



Australian Government
Attorney-General's Department

Criminal Justice Division

CRIMINAL JUSTICE DIVISION SUBMISSION TO THE PRODUCTIVITY COMMISSION'S STUDY INTO CHEMICALS AND PLASTICS REGULATION

The Criminal Justice Division of the Attorney-General's Department welcomes the opportunity to provide a Submission to the Productivity Commission's Study into Chemicals and Plastics Regulation.

This Submission outlines the Attorney-General's Department involvement in the development of policies, programs and controls on the prevention of precursor chemicals being diverted into illicit drug manufacture.

The submission relates to the following key issues as outlined in the Terms of Reference:

- research into current arrangements for the regulation of chemicals and plastics in Australia
- assessment of the impact of current regulation on the productivity and competitiveness of the chemicals and plastics industry, and
- identification of measures that could be introduced to achieve a streamlined and harmonised system of national chemicals and plastics regulation and any alternatives to regulation.

Precursor chemicals in the legitimate and illegitimate markets

The illegal production of Amphetamine Type Stimulants (ATS) is dependent upon ready access to widely available precursor chemicals with legitimate uses. Controlling the interface between the legitimate market for these chemicals and illicit drug manufacturing is an internationally recognised strategy for reducing the supply of ATS.

Regulation of Precursor Chemicals

The Attorney-General's Department is the primary policy agency responsible for the *National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture* (the National Precursor Strategy).

The Australian Government has committed \$5.4 million over five years to the National Precursor Strategy from 2003-08 and ongoing funding of \$1.1 million from 2009-10 under the National Drug Strategy (NDS).

The Strategy contributes to the supply reduction aspect of the NDS by stopping legitimately available chemicals being used to make illicit synthetic drugs in illegal clandestine drug laboratories. A complete copy of the Strategy is available on request.

The implementation of the National Precursor Strategy is assisted by the *National Working Group on the Prevention of the Diversion of Precursor Chemicals* (the Precursor Working Group), which was established in September 2002. The Precursor Working Group brings together 42 members from law enforcement, health and industry and held its inaugural meeting on 4 December 2002. The Precursor Working Group is focused on the diversion of pseudoephedrine and other precursor chemicals from both legitimate and illegitimate sources, including pharmacies and the chemical

industry. The Precursor Working Group meets quarterly to discuss a range of projects that are currently administered by the Attorney-General's Department.

With the assistance of the Precursor Working Group, the National Precursor Strategy is being delivered against four broad outcomes:

1. enhanced intelligence and information sharing capacity among law enforcement and regulatory agencies
2. enhanced law enforcement, forensic and judicial responses through training
3. national regulatory approaches to control access to chemicals and equipment while recognising the legitimate needs of business and the public, and
4. awareness raising for key stakeholders on the problems and issues surrounding precursor chemical diversion.

The Department administers a variety of individual projects aimed at reducing the availability of key precursors and related equipment under each of these outcomes.

To date, a number of significant achievements have been made in pursuit of the National Strategy's outcomes:

- new regulatory restrictions on the sale of pseudoephedrine-based pharmaceuticals. This has made it more difficult for methamphetamine manufacturers to obtain their key ingredient. This initiative reflected the recognition that the diversion of pseudoephedrine from the community pharmacy sector is the foremost threat posed by ATS production in Australia
- the development and delivery of a number of precursor-related training initiatives. This ensures that front-line workers such as Customs officers and forensic chemists are able to respond to incidents of precursor importation and clandestine laboratory seizures
- awareness raising campaigns to ensure high risk areas of the community, such as the pharmaceutical and chemicals industry being fully aware of the dangers posed by ATS and precursors. The effectiveness of Australia's engagement with industry is evident in the voluntary development of a number of industry standards and codes of practice around precursor trade (further information is provided below on the Plastics and Chemicals Industry Association (PACIA) Code)
- the successful engagement of industry has also resulted in the development of an online database (known as Project STOP) that tracks sales of pseudoephedrine-containing medications, allowing pharmacists to identify potential pseudoephedrine diverters, and
- the establishment of an annual National Chemical Diversion Congress. This conference brings together Australian experts in the field of chemical diversion to discuss ways to better prevent precursor diversion, including improving the capacity of prosecutors to prosecute precursor-related cases.

A number of projects are also currently being developed under the National Strategy. A list of the key current projects is at **Attachment A**. Further information can be provided on request.

Best Practice Standards for Chemical Regulation

The Precursor Working Group endorsed the development of the National Framework for the Control of Precