eligible Developing Countries are enjoying a tariff margin of preference up to five percentage points below the General Rate. This means that with the general rate now at 5%, the Developing Country Rate for most products is 0%. Papua New Guinea, New Zealand and the Forum Island Countries (Pacific Islands) are allowed duty free entry to Australia provided they satisfy the 50% local content rules of origin.

The Australian Government has undertaken a wide-ranging tariff programme that has resulted in substantial reductions in import protection. In 1991 the Government announced further reductions in import duties from a General Rate of 15% and 10% to only 5% by 1 July 1996.

This means that since 1 July 1996 the import duty on a great majority of products from eligible Developing Countries is zero. The equipment import duty on products from more developed countries is 5% on FOB.

It should be noted that there is some exclusion to this process and almost two thirds of imports from Developing Countries are already permitted duty free entry in to Australia.

4.4 Foreign exchange controls affecting trade

Australia does not restrict the flow of currency into or out of the country. There are, however, cash reporting obligations under the Cash Transaction Reports Act (CTRA). International currency transfers of A\$10,000 or more must be reported to the Australian Transaction Reports and Analysis Center (AUSTRAC), to control tax evasion and money laundering. AUSTRAC does not inhibit normal currency transfers associated with international trade.

The Australian dollar has been allowed to float since 1983. The currency is freely convertible, and exchange rates are determined by international demand and supply. Official policy is not to defend any particular exchange rate level. Intervention by the Reserve Bank is minimal and is exercised only to moderate any extreme foreign exchange market volatility. Transactions in foreign exchange are made through

authorized foreign exchange dealers, including trading banks and most merchant banks. There are no specific restrictions regarding the remittance of profits, dividends, or capital.

4.5 Packing

There are several major trends that will affect the packaging industry in Australia over the next decade, and it is important that companies seeking to export to Australia are aware of these influences. Packaging sells products and the trends listed below place an even greater importance on the appearance, marketability and quality of retail packaging in the highly competitive Australian market.

Electronic business processes

This category will eventually link the entire supply chain from raw material suppliers, packaging manufacturers, retailers and consumers. Effective utilization of electronic processes such as digital artwork will generate a more integrated approach for packaging from concept through to the final product in the supply chain.

The impact of Social Change

Changes in family structure, along with the aging population, will continue to affect the way products are packaged. Single or smaller portions for convenience food is a growing trend and by-product of this trend will be an increase in the amount of packaging per food unit. In addition, the aging of the Australian population will place even greater emphasis on the design, packaging and labeling for this growth market.

The environment

For some time now, consumers' attitudes environmental issues have had a strong impact on the packaging industry in Australia. To address this issue a range of strategies is being adopted which target recycling objectives for different packaging materials. Whilst there is no current legislation relating packaging, it is important nonetheless to be aware of this issue when considering entry in to the Australian market.

Consumer Demands

Importers are very conscious of the following consumer demands:

- Recyclable or biodegradable packing

- Single or smaller portion packages in convenience food
- Freshness and quality
- Tamper proof packaging
- Ergonomic tops and packages
- Informative and clear labeling

General standards for all imported packaged products

Federal and State Government packaging and labeling regulations are imposed on all packaged products, both locally made and those imported in to Australia for the retail market.

A summary of these regulations is as follows:

All labels must:

- be written in English
- have wording that is clear, easily read and permanent
- be easily seen by a person reading the label
- have type face in standard type size of minimum 1.5mm
- be of a color that provides a distinct contrast to the background

The label must also display:

- Country of origin
- A quantity statement - mass, volume, length, area or count of the product. The package must not contain less than the quantity stated on the label and units of measurement must be metric.
- Packer identification – the label must state the name and address of the packer/importer.

Note:

It is an offence to knowingly apply or carry false trade descriptions on goods. A description that is likely to mislead on matters such as weight, origin, manufacturer, preparation, contents, copyright, etc. is considered a false trade description and is liable to prosecution.

4.6 Marking and labeling

Suppliers need to be aware of Australian legislation regulating the packaging, labeling, ingredients, marketing and sale of specific products, and of general weights and measures.

In general, goods imported in the packages in which they are customarily sold or offered for sale need to be marked with a true description of the goods and the country in which the goods were made. The trade description needs to be applied to the packages in prominent and legible characters. Any additional information applied and/or labeled on the packages must be true and may not contradict or obscure the information required as part of the trade description.

The quantity of a commodity sold in a package must be truly stated on the main display panel of the package, in units of the metric system. The word "net" should always be used when expressing quantity in mass.

A new joint Australia New Zealand Food Standards Code was introduced in November 2000 by the Australian and New Zealand health ministers. The Code requires all packaged food to be labeled with nutritional information on how much fat, protein, energy, carbohydrates, and salt is in the food. Labels must also show the percentage of key ingredients and all of the main foods that may cause allergies. A two-year implementation period ends in December 2002 when the Joint Code will become the sole Food Standards Code and the former regulations and standards will be repealed.

