



Managing the risk of asbestos at the border

The health risks posed by exposure to asbestos are well known. An Australia-wide ban on the manufacture and use of all types of asbestos and asbestos containing material (ACM)¹ took effect on 31 December 2003. Work Health and Safety (WHS) laws in all states and territories prohibit the supply, transport, use, or handling of asbestos unless an exception or exemption applies.

In order to support the domestic ban:

- Importation of asbestos or ACM to Australia is prohibited pursuant to Regulation 4C of the Customs (Prohibited Imports) Regulations 1956 unless a permission or exemption has been granted or a lawful exception applies.
- Exportation of asbestos or ACM from Australia is prohibited pursuant to Regulation 4 of the Customs (Prohibited Exports) Regulations 1958, unless permission or exemption has been granted or a lawful exception applies.

Australia is one of the few countries with an absolute ban on asbestos. Most countries allow low amounts or particular types of asbestos (for example, chrysotile can be used in certain countries). Goods manufactured outside Australia can be labelled “asbestos free” and still contain a low amount or type of asbestos. Such goods will not be permitted for import into Australia, except in very limited circumstances where permission has been granted, or an exemption applies.

What type of asbestos is prohibited?

The import and export of fibrous (asbestiform) forms of asbestos is prohibited. These are mineral silicates from the:

- Serpentine group - chrysotile asbestos (white asbestos)
- Amphibole group - actinolite asbestos, amosite asbestos (brown and grey asbestos), anthophyllite asbestos, crocidolite (blue asbestos) and tremolite asbestos.

All forms of fibrous asbestos are highly toxic and carcinogenic to humans. Exposure to asbestos can cause cancer of the lung, larynx and ovary mesothelioma (a cancer of the pleural and peritoneal linings) and asbestosis (fibrosis of the lungs).

¹ Asbestos Containing Material (ACM) is any material or thing that, as part of its design, contains asbestos as per Regulation 5 of the Work Health and Safety Regulations 2011 (Cth).

Australian border controls

The Australian Border Force (ABF) targets both imported and exported goods, considered to be at high risk of containing asbestos. A list of high risk goods is available from the Department of Immigration and Border Protection's (the Department's) website <http://www.border.gov.au/Busi/Impo/Proh/Asbestos>. Any unauthorised goods found to contain asbestos will be seized and the importer may face penalties and/or prosecution.

Ensuring the goods do not contain asbestos

It is the responsibility of importers and exporters to ensure they do not import or export prohibited goods such as asbestos. Should the ABF suspect goods arriving at the border contain asbestos, the goods will be held and examined.

Importers should be aware of the increased risk of goods containing asbestos when sourced from countries that have asbestos producing industries. Goods which are manufactured in the same factory that produce asbestos containing goods are considered high risk due to possible cross contamination.

Importers should not assume goods labelled "asbestos free" are in fact free of asbestos or that testing of goods undertaken overseas certified "asbestos free" meet our border requirements. Some countries can lawfully label or test goods declaring them asbestos free if they are below a certain threshold.

To ensure that goods which are manufactured overseas do not contain asbestos, importers should enquire to overseas suppliers about the use of asbestos at any point in the supply chain. Importers are also encouraged to investigate, and where appropriate implement:

- Contractual obligations with their suppliers specifying nil asbestos content
- Testing for asbestos content prior to shipping the goods to Australia
- Regular risk assessment and quality assurance processes, that take into account:
 - what raw materials are used in the manufacture of the goods
 - where overseas manufacturers source their raw materials
 - identifying and subsequently minimising asbestos-risk activities at the point of manufacture

The importer may be required to arrange testing and certification by a 'competent person' to ensure the asbestos content is nil. The arrangement and cost of any independent inspection, testing and storage of the goods is the responsibility of the importer/exporter in Australia in accordance with Section 186 of the *Customs Act 1901* (the Act).

Due Diligence

Importers and customs brokers must be aware of Australia's asbestos import prohibition. Before goods are imported to Australia, importers must have adequate assurance that the goods being imported do not contain asbestos. This can be achieved by engaging with their overseas suppliers early and confirming that asbestos was not used in the supply chain. Importers must not assume that goods contain nil asbestos content.

The ABF expects importers to undertake adequate assurance measures to demonstrate that the goods they are importing that are known to be at risk of containing asbestos, or goods supplied from countries with asbestos producing industries, do not contain asbestos.

