



Australian Government
Department of Industry,
Science and Resources

Certain Inputs to Manufacture (Items 46 – 47)

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About the program

The objective of this program is to improve the competitiveness of the Australian industry by helping to reduce the costs of manufacturing. The program provides duty free entry for certain inputs to manufacture (CIM) that have a demonstrable performance advantage than comparable goods produced in Australia.

These guidelines are intended to serve as a guide to importers lodging applications seeking concessional entry under item 46 and item 47 of Schedule 4 to the *Customs Tariff Act 1995* (Tariff Act).

Items 46 and 47 are delivered by the Department of Industry, Science and Resources (the department). In addition, the review and interpretation of government policy as it relates to these by-law items is the responsibility of the department.

The collection of customs duties is the responsibility of the Department of Home Affairs (Home Affairs), including its operational arm, the Australian Border Force (ABF).

Background

Schedule 3 to the Tariff Act establishes the rate of duty to be paid on goods imported into Australia. The structure of the Tariff Act is such that some goods not made in Australia become subject to duty when they are imported. Under tariff concession schemes, the government may forego the collection of duty on imported goods.

Sections 8 and 18 of the Tariff Act provide the authority for goods specified in Schedule 4 to the Tariff Act to be imported at a rate less than that set out in Schedule 3. The items contained in Schedule 4 provide the legal basis for the concessional entry of certain imported goods in prescribed circumstances.

Items 46 and 47 of Schedule 4 to the Tariff Act give effect to the government's policy to provide duty free entry for certain inputs to production that have a substantial and demonstrable performance advantage to comparable goods produced in Australia.

CIM determinations are made under s 273 of the *Customs Act 1901* (Customs Act). CIM determinations allow importers of eligible goods to obtain import duty concessions in accordance with Schedule 4 to the Customs Act, in relation to goods described in items 46 and 47.

Item 46

Item 46 covers:

Raw materials and intermediate goods, as prescribed by by-law, classified under heading 5903 or within Chapter 28, 29, 32, 34, 35, 37, 38, 39 or 48 of Schedule 3 and, in the opinion of the Minister, have a substantial and demonstrable performance advantage, in the production of a specific end product, over substitutable goods produced in Australia.

The range of raw materials and intermediate goods classified under heading 5903 or within Chapter 28, 29, 32, 34, 35, 37, 38, 39 or 48 consists of chemicals, plastics and paper goods.

Item 47

Item 47 covers:

Metal materials and goods, as prescribed by by-law, classified within Chapters 72 to 82 of Schedule 3 and, in the opinion of the Minister, have a substantial and demonstrable performance advantage in the packaging of food over materials and goods currently available in Australia.

Legal requirements

There are three elements all of which must be satisfied before goods can legally enter under item 46 or item 47. These are:

- the imported goods must fall within the scope of goods covered by the item
- an appropriate opinion must be formed by the relevant Minister or their delegate that the imported goods have a substantial and demonstrable performance advantage, in the production of a specific end product, over substitutable goods produced in Australia (for item 46) or in the packaging of food, over materials and goods currently available in Australia (for item 47)
- a by-law or determination must be made by the Comptroller-General of Customs or their delegate pursuant to section 271 or 273, respectively, of the Customs Act.

We will assess if applications for concessions under items 46 and 47 are eligible. The application will not be progressed to the decision-making process if it is not eligible.

For eligible applications, opinions will be formed and where appropriate determinations will be made by officers within the department who have been delegated with those functions and powers by the then Minister for Immigration and Border Protection¹ and the Comptroller-General of Customs², respectively.

Concessional amount and duration

The concession is duty free entry of goods. The concessional period is indefinite until revoked or if the relevant determination ceases to have effect.

¹ Commonwealth of Australia Instrument No. 1000080 of 2013

² Commonwealth of Australia Instrument No. 25 of 2015

Eligibility criteria

To be eligible for a determination under section 273 of the Customs Act, applicants will be required to demonstrate that:

- the relevant item in Schedule 4 to the Tariff Act is capable of applying to the goods, and
- the granting of a concession is consistent with government policy.

All applications for concessional entry under item 46 or item 47 will be assessed against the government's industry policy objectives as determined by the government from time to time. The Minister for Industry, Science and Technology is the Minister responsible for the policy guidelines for these items. The department is responsible for administering concessional entry under these items as well as policy development and advice.

We will reject an application where no Australian manufacturer of a comparable good is nominated for comparison purposes. Such cases would not be referred to the Minister's delegate for opinion.