Information on the new Food Standards Code (and a nutritional panel example) can be reviewed on the website of Food Standards Australia New Zealand (FSANZ), <http://www.foodstandards.gov.au/foodstandardscode/>. Detailed guidance is also available in the Foreign Agricultural Import Regulations and Standards (FAIRS) report from the Office of the Agricultural Counselor, US Embassy, Canberra, Australia. This report is updated in July each year. A copy of the latest FAIRS report can be found by conducting a search on the following web site: <http://www.fas.usda.gov/scriptsw/attacherep/default.asp>.

Mandatory labeling of genetically modified foods, where introduced DNA or protein is present in the final food, came into force in Australia in December 2001. Details of the requirements for GM labeling are available in <http://www.foodstandards.gov.au/assistanceforindustry/userguides/labellinggeneticallymodifiedfooduserguide/index.cfm>

Exporters should ask their Australian importer to ensure that their products comply with Australian Federal and State Government labeling regulations.

4.7 Standards

Australia is a signatory to the GATT/WTO Standards Code. Use of quality standards, such as the ISO 9000 series, is increasing. Standards Australia, the national standards body, has a Quality Assessment section and can provide a list of those companies adhering to the ISO 9000 series.

Concern for the affects of industry and work practices on the environment have also led an increasing number of Australian companies to adopt the international environmental standard ISO 14001.

Australia still has in place various standards that can restrict product entry. In particular, telecommunications equipment generally needs to conform to either Australian standards and/or technical specifications set out by the Australian Communications Authority. This may require a product's modification prior to market entry. Safety-related automotive parts and accessories on a vehicle for environmental (EPA) compliance must adhere to Australian Design Rules and Australian automotive standards as well as environmental compliance from the Australian Environmental Protection Agency. However, the supply of OE (Original Equipment) automotive parts must adhere to Quality System QS9000, the system adopted in the U.S. by Ford, General Motors and Chrysler. Certain medical equipment also must be approved prior to use.

Australian electrical voltage is 220-240 Volts, 50Hz cycle, meaning electrical equipment and machines running on electrical cycles must be modified or made for use at this higher (than the U.S. and Europe) voltage level. Transformers can be purchased for electrical items, but this is not common.

Imported consumer products, mainly foodstuffs, should comply with state packaging regulations. States agree that any product, including imports, meeting the legal requirements of one state, may be sold in all other states and territories. State agricultural quarantines prohibit interstate trade of some items.

Both Standards Australia (www.standards.com.au) and the American National Standards Institute (ANSI) in New York (www.ansi.org) have current information on Australian standards.

4.8 Patents and Trade marks policy

Protection of property rights

Australian law protects patents, trademarks, designs, copyrights and integrated circuit layout rights. Australia is a member of the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, and the Patent Cooperation Treaty. Australia has not yet fully enacted legislation implementing its obligations under the 1996 WIPO Copyright Treaty and the Performances and Phonograms Treaty. Australian authorities indicate they expect to complete steps fully to implement these agreements by mid-2003.

IP Australia is the Australian government agency responsible for registrations of patents, trademarks and designs. Contact details for IP Australia are: Tel: 61-2 6283-2000 or 2211; Fax: 61-2 6285 4149; or www.ipaustralia.gov.au, (Send items to the attention of: Director-General, Commissioner of Patents and Designs, or Registrar of Trade Marks). For copyright matters contact the Intellectual Property Branch, Attorney-General's Department at: Tel 61-2 6250-6313; Fax 61-2 6250-5929; or at www.law.gov.au

a. Patents, Trade Secrets, Designs

Patents are available for inventions in all fields of technology and are the principal system for protecting ownership of any device, substance, method or process that is new or inventive. They are protected by the Patents Act of 1990, for 20 years, subject to renewal. An application for patent in Australia provides international priority rights if applications follow in overseas jurisdictions within 12 months. From April 1, 2002, inventions made public before application for a patent will be

given 12 months grace from the date of their disclosure during which an application for patent can be made.

In 1998, Australia implemented a system to protect test data submitted to regulatory authorities for marketing approval of pharmaceuticals. In 1999, the Parliament enacted legislation providing five years of protection of test data for the evaluation of a new active constituent for agricultural and veterinary chemical products. No protection is provided for data submitted in regard to new uses and formulations. Trade secrets are protected by common law.

Design features, such as shape or pattern, can be protected from imitation by registration under the Designs Act. An important aspect of a design is that it must be applied industrially. Registration cannot be granted for a design that is purely artistic. Only the owner of the design can make an application for registration.

b. Trade Marks

Trademarks may be protected for ten years and renewed indefinitely, upon request by registration under the Trade Marks Act of 1995. Once used, trademarks may also, without registration, be protected by common law. However, registration with IP Australia does make enforcement easier. Any exporter intending to market a product in Australia should check with the Trade Marks Office at IP Australia to ensure that its mark or name is not already in use.

c. Copyrights

Copyrights are protected under the Copyright Act of 1968. Works do not require registration, and copyrights automatically subsist in original literary, artistic, musical and dramatic works, film and sound recordings. Copyright protection is for the life of the author plus 50 years. The Australian Copyright Act provides protection for public performances in hotels and clubs and against video piracy and unauthorized third-country imports.

