

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 84

Senator Ludwig asked the following question at the hearing on 25 May 2006:

- (a) What arrangements are in place to report to the states an importation of explosives?
- (b) Do importers have to be licensed?
- (c) Does Customs advise any particular state authority, or the mining industry on the receipt of explosives?

The answer to the honourable senator's question is as follows:

- (a) Non-military prepared explosives are controlled under State and Territory legislation. Customs co-operates with State/Territory authorities to monitor imports of such explosives to establish if the importer has an appropriate State/Territory permit or licence. Where non-military prepared explosives are imported Customs procedures are:
 - If the importer does not appear to have the appropriate State/Territory permission or licence Customs will seek advice from the relevant State/Territory authority as to whether a permit or licence has been issued to that importer.
 - If the State/Territory authority advises a permit or licence has been issued there is no further action by Customs in regards to this aspect of the importation.
 - If the State/Territory authority advises the importer does not have the necessary permit or licence, the matter is referred to that State/Territory for further action.
 - Customs does not contact State/Territory authorities where an importer has previously provided evidence of having the necessary State/Territory approvals, or the authority has advised Customs that the importer has the appropriate permission/licence.
 - These arrangements have been in place since March 2003 and relate to prepared explosives classified under tariff code 3602.00.00. Tariff code 3602.00.00 includes explosives such as dynamite and TNT, which are generally used in construction, mining and demolition industries.
 - Following the matter being raised at the Senate Legal and Constitutional Legislation Committee hearing on 25 May 2006, instructions on notification procedures for explosives were re-issued to Customs staff on 5 June 2006.

Military-grade explosives are controlled under Customs legislation and generally can only be imported for use by the Department of Defence or to fulfil contracts with the Department of Defence. An import permit from the Minister for Justice & Customs is required for all importations of military grade explosives. Customs does not provide information regarding imports of these types of explosives to State/Territory authorities.

The COAG review of hazardous materials gave ammonium nitrate particular attention because of the history of use by terrorist organisations and its availability in Australia for use in the mining and quarrying industries and in agriculture. COAG agreed in June 2004 that the states and territories would introduce licensing regimes to monitor and control the manufacture, transport, sale, storage, use, disposal, and import and export of Security Sensitive Ammonium Nitrate (SSAN: goods containing more than 45 per cent by content of ammonium nitrate, but not ammonium nitrate in solution). Customs has agreed with State/Territory authorities to provide information on all imports of SSAN once the states and territories have implemented controls and have completed appropriate information disclosure agreements with Customs. In the meantime, in the State/Territory where controls on SSAN have been implemented, Customs ensures that the necessary import licences are in place before releasing SSAN. Importers of SSAN into the states and territories where the controls are in place are required to provide Customs with details of the issued licence in order for the goods to be released. Where licence details are not provided Customs deals directly with the State/Territory authorities to confirm a licence is in place, or to have the goods detained under Customs control until a licence is approved. Qld, NSW, Vic, Tas, ACT and NT have implemented their licensing regimes. SA's controls come into effect on 25 July 2006, leaving WA as the only State that has not yet commenced operation of controls on SSAN. Controls are expected to be implemented by WA this year.

(b) Importers of prepared explosives and importers of SSAN must be licensed by State/Territory regulatory authorities.

Importers of military-grade explosives for use by the Department of Defence are not required to be licensed by State/Territory authorities, but must have permission to import granted by the Minister for Justice and Customs.

(c) Customs advises the relevant State/Territory authorities responsible for the control of prepared explosives. The relevant authorities vary between the states and territories. Customs also consults relevant State/Territory authorities where importers of SSAN do not declare a licence when making a Customs import entry. Customs does not advise the mining industry.