

AUSTRALIA - NEW ZEALAND CLOSER ECONOMIC RELATIONS—TRADE AGREEMENT (ANZCERT)

JANUARY 1984

(A) GUIDE TO ANZCERT IMPORT LICENCE TENDERING: TENDERED EXCLUSIVE AUSTRALIAN LICENCES (TEALS) FOR THE 1984/85 IMPORT LICENSING PERIOD

In terms of Article 5 of ANZCERT, import licences are tendered in order for New Zealand to meet its access commitments under the Agreement.

Details of the amounts to be tendered for the 1984/85 import licensing period will be advertised in the *New Zealand Gazette* towards the end of February/early March 1984.

It should be noted that the tendering provisions detailed below only apply to ANZCERT tendering:

INTRODUCTION

1. ANZCERT tendering is authorised in terms of the Import Control Regulations 1973, Amendment No. 3, and is administered by the Department of Trade and Industry under delegated authority from the Minister of Trade and Industry. Within the department a Registrar, Import Licence Tendering, appointed by the Secretary of Trade and Industry is in charge of the specific functions of the scheme.

2. As part of each Call for Tender the department will publish the total value of licences for each product category. Each product category is assigned a separate tender number. Goods covered by each tender number can be identified in greater detail by referring to the relevant tariff items in the New Zealand Customs Tariff.

3. The Calls for Tenders will be advertised in the *Gazette*, copies of which will be available from all Government Bookshops. Tenderers who have registered will receive by mail a copy of the *Gazette* containing the call for tenders plus all necessary forms and information.

4. Unregistered Tenderers will need to obtain a copy of the *Gazette* from Government Bookshops for fuller details of items offered for tender.

5. Results of all tenders will be published in the *Gazette* which is available at Government Bookshops.

6. Except as may be stipulated in this guide, licences granted under tendering will be subject to the usual procedures, and terms and conditions, laid down pursuant to the Import Control Regulations 1973, and nothing in these guidelines shall limit any provision of those regulations.

7. The goods imported will be subject to the appropriate rate of duty and sales tax where applicable. The assessment of sales tax payable on goods imported under tender licences will include the amount of the tender bid.

8. Licences obtained under Import Licence Tendering will not count towards history for the general import licensing system and will not be taken into account in the administration of any policies under the general system.

CALLS FOR TENDER

9. Calls for Tenders will specify the item code, the tariff item, a brief description of the goods involved, the total value of licences to be tendered under each tender number, the maximum number of licence units that can be tendered for and the value of each licence unit.

It is the responsibility of the tenderer to ensure that the goods to be imported against a given tender number are correctly classified in a tariff item that is included in the relevant tender number. Tenderers are advised that some item codes contain tariff items that include goods which are exempt import licence or licence on demand when of Australian origin. It should be noted that the TEALS are not available for such goods because licences are not required for exempt goods, and where goods are subject to licence on demand, import licences are issued on application to the Collector of Customs.

10. *Prospective tenderers should note that ANZCERT tendering is for goods of Australian origin only, i.e., products which meet the criteria for Australian origin as contained in the Customs Regulations 1968, as amended. The New Zealand/Australia Rules of Origin are detailed in Article 3 of the ANZCERT Agreement.*

11. Tenderers may bid for all or part of the total EALs available per item code, and in multiples of the \$2,000 unit size.

12. Bids of zero and above are to be permitted in all item codes.

13. In item codes where tender bids do not exceed the amount of EALs available, tenderers will be allocated the full amount of licence sought and no premium will be required to be paid.

14. In cases where some tenderers have bid for more than the maximum number of bids stipulated for the item code (as is permissible under 11), and total tender bids in an item code therefore exceed the amount of EALs available, the allocation will be made first to firms in order of tender bids up to the maximum number

of units permitted per tenderer per item code, and any remaining EALs will be allocated on the basis of the tender bids (higher bidders satisfied before lower bidders).

15. Unallocated EALs to be available free of charge and on request from a specified date.

16. To maintain continuity tenderers are permitted to receive 50 percent of their 1984/85 EALs in 1985/86, on payment of the same 1984/85 percentage premium (i.e. one half of the premium bid).

17. Manufacturers (see (B) Manufacturers' Exclusive Australian Licences below) will be able to apply for a share of the Manufacturers' Exclusive Australian Licences (MEALs). The balance of MEALs not taken up by manufacturers will be added to the tender pool for each item code.

18. A manufacturer, including its subsidiaries or associates, which receives part of the manufacturers' allocation of Exclusive Australian Licence in a particular item code, will not be entitled to bid in those item codes under the tendering scheme:

A company will be ineligible to tender in an item code if another company holding MEALs in the same item code has more than a 25 percent shareholding connection with the first company, either directly or indirectly. Companies which do not observe this principle will face the risk of having their tendered EALs revoked. It should be noted that details of both manufacturers' and tendered EALs will be published.

19. Manufacturers, including their subsidiaries or associates, have the option of foregoing a share of the manufacturers' allocation in return for the right to tender in which case the group of companies may bid as under normal tendering.

20. A tender period of 6 weeks from notification in the *New Zealand Gazette* will generally apply.

21. Licences will be issued valid for the period 1 July 1984 to 30 June 1985. Only in exceptional circumstances will they be extended beyond that period. ANZCERT tender licences cannot be transferred from one item code to another. ANZCERT tender licences can only be assigned to third parties on receipt of written consent from the department.

22. TEALS will continue to be issued as licence type 9 and licences will be issued by the Department of Trade and Industry, Wellington, as at present.

WHO CAN BID

23. Tenders may be submitted by any enterprise domiciled in New Zealand which has actively traded in goods or services.

For the purposes of the scheme, "enterprise" does not include:

- any social, recreational, or sporting club, any charitable or religious institution, or any person not principally engaged in carrying on a business for financial rewards; or
- any person who in the opinion of the Secretary of Trade and Industry has not actively traded in goods or services; or
- any person who has been granted a licence under these provisions but who, not having lawfully assigned his licence or not having received an extension of the end date for licence usage, fails to import goods under that licence to the value of 75 percent of that licence within the validity period of the licence providing there are no sound commercial reasons for its non-usage; or
- any person who has submitted a tender under these provisions but who in the opinion of the Secretary of Trade and Industry:

- has failed to fulfil any undertaking given to the Secretary relating to the taking up of any licence under the scheme; or

- has made any false or misleading statement in relation to any tender submitted or any licence granted under tendering.

Tenderers must be conversant with the various statutes and regulations which apply to tendering and to importing, such as safety standards, duties, sales tax, etc.

- Those tenderers whose payment for previous bids are overdue or will be at the opening date of the next Round, will have to attach a bank-cleared cheque for the amount overdue. Failure to do so will invalidate the bids.

TENDERING FORMAT

24. Pink bid forms are available for tendering under ANZCERT. These forms are designed to allow bids to be made through the Bureaufax Service of the GPO where desired.

25. Forms are available from Collectors of Customs and the Department of Trade and Industry. Registered tenderers will receive a copy of the *New Zealand Gazette* containing the Call for Tenders, a supply of bid forms and notes as appropriate. A separate form is required for each tender number.