Computer programs are considered literary works under Australian law. However, the Copyright Act permits the copying and decompilation of computer programs in certain circumstances, such as for the purposes of interoperability, error correction, and security testing.

d. Copyrights and Parallel Imports

The term parallel imports refers to the importation into Australia of legally manufactured products by someone other than a person or firm having exclusive distribution rights in Australia. **In general, books, films, computer software and other products subject to copyright cannot currently be imported without license from the copyright owner, and their parallel importation is prohibited.** Since 1991, Australian law has permitted parallel importation of books in a few, strictly limited circumstances, such as when newly-published works are not made available in Australia within 30 days of first publication.

In July 1998 the Australian Parliament enacted amendments to the Copyright Act removing the prohibitions on parallel imports of sound recordings. **In the same year, it also removed the restrictions, effective June 2000, on imports of branded goods such as clothing, footwear, toys, and packaged food that enter the country without a license.**

On February 28, 2001, the Attorney General introduced legislation into Parliament to implement a Cabinet decision to remove the parallel import restrictions on books, periodicals, sheet music, computer software and some electronic games. The Bill was referred to a Senate Committee, which tabled its report in May 2001. The Majority Report supported the Bill but expressed concern over a number of aspects of the proposed legislation. Before debate on the Bill resumed, Parliament was dissolved for the 2001 election, and the Bill lapsed. The legislation was subsequently reintroduced on the same terms on March 13, 2002.

4.9 Import/export documentation

(A) Imports

The minimum documentation required to be submitted with customs import entries or Informal Clearance Documents includes an air waybill or bill of lading, invoices, and any other papers (including packing lists, insurance documents, etc.) relating to the shipment. The Customs Act of 1901 requires importers to retain commercial documents relating to a transaction for five years from the date of entry. These documents may be required for Customs audit purposes.

(B) Exports

Goods may not be exported until all necessary export permits, including an Export Clearance Number, are obtained from the relevant permit-issuing agency.

4.10 Temporary entry / Commercial Samples

Goods may be imported into Australia duty-free for a temporary period if they are for display purposes in a trade show certified by the Australian Customs Service. The ATA Carnet is a special international customs document accepted in 46 countries used for temporary imports/exports, particularly professional equipment and commercial samples. The Carnet, issued in lieu of the usual customs documents, eliminates value-added taxes, duties and temporary import bonds.

Requirements for temporary entry of personal computers, software, exhibit materials and related items

There are no restrictions to the temporary importation of personal computers and software applications for use in normal business situations, nor does Australia have restrictions on encryption based-software. In most cases, items imported for the sole use of exhibiting at local trade fairs are not subject to import duties.

Commercial goods brought into Australia with the intention of being sold will be subject to the normal rates of duty and sales tax, where applicable. Goods, commercial or personal, which are brought into Australia to remain temporarily, may be admitted duty and tax free, subject to certain conditions. Carnets may be obtained for temporary duty-free entry of goods, such as commercial samples, jewelry, goods for international exhibitions, equipment for sporting events, professional television and film equipment, etc.

Before you arrive in Australia, you are advised to check if your communications equipment (for example, mobile phone, fax machine, wireless microphone, notebook computer) is safe to operate in Australia. Power voltage is 240 volts/50Hz.

For further information: www.customs.gov.au.

4.11 Free trade zones (ftz)

The Darwin Trade Development Zone (TDZ) is located in Darwin, Northern Territory. The Darwin TDZ is concentrating on developing Australia's trading relationships with its Asian neighbors to the north and west. Since 1986, **the TDZ has fostered close working relationships with other Industrial Estates and Export Processing Zones within Asia, particularly Indonesia, Malaysia and China. Industries established include manufacturing of knitted textiles; cardboard and packaging; color repro-graphics; computer software; fish emulsion and plant food; plastics extrusion injection blow molding; and engineering-based manufactures.** The Zone also has access to the services of international financial consultants and customs agents.

In December 1997, the Australian Government adopted Manufacturing-in-Bond (MiB), an initiative designed to deliver U.S. Foreign Trade Zone-style benefits to manufacturers located in Australia. A firm with MiB approval is able to import dutiable goods into a licensed/ bonded warehouse, free of duty and tax. If these goods are subsequently re-exported, either in their original or manufactured form, no duty or Goods and Services Tax liability is incurred. Imports brought into the warehouse and subsequently "entered for home consumption" incur duty and GST liability at the time they leave the warehouse.

To obtain a MiB license, applicants must demonstrate a clear intent to use Australia as an export manufacturing base and that the MiB is important in achieving those manufacturing aims. The decision to grant a MiB license is solely with the Australian Government and is dealt with on its merits. The Steel River facility at Newcastle in NSW was designated as a 'manufacturing-in-bond' site in 1997. It allows export manufacturers to import goods duty-free as long as the products are subsequently re-exported, either in their original or manufactured form.