If the imported goods are covered by a valid Tariff Concession Order (TCO) they will not be eligible for a CIM concession.

Specific criteria and additional information for item 46

Item 46 was introduced by the government to allow the concessional entry of a range of raw materials and intermediate goods (consisting of chemicals, plastics and paper used in the production of certain products) where, in the Minister's opinion, the imported raw material or intermediate goods offer a substantial and demonstrable performance advantage in the production of a specific end product over substitutable goods produced in Australia.

To meet the legal and policy requirements of item 46, applicants must demonstrate that the goods to be imported:

- are inputs to a manufacturing process undertaken in Australia
- are raw materials or intermediate goods
- offer a substantial and demonstrable performance advantage in producing a specific end product over substitutable goods produced in Australia, and
- are classified to heading 5903 or within a chapter specified in item 46.

In accordance with the terms of item 46 the Minister must form the opinion that the imported goods have a substantial and demonstrable performance advantage in the production of a specific end product over substitutable goods produced in Australia.

Specific criteria and additional information for item 47

Item 47 was introduced by the government to allow the concessional entry of metal materials and goods for use in food packaging, where, in the Minister's opinion, the imported metal materials and goods have a substantial and demonstrable performance advantage in the packaging of food over similar materials and goods currently available in Australia.

The intent of the item is to enable the Australian food processing industry to improve its international competitiveness and enhance export growth.

To meet the legal and policy requirements of item 47 applicants must demonstrate that the goods to be imported:

- are metal materials or metal goods
- are classified within chapters 72 to 82 of Schedule 3 to the Tariff Act, and
- offer a substantial and demonstrable performance advantage in the packaging of food over materials and goods currently available in Australia.

In accordance with the terms of item 47, the Minister must form the opinion that the imported metal materials and goods have a substantial and demonstrable performance advantage in the packaging of food over similar materials and goods currently available in Australia.

How to apply

Applications for concessions under items 46 and 47 should be made by, or on behalf of, an end user of the particular materials or goods.

Before applying you should read and understand these guidelines. Applicants should read all eligibility criteria and the assessment process closely and attach detailed evidence that supports the application.

To apply, you must:

- complete an application on the approved form
- provide a TCO rejection document OR email engagement with local manufacturers with confirmation they would object to a TCO. (This engagement/consultation process achieves the same result as a TCO application and refusal process.)
- include email engagement with local manufacturers confirming they would not object to a CIM determination for the specific end use specified in the application form
- provide a technical report outlining the demonstrable performance advantage the imported material has over the local material when manufactured into the specific end use.

You are responsible for making sure your application is complete and accurate. Giving false or misleading information is a serious offence under the *Criminal Code Act 1995* (Cth). If we consider that you have provided false or misleading information we may not progress your application. If you find an error in your application after submitting it, you should call us immediately on 13 28 46.

After submitting your application, we may contact you for clarification if we find an error or any missing information, including evidence that supports your eligibility.

Technical Report

A technical report must be from a suitably qualified technical expert. The report should include the following:

- name of the imported goods
- a clear description of the imported goods in the form in which they are to be imported including written and illustrative descriptive material, and technical drawings if applicable
- a clear description of the end product to be produced using the imported goods
- details on how the imported goods are to be used as inputs into a manufacturing process undertaken in Australia
- names of all known local manufacturers of substitutable goods
- a clear description of the Australian made substitutable goods
- a detailed comparison of the substantial and demonstrable performance advantages of the imported goods over the Australian made goods including but not limited to:
 - production efficiency, including processing times, production steps, capital costs, operating costs, yields and energy usage
 - physical or chemical properties, for example strength, durability, flexibility, barrier and filtering qualities
 - compliance with Australian or international standards
 - any other pertinent characteristic that demonstrates a significant commercial advantage (other than relative cost) of the imported goods compared to suitable Australian made materials
- a statement of opinion as to whether the imported goods have a substantial and demonstrable performance advantage over the locally manufactured goods, and
- details of relevant qualifications of the technical expert.

Confidential information

Applicants are requested to specifically identify:

- any information contained in an application that they wish to remain confidential (Confidential Information) and do not wish to be disclosed in any local industry consultation process (see section 5 below); and
- any Confidential Information that they do not wish to be disclosed to specified people or bodies.

Limiting the information provided during consultation may make it more difficult for us to clarify or validate technical issues, which may result in your application being rejected.

When an applicant does not identify any Confidential Information is confidential, we may disclose any or all of the information provided, as needed, in the course of assessing an application.

Where to submit the application

Post or email the application to:

Program Manager, Certain Inputs to Manufacture
Trade and International Branch
Department of Industry, Science and Resources
GPO Box 2013
Canberra ACT 2601

Email: CIM@industry.gov.au

Application receipt date

An application received by the Program Manager before 5:00 pm (Australian Eastern Standard Time) on a business day would be taken to have been lodged on the day of receipt. An application received after that time is taken to have been lodged on the next business day.

We will acknowledge receipt of an application for concessional entry within five business days.

It is fundamental to the objectives of concessional entry under items 46 and 47 that importers seeking concessions should first take steps to maximise the opportunities for Australian manufacturers to produce the particular goods. To accord with this philosophy, the government's industry policy directive is that duty concessions under items 46 and 47 are to be prospective. If an application is lodged after the materials or goods have been imported, the application will not apply to the retrospective imports.

Applicants should be aware that the date of importation of the goods, not the date they are entered for home consumption, will be compared with the date on which the department receives an application to establish the date, if approved, the determination will commence on.

Application Advice

If you are uncertain of the requirements or would like more information on concession options visit business.gov.au, call 13 28 46 or email cim@industry.gov.au.

Any guidance or advice we offer before receipt of an application does not determine the outcome of an application.

Process

We will conduct a complete assessment and may need to consult with potential Australian manufacturers and industry associations where it is considered necessary to clarify and validate technical issues.

In some cases, meetings or site inspections might be required. As outlined in section 4 above, the information applicants identify in the application as confidential may affect the consultation process.

To ensure that the assessment process is transparent, fair and equitable the following assessment procedures apply.

Preliminary Eligibility Assessment

We will conduct an initial assessment of the application to determine whether it satisfies the legal terms and conditions of the concessional item applied for and meets the eligibility requirements set out above.

Each of the processes below must be addressed to be eligible for a determination:

- submitted application form is complete and includes ALL the following:
 - a Tariff Concession Order (TCO) rejection document OR email engagement with local manufacturers with confirmation they would object to a TCO
 - email engagement with local manufacturers confirming they would not object to a CIM determination for the specific end use nominated in the application form
 - a technical report listing demonstrable performance advantage imported material has over the local material when manufactured into the specific end use nominated in the application form.

If we determine that additional information is required to support the application we will seek further details and advise the applicant of a time frame for providing the requested information. If the information is not received within this time frame we may assess the application on the basis of the information submitted as at the date we acknowledged receipt of the application.

We will work with applicants and inform them if applications are not eligible for an item 46 or 47 concession.

Assessment of specific end use

We will review the applicant's claims as to whether there are locally made goods serving the equivalent function to the specific end-use nominated in the application.

If verified as no, and subject to the applicant submitting a complete application, the department would typically recommend delegate approval of a CIM determination.

If verified as yes, the department will evaluate claims of a substantial and demonstrable performance advantage using the assessment criteria listed in the section below prior to making a recommendation to the delegate on whether to approve a CIM determination.

Assessment of demonstrable performance advantage

We will take into account the following factors when assessing the substantial and demonstrable performance advantage the imported material has over the locally available material when manufactured into the specific end product:

- increased production efficiency of the imported material when manufactured into the specific end product, for example
 - reduced processing time
 - fewer production steps
 - lower operating costs
 - improved yield
 - reduced energy usage

- superior physical or chemical properties the imported material has when manufactured into the specific end product, for example
 - improved strength
 - improved durability
 - improved flexibility
 - improved barrier qualities
 - improved filtering qualities

- compliance with Australian or international standards.

We will also consider statements from buyers of end products indicating why the quality or performance features required by them cannot be provided by Australian manufacturers of end products using Australian made inputs.

We may consult with potential Australian suppliers, manufacturers or representative industry groups to validate the claims made about the perceived advantages of the imported goods.

Notification of outcome

We will advise you of the outcome of your application in writing and provide you with your unique customs import information. If an application is refused, the reasons for the refusal will be set out in the advice.

Successful applications

If successful and a concession is granted, a CIM determination will be issued identifying the imported goods, the importer name and the commencement date. The determination will be for an indefinite period.

We will publish details of determinations in the Tariff Gazette and the CIM webpage.

Decision to refuse

An applicant whose application for concessional entry under item 46 or item 47 is refused does not have a statutory right to have that decision reviewed by a delegate. However, if an applicant provides relevant new information, which addresses the reasons for the refusal, then a delegate may reconsider the decision. The new information will be treated as constituting a new application lodged on the day the new information is received. Any determination made granting a concession after reconsideration will operate from the date the new information is received.

