Australian Customs Notice 1997 06

**OIL AND GAS SEARCH CONCESSION - ITEM 22**

The purpose of this Notice is to assist importers and their representatives to correctly enter goods under Item 22 of Schedule 4 to the Customs Tariff Act 1995.

This concession is intended to assist the petroleum industry by reducing the costs of certain goods imported for use directly in connection with the exploration for and discovery of oil and gas deposits and the pre-production development of wells on those sites provided substitutable goods are not available from Australian manufacture.

The terms of Item 22 provide for the duty free entry of: "Goods, as prescribed by by-law, as follows:

1. that are for use in connection with the exploration for petroleum or natural gas; or
2. that are for use in connection with the development of petroleum or natural gas wells to the stage where a well-head assembly is attached, other than goods for, or for use in connection with, controlling, treating,

conveying or storing petroleum or natural gas after leaving the well-head assembly, other than goods in respect of which substitutable goods are produced in Australia or are capable of being produced in Australia by any person in the ordinary course of business".

# Development restrictions

The restriction in Item 22 to goods used in the development of petroleum or natural gas wells "to the stage where a well-head assembly is attached" refers to the point in time immediately following the attachment of the last flange before the christmas tree. It does not refer to the physical location of the well head assembly atop the well as it is intended to exclude further exploration and development activity which occurs after the well head assembly is first attached. This reflects the policy that this concession was only to apply to goods used in exploration and pre-production development activities. Goods imported for 'workovers' are ineligible for entry under Item 22, whether or not the well was previously productive.

Goods that are for use in connection with the development of petroleum or natural gas wells, and which are also for, or for use in connection with, controlling, treating, conveying or storing petroleum or natural gas after leaving the well-head assembly, are also excluded from the terms of this item.

Page 2 **Substitutable Goods**

Before utilising Item 22 importers should have evidence that, at the time of entry for home consumption, substitutable goods are not produced, or are not capable of being produced, in Australia by any person in the ordinary course of business, in terms of Part XVA of the Customs Act 1901 and may take the form of:

a Tariff Concession Order (TCO) in force at the time of entry for home consumption, or

a letter from a prescribed organisation (under Part XVA of the Customs Act 1901), such as the Industrial Supplies Office Network (ISONET), or

a letter from a relevant industry association, or

a letter from a Chamber of Manufactures or similar body to the same effect.

This is because Subsection 3(1) of the Customs Tariff Act 1995 provides that the expressions 'substitutable goods', 'produced in Australia', and 'in the ordinary course of business' have the same meanings as in Part XVA of the Customs Act 1901, relating to TCOs.

In any other case, the matter should be referred to the Director Policy By-laws.

Due to the time needed to gain a TCO or to acquire sufficient evidence showing that Australian manufacturers were given genuine opportunities to supply, it is recommended that potential users of Item 22 take steps to ensure substitutable goods are not available from Australian manufacture early in the procurement process.

# By-law

In addition to meeting the terms of Item 22, goods entered under this concession must also satisfy the terms of the by-law prescribed to Item 22, currently Customs By-law (BL) Number 9640057. This by-law requires the goods to be used directly in connection with exploration or development (it would not, for example, include goods

for use in transporting people or goods to or from sites, accommodation or general office materials or equipment). The by-law also lists goods which are specifically excluded from the concession.

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# Entry Processing Enhancement

Where an importer relies upon the existence of a TCO to support eligibility for Item 22, from the close of business 31 December 1996 (Eastern Summer Time), an entry processing enhancement came into effect highlighting the need for the relevant TCO to be quoted on the entry. A message stating "Additional instrument may be required" will be generated against an entry line quoting the Item 22 treatment code and by-law. An importer relying on a TCO should input "TC2=" followed by the relevant TCO number on the Additional Information (ADDINFO) line for those goods.

This enhancement should be of significant benefit to both importers and Customs during compliance audits. If an importer is unable to establish the particular TCO relied upon for the purposes of entry under Item 22, payment of full duty may be demanded.

Other classes of proof referred to on page 2 of this ACN may still be relied upon. **Enquiries**

Queries on the eligibility of particular goods in meeting the terms of Item 22 should be addressed in the first instance through the normal tariff classification procedures using the Tariff Classification and Advisory Service. Urgent matters may be referred to the senior tariff officer in the region concerned. Any classification issues which cannot be resolved through these avenues will be decided by the Director Tariff Classification.

(L B WOODWARD)

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16 January 1997 **Contact Officers:**

# Policy:

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# Classification:

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