The nature and level of information within the supporting documentation may provide adequate assurance depending on the risk of the goods containing asbestos. Several types of documentation may be necessary to demonstrate sufficient level of assurance. A non-exhaustive list of examples of supporting documentation is provided below:

- Declarations from importers and/or suppliers which state that the goods have nil asbestos content
- Documentation outlining the level of assurances taken throughout the supply chain
- Invoices demonstrating the supplier of the goods
- Information about the supply chain and possible quality assurance process in place
- Illustrative Descriptive Material
- Ingredient lists
- Test certificate or laboratory report
- Material Safety Data sheets

Solely relying on a declaration that states the goods have nil asbestos content from an importer and/or supplier may not provide adequate assurance. In the event that a customs broker receives a declaration from an importer that the goods have nil asbestos content, before relying on that declaration, the customs broker should ensure they have an understanding of what assurances/supporting documentation the importer obtained to support the making of the declaration.

Where it is identified that goods may be at risk of exposure to asbestos throughout the supply chain, testing of the goods through an accredited laboratory prior to exporting the goods will assist in expediting border clearance. A certificate identifying the test results should be supplied as supporting documentation.

Testing for asbestos

Where goods are tested for asbestos content, testing certification (also called a laboratory testing report) must be provided to the ABF. Goods being imported can be tested prior to the importation by a laboratory in Australia or overseas.

Importers, who wish to have their goods tested in Australia, prior to the importation, must first seek permission from the Minister of Employment to import sample for analysis purpose, through the Asbestos Safety and Eradication Agency (ASEA). Once the permission has been granted, importers must then organise sampling and testing. The samples must be from the actual shipment to be imported. The testing must be undertaken by an Australian testing laboratory that is accredited by the National Association of Testing Authorities (NATA). Details of NATA accredited laboratories in Australia are available at www.nata.com.au.

Where the testing is carried out overseas, prior to shipping to Australia, the certification must be from an overseas testing laboratory accredited by the NATA equivalent testing authority in that overseas economy. The local testing authority must be a signatory to a Mutual Recognition Arrangement (MRA) with NATA. The testing report must contain adequate information to be able to demonstrate assurance at the border. This includes:

- the test method used
- the date and origin of the sample
- description of the sample (and sub-sample if applicable) including weight, size and colour

- whether fibres are detected under Polarised Light Microscopy / Dispersion Staining method (PLM/DS) at the detection limit, and if so what type of fibre
- if mineral fibres of an unknown type are identified, the confirming technique used to assess asbestos content
- name of the analyst.

Where a laboratory outside Australia is engaged, it must be made clear that any level of asbestos detected is noted in the report. If the ABF suspects that imported goods contain asbestos, these goods will be held at the border for further testing. In Australia, the ABF requires testing by a NATA accredited laboratory to certify that the goods do not contain asbestos.

For further information on testing for asbestos, NATA has produced two industry user guides in relation to asbestos testing. Both are available on their [website](#):

- **Industry User Guide 7 - Working with NATA Accredited Asbestos Facilities**
- **Industry User Guide 7.1 - Working with NATA Accredited Asbestos Facilities for Import/Export.**

Information on international accredited authorities and their MRA status can be found at the following organisation websites who NATA are a signatory of;

- the Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA, a regional arrangement with participation by upwards of 20 economies including all of Australia's major trading partners in the Asia Pacific region. www.aplac.org
- the International Laboratory Accreditation Cooperation (ILAC) MRA, a global arrangement covering all regions. www.ilac.org

If asbestos or ACM is detected at the border

If asbestos or ACM is detected, the goods are seized as prohibited imports and will be forfeited to the Crown. Re-export will not be permitted. If unauthorised asbestos is found to have entered Australia, the importer of the goods may be subject to penalties and/or prosecution for offences against the Act, in addition to other available offences under State or Territory law.

Shipments from overseas suppliers who have been identified as sending asbestos or ACM to Australia will be targeted for intervention at the border. Goods that have previously been imported from these suppliers will also be identified and referred to state and territory work health and safety regulators for further investigation. As a member of the World Customs Organization, the ABF takes part in the exchange of information and intelligence with other customs administrations regarding the movement of various controlled goods worldwide.

Penalties

Border offences relating to asbestos attract fines of up to \$210,000 or three times the value of the goods, whichever is the greater, in accordance with the Act. For a body corporate the same border offence attracts a higher penalty of up to \$1,050,000 or five times the amount applied to an individual, whichever is greater, in accordance with the *Crimes Act 1914 (Cth)*.

Further information

For further information regarding Australian's asbestos border control, visit our website:

<http://www.border.gov.au/Busi/Impo/Proh/Asbestos>.