Applicants should note that they are entitled to seek judicial review of a decision to refuse to make a determination for duty-free entry of goods under item 46 or item 47. The decision to refuse to make a determination is subject to judicial review by the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977*. Applicants should seek their own legal advice in this respect.

How we monitor your concession

The importer is responsible for correctly entering goods under a concessional item. Importations of goods that claim duty concessions may be subject to Home Affairs/ABF audit procedures.

Local industry capability

We will regularly review importer use and local industry capability to ensure the determination is being used correctly and that local industry capability has not changed.

If there is a change in circumstance the department may revoke or remake the determination as appropriate.

Revocation requests

A local producer of substitutable goods can also request the revocation of a determination.

The request to revoke a determination should be submitted to the department in writing, and include the following:

- details of the determination to which the revocation request refers including the gazetted description of the goods and the CIM determination number
- details of the local manufacturer including name, business address, Australian Business Number, company contact (name, position, phone number and email)
- details of the substitutable goods produced in Australia including
 - are the goods wholly or partly manufactured in Australia?
 - is at least one substantial process in the manufacture of the goods carried out in Australia?
- statement of the use(s) to which the substitutable goods are put or are capable of being put
- technical, illustrative and descriptive material to enable identification and understanding of the substitutable goods. (Note a reference to a website only is not sufficient and may result in your revocation request being rejected without further consideration)
- details of any other manufacturers producing substitutable goods including details of these goods.

We will review the local producer's claims as to whether there are locally made goods servicing the equivalent function to the specific end-use nominated in the gazetted determination. We may consult with potential Australian suppliers, manufacturers or representative industry groups to validate the claims made.

If verified as no, the department will typically make a recommendation to the Minister's delegate that the CIM determination continue. If verified as yes, the department will make a recommendation to the Minister's delegate that the CIM determination be revoked.

Probity

We will make sure that the application process is fair, according to the published guidelines, incorporates appropriate safeguards against fraud, unlawful activities and other inappropriate conduct.

Conflicts of interest

Any conflicts of interest could affect the performance of the program. There may be a conflict of interest, or perceived conflict of interest, if our staff and/or you or any of your personnel:

- has a professional, commercial or personal relationship with a party who is able to influence the application process, such as an Australian Government officer
- has a relationship with or interest in, an organisation, which is likely to interfere with or restrict the applicants from carrying out the proposed activities fairly and independently or
- has a relationship with, or interest in, an organisation from which they will receive personal gain because the organisation receives a concession under the program.

As part of your application, we will ask you to declare any perceived or existing conflicts of interests or confirm that, to the best of your knowledge, there is no conflict of interest.

If you later identify an actual, apparent, or perceived conflict of interest, you must inform us in writing immediately.

Conflicts of interest for Australian Government staff are handled as set out in the Australian [Public Service Code of Conduct \(Section 13\(7\)\)](#)³ of the *Public Service Act 1999* (Cth).

We publish our [conflict of interest policy](#)⁴ on the department's website. The Commonwealth policy entity also publishes a conflict of interest policy on its website.

³ <https://www.legislation.gov.au/Details/C2019C00057>

⁴ https://www.industry.gov.au/sites/default/files/July%202018/document/pdf/conflict-of-interest-and-insider-trading-policy.pdf?acsf_files_redirect

How we use your information

We will use the information you provide to:

- assess your application, including in the external consultation process outlined in section 4 above; and
- publish details of the determination on our website.

This includes personal information as defined by the *Privacy Act 1988* (Cth). You may read our [Privacy Policy](#)⁵ on the department's website for more information on:

- what is personal information
- how we collect, use, disclose and store your personal information
- how you can access and correct your personal information.

We may disclose the information:

- to our Commonwealth employees and contractors, to help us manage the program effectively
- to the Auditor-General, Ombudsman or Privacy Commissioner
- to the responsible Minister or Assistant Minister
- to a House or a Committee of the Australian Parliament.

Unless the information you provide to us is confidential information as outlined below, we may also share the information with other government agencies for a broader Commonwealth purpose such as:

- to improve the effective administration, monitoring and evaluation of Australian Government programs
- to research, assess, monitor and analyse our programs and activities.

How we handle your confidential information

Please note that delegates for the Minister and the Comptroller-General of Customs are bound by Part 6 of the *Australian Border Force Act 2015* which regulates the disclosure of certain confidential or commercially sensitive information the delegate obtains while performing their duties.

