Australian Customs Notice 1998 18

**POLICY BY-LAW (PBL) SYSTEM - PROJECT ITEMS 45, 46 AND 56 - ADDITIONAL GUIDELINES**

# BACKGROUND

Australian Customs Notice

(ACN) 96/32, issued in July 1996, details the policy and administrative requirements of the PBL System. (ACN) 97/49 was issued in June 1997 to advise on the format of PBL requests. This ACN should be read in conjunction with (ACN) 96/32 and (ACN) 97/49.

Under Government policy, PBLs for items 45, 46 and 56 in Part III of Schedule 4 to the Customs Tariff Act 1995 (the Tariff) are limited to capital equipment imported for projects with a minimum capital equipment investment of around $10 million in imported and locally sourced items.

The prime purpose of this ACN is to clarify the Government's policy on the coverage of the expression "capital equipment" when assessing a PBL request. In particular, the advice in this ACN replaces the italicised advice in paragraph 1, Section 4 of

(ACN) 96/32.

This ACN also clarifies aspects of the goods table discussed in Section 5 of (ACN) 97/49.

The guidelines contained in this ACN will assist applicants to comply with the policy requirements for the granting of a PBL since the modifications to the PBL System were introduced on 15 July 1996. These guidelines address many of the issues raised in PBL requests received to date and are based on advice from the Government and the Department of Industry, Science and Tourism (DIST).

# CAPITAL EQUIPMENT GUIDELINES

* 1. **General Policy**

While the ordinary meaning of "capital equipment" may be quite broad, under Government policy, the granting of a project item PBL is restricted to a certain class of capital equipment. This class comprises significant items of machinery (or, in certain circumstances, significant components thereof) that are integral to and used directly in industrial activities appropriate to the particular PBL item concerned. Elements of this policy are summarised in the attached table and some aspects are explained in more detail below.

# "Significant..."

PBL consideration will be given to significant items only. This is to ensure that the resources of both applicants and Customs are concentrated in the areas of greatest benefit to the activities intended to be assisted by the PBL System.

As a guide, a number of factors may be taken into account when determining whether or not goods are significant for the purposes of the PBL System. Factors which may be considered include value, importance to the project, specificity of design, complexity and dimensions. It should be noted that these and other factors should be addressed in combination. It is unlikely that any one would be considered conclusive if taken in isolation. Goods such as nuts, bolts, screws, gaskets, connectors and cables are unlikely to be considered significant for the purposes of the PBL System.

# "... items of machinery..."

Machinery (and goods identifiable as components thereof) are generally classified within Chapters 84, 85, 86, 87, 89 or 90 of Schedule 3 to the Tariff. Goods classified elsewhere are generally not considered to be capital equipment for the purposes of the PBL System. Goods classified outside these Chapters (eg. a sub-sea flexible flowline) may still be considered to be an item of machinery if the goods consist of highly complex interactive parts; are specifically designed for use in the relevant industry and require only simple assembly to form a complete item.

# "...integral to and used directly in..."

Only equipment integral to and for direct use in appropriate industrial activities are eligible for PBL consideration. Goods which are ancillary to the project (including but not limited to office equipment and equipment used in activities such as land preparation, road and building construction, personnel accommodation and transportation, off-site transportation and the provision of electrical, water, telecommunications and other general services) are excluded from consideration.

# "... industrial activities appropriate to the ... PBL item..."

Item 45

For the purposes of item 45, appropriate industrial activities are those which recover minerals or transform and add value to primary or natural resources within the mining or resource processing project concerned. Primary and intermediate stage resource processing activities are included. Consideration may be given to final stage resource processing or waste recycling activities provided they are integrated with earlier stages.

Item 46

For the purposes of item 46, appropriate industrial activities are those which produce agricultural products or transform and add value to food products within the agriculture, food processing or food packaging project concerned. Primary and intermediate stage food processing activities are included. Consideration may be given to final stage food processing activities provided they are integrated with earlier stages.

Item 56

For the purposes of item 56, appropriate industrial activities are those which produce goods or transform and add value to goods.

# General Exclusions

Material inputs and consumables such as paints, lubricants, fuel, refractory bricks, sheeting, coils, etc, are considered ineligible under the PBL capital equipment policy. Spare parts (whether replacement, commissioning or otherwise) and installation equipment are also excluded from PBL consideration.

