



Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2003

Statutory Rules 2003 No. 56¹

I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.

Dated 7 April 2003

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

DAVID KEMP
Minister for the Environment and Heritage

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1 Name of Regulations

These Regulations are the *Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2003*.

2 Commencement

These Regulations commence on gazettal.

3 *Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2001 — repeal*

Statutory Rules 2001 No. 339 is repealed.

4 Definition

In these Regulations:

Act means the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.

5 Purpose of these Regulations (Act s 13C)

For section 13C of the Act, these Regulations are a set of Article 11 regulations that provide for and in relation to giving effect to an Article 11 arrangement, being the bilateral arrangement between Australia and the Democratic Republic of East Timor, the text of which is set out in Schedule 1.

Note 1 Section 4C of the Act provides that the Minister may declare that an arrangement entered into by Australia is an Article 11 arrangement under the Basel Convention. On 9 December 2002 the Minister made such a declaration.

Note 2 The Basel Convention is set out in the Schedule to the Act.

6 Contents of these Regulations (Act s 13D)

- (1) Proposals to import hazardous waste from the Democratic Republic of East Timor are within the scope of these Regulations.
- (2) The Minister may grant special import permits authorising the import of hazardous waste from the Democratic Republic of East Timor.

7 Import permit

Sections 12 and 13B, and Divisions 3 and 4 of Part 2, of the Act are taken to apply in relation to a special import permit granted under subregulation 6 (2), or an application for such a permit, as if:

- (a) a reference in those provisions (except section 13B) to a Basel permit or a Basel import permit were a reference to a special import permit to import hazardous waste from the Democratic Republic of East Timor; and
- (b) the following provisions were omitted:
 - (i) subsections 17 (8) and 18B (1);
 - (ii) provisions that apply in relation to an export permit or a transit permit, or an application for an export permit or a transit permit, and do not apply in relation to an import permit.

Schedule 1 Bilateral arrangement between Australia and the Democratic Republic of East Timor

(regulation 5)

Text of Australian Government note 36/2002 of 31 October 2002

The Australian Embassy to the Democratic Republic of East Timor presents its compliments to the Ministry for Foreign Affairs and Cooperation of the Democratic Republic of East Timor and has the honour to refer to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, done at Basel on 22 March 1989 ('the Basel Convention').

The Australian Embassy has the further honour to advise the Ministry for Foreign Affairs and Cooperation that, by virtue of Article 4, paragraph 5 and Article 11 of the Basel Convention, Australia, as a party to the Basel Convention, may only import hazardous wastes or other wastes from a non-party pursuant to an arrangement with that non-Party that does not derogate from the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention.

The Australian Embassy has the honour to propose that, until such time as the Democratic Republic of East Timor may become a Party to the Basel Convention, the importation to Australia of hazardous wastes from the Democratic Republic of East Timor be pursuant to the following arrangements:

1. Transboundary movements of hazardous waste between Australia and the Democratic Republic of East Timor (hereinafter referred to as 'the parties') will be regulated by any relevant national legislation in force in the two states.

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2. The competent authority in Australia is Environment Australia. The relevant national legislation in Australia is the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.
 3. Environment Australia is responsible for receiving the notification of a transboundary movement of hazardous wastes, and any information related to it, and for responding to such a notification, as provided in national legislation. Environment Australia will immediately notify East Timor of any amendment to its legislation.
 4. An export of hazardous waste from the Democratic Republic of East Timor to Australia may not take place until the shipment concerned is granted an import permit issued by the Australian Government.
 5. All arrangements in relation to the import of hazardous waste into Australia must not derogate from the environmentally sound management of hazardous wastes, as required by the Basel Convention.

The Australian Embassy has the further honour to propose that, if the foregoing is acceptable to the government of the Democratic Republic of East Timor, then this note, and the Ministry of Foreign Affairs and Cooperation's note in reply to that effect, will together constitute an arrangement between the Government of Australia and the Government of the Democratic Republic of East Timor concerning the transboundary movement of hazardous wastes that will come into effect on the date of the Ministry of Foreign Affairs' note in reply.

The Australian Embassy avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

**Text of Democratic Republic of East Timor Government note
MNEC/363/2002 of 4 November 2002**

The Ministry of Foreign Affairs and Cooperation presents its compliments to the Australian Embassy and has the honor to refer to the Embassy's Note No. 36 of 2002, which reads as follows:

‘The Australian Embassy to the Democratic Republic of Timor-Leste presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Democratic Republic of Timor-Leste and has the honor to refer to the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal, done at Basel on 22 March 1989 (‘the Basel Convention’).

The Australian Embassy has the further honor to advise the Ministry of Foreign Affairs and Cooperation that, by virtue Article 4, paragraph 5 and Article 11 on the Basel Convention, Australia, as a party to the Basel Convention, may only import hazardous wastes or other wastes from non-party pursuant to an arrangement that non-Party that does not derogate from the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention.

The Australian Embassy has the honor to propose that, until such times as the Democratic Republic of Timor-Leste may become a Party to the Basel Convention, the importation to Australia of hazardous wastes from Democratic Republic of Timor-Leste is pursuant to the following arrangements:

1. Transboundary movements of hazardous waste between Australia and the Democratic Republic of Timor-Leste (hereinafter referred to as ‘the Parties’) will be regulated by any relevant national legislation in force in the two states
2. The competent authority in Australia is Environment Australia. The relevant national legislation in Australia is the *Hazardous Waste (Regulation of Export and Imports) Act 1989*.
3. Australia’s competent authority is responsible for receiving the notification of a transboundary movement of hazardous wastes, and any information related to it, and for responding to such a notification, as provided in national legislation. Australia’s competent authority will immediately notify Timor-Leste of any amendment to its legislation.

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4. An export of hazardous waste from the Democratic Republic of Timor-Leste to Australia may not take place until the shipment concerned is granted an import permit issued by the Australian Government.
 5. All arrangements in relation to the [import] of hazardous waste into Australia must not derogate from the environmentally sound management of hazardous waste, as required by the Basel Convention.

The Australian Embassy has the further honor to propose that, if the foregoing is acceptable to the Government of the Democratic Republic of Timor-Leste, then this note, and the Ministry of Foreign Affairs and Cooperation's note in reply to that effect, will together constitute an arrangement between the Government of Australia and the Government of Democratic Republic of Timor-Leste concerning the Transboundary movement of hazardous wastes that will come into effect on the date of the Ministry of Foreign Affairs' note in reply.

The Australian Embassy avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.'

The Ministry of Foreign Affairs and Cooperation has the honour to advise that the foregoing content of the mentioned note is acceptable to the Government of the Democratic Republic of Timor-Leste, with the request of permission to be present one of our representative during the starting of the movement of Hazardous wastes, from Timor-Leste. The Embassy's note and this reply note will together constitute an arrangement between the Government of the Democratic Republic of Timor-Leste and the Government of Australia concerning the Transboundary, movement of hazardous wastes that will come into effect on the date of this note.

The Ministry of Foreign Affairs and Cooperation of the Democratic Republic of Timor-Leste avails itself of this opportunity to renew to the Australian Embassy the assurances of its highest consideration.

Note

1. Notified in the *Commonwealth of Australia Gazette* on 14 April 2003.