We will treat the information you give us as sensitive and therefore confidential if we are satisfied that it meets all of the following conditions:

- you clearly identify in your application the information you say is confidential
- the information is inherently confidential
- disclosing the information would cause detriment to you or someone else.

We will also treat information as confidential if we are satisfied that its disclosure could cause you or some other party competitive detriment.

We will use confidential information internally to assess your application.

As a matter of practice, we will not disclose confidential information as part of the industry consultation process outlined in section 4 above, despite this being allowed by the Australian Border Force Act. As explained in section 4, this may affect whether your application is approved.

⁵ <https://www.industry.gov.au/data-and-publications/privacy-policy>

When we may disclose confidential information

We may disclose confidential information if:

- we are required or authorised by law to disclose it
- you agree to the information being disclosed, or
- someone other than us has made the information public (other than by breaching confidence).

Freedom of information

All documents in the possession of the Australian Government, including those about the program, are subject to the *Freedom of Information Act 1982* (Cth) (FOI Act).

The purpose of the FOI Act is to give members of the public rights of access to information held by the Australian Government and its entities. Under the FOI Act, members of the public can seek access to documents held by the Australian Government. This right of access is limited only by the exceptions and exemptions necessary to protect essential public interests and private and business affairs of persons in respect of whom the information relates.

If someone requests a document under the FOI Act, we will release it (though we may need to consult with you and/or other parties first) unless it meets one of the exemptions set out in the FOI Act.

Enquiries and feedback

For further information or clarification, you can contact us on 13 28 46 or by [web chat](#) or through our [online enquiry form](#) on business.gov.au.

We may publish answers to your questions on our website as Frequently Asked Questions.

Our [Customer Service Charter](#) is available at business.gov.au. We use customer satisfaction surveys to improve our business operations and service.

If you have a complaint, call us on 13 28 46. We will refer your complaint to the appropriate manager.

If you are not satisfied with the way we handle your complaint, you can contact:

Head of Strategic Policy Division
Department of Industry, Science and Resources
GPO Box 2013
CANBERRA ACT 2601

You can also contact the [Commonwealth Ombudsman](#)⁶ with your complaint (call 1300 362 072). There is no fee for making a complaint, and the Ombudsman may conduct an independent investigation.

⁶ <http://www.ombudsman.gov.au/>

Glossary

Term	Definition
Application form	The document issued by the Program Delegate that applicants use to apply for a concession under the program.
CIM	Certain inputs to manufacture
CIM determinations	Allow importers of eligible goods to obtain import duty concessions in accordance with Schedule 4 to the Customs Act, in relation to goods described in items 46 and 47.
Date of importation	The date the ship or aircraft first arrives at a port or airport in Australia at which any goods are to be discharged.
Department	The Department of Industry, Science and Resources.
Eligible application	An application under the program that the Program Manager has determined is eligible for assessment in accordance with these guidelines.
Eligibility criteria	The mandatory criteria which must be met to qualify for a concession. Assessment criteria may apply in addition to eligibility criteria.
Manufacturing process	<p>Processing which does not alter the essential nature or use of the goods is not sufficient to warrant concessional treatment. Simple cutting, shaping or wrapping or similar process which do not alter the essential character of imported goods are not sufficient to satisfy the industry policy intent of the item.</p> <p>The input must go through a transformative process that results in the specific end product. The raw material or intermediate good must be subsumed into the end use.</p>
Minister	The Minister with responsibility for administering the <i>Customs Act 1901</i> and the <i>Customs Tariff Act 1995</i> .
Personal information	<p>Has the same meaning as in the <i>Privacy Act 1988</i> (Cth) which is:</p> <p>Information or an opinion about an identified individual, or an individual who is reasonably identifiable:</p> <p>whether the information or opinion is true or not; and</p> <p>whether the information or opinion is recorded in a material form or not.</p>
Program Delegate	A Manager, General Manager or Head of Division within the department with responsibility for administering the CIM program.
Program Manager	The Manger with responsibility for administering the CIM program.

Term	Definition
Raw material or intermediate good	<p>A raw material or intermediate good refers to an input to the production of a product which is incorporated into the product, or is consumed in producing the product.</p> <p>In accordance with subsection 3(1) of the Tariff Act, the expression “substitutable goods produced in Australia” derives its meaning from Part XVA of the <i>Customs Act 1901</i> (Customs Act), which provides for the making of a concession under the Tariff Concession System.</p>
Substitutable goods	<p>Substitutable goods means goods produced in Australia that are put, or are capable of being put, to a use that corresponds with a use (including a design use) to which the goods the subject of the application can be put.</p>