# Application of the Capital Equipment Guidelines

The capital equipment guidelines apply at the project advice and goods request stages of a PBL request. During the project advice stage, assessment is made against the goods to be ordered for the project. During the goods request stage, assessment is made against each item of equipment in each shipment made by each manufacturer (not necessarily the supplier). Applicants should keep this in mind when seeking PBL approval for equipment not made by their suppliers or for components.

# PROFORMA GOODS TABLE

As advised in (ACN) 97/49, goods listed in the table discussed in Section 5 of that ACN should be broken down into discrete units and then into the items to be entered for each shipment. Where possible, each discrete unit should be made by a single manufacturer and the name of the manufacturer specified in the "supplier" column. Where the supplier is not the manufacturer of all the items imported for a discrete unit, the supplier should be specified against the discrete unit and the relevant manufacturer against each item shipped.

Applicants are reminded that all claims must be substantiated with objective, relevant evidence cross-referenced to the appropriate section of the goods table. The goods table must also be substantially completed at the goods request stage. All columns except column 11 must be completed, with estimates given for columns 8 - 10 if the goods are yet to be shipped.

Actual details for columns 8-11 must be supplied when available. Submissions which do not meet these requirements will not be accepted for the purposes of establishing an operative date or a processing commencement date.

# ADDITIONAL INFORMATION

Additional information on the operation of the PBL Scheme may be obtained from:

National Manager Industry

Australian Customs Service 5 Constitution Avenue CANBERRA CITY ACT 2600

Contact officer for any telephone enquiries is Mr Declan King, Director Policy By-Laws, telephone (02) 6275 5901 and facsimile (02) 6275 6147.

Marion Grant National Manager Industry

for Chief Executive Officer 27 February 1998

# Capital Equipment Guidelines

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| Item | Terms ofthe Item | Capital Equipment Guidelines | Appropriate Industrial Activities | In/Out Examples |
| 45 | Capital equipment for use in the mining and resource processing industries, as prescribed by by-law | Significant items of machinery or significant components thereof, classified within Chapters 84, 85,  86, 87, 89 or 90, that are integral to and used directly in appropriate activities. Ancillary items, material inputs, consumables, spare parts and installation equipment are not included | Mining or resource processing activities that recover minerals or transform and add value to primary or natural resources. Primary and intermediate stage resource processing activities are included. Consideration may be given to final stage resource processing or waste recycling activities which are integrated with primary or intermediate stage resource processing activities | In: Important, specialized, complex, valuable: machinery (eg systems, production lines, machines); or components thereof (eg gearing, rotors, dies).  Out: Separately imported gaskets, connectors, cables, nuts, bolts, screws, etc; materials or consumables (eg steel sheet, conveyor belting, mortar, paint, adhesives, fuel, refractory bricks), office equipment, equipment used in activities such as land preparation, road and building construction, personnel accommodation and transportation and the provision of electrical, water, telecommunications and other general services. |
| 46 | Capital equipment for use in the agriculture, food processing and food packaging industries, as prescribed by by-law. | As above. | Agriculture, food processing or food packaging activities that produce agricultural products or transform and add value to food products. Primary and intermediate stage food processing activities are included. Consideration may be given to final stage food processing activities where they are integrated with primary or intermediate stage food processing activities. | As above. |
| 56 | Capital equipment classified under a heading or subheading in Chapter 84, 85, 86, 87 (excluding goods covered by the plan known as the Passenger Motor Vehicle Manufacturing Plan), 89 or 90 of Schedule 3 which, in the opinion of the Minister, is | Significant items of machinery integral to and used directly in appropriate activities. Significant machinery components will generally only be considered in terms of advanced technology | Activities that produce goods or transform and add value to goods. | In1 : **Important, specialized, complex, valuable:** machinery (eg systems, production lines, machines). |

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|  | technologically more advanced, more efficient or more productive than equipment currently available from Australian manufacture, as prescribed by by-law. | rather than greater efficiency or productivity. Ancillary items, material inputs, consumables, spare parts and installation equipment are not included. |  | In2 : **Important, specialized, complex, valuable:** machinery components (eg gearing, rotors, dies).  Out: Excluded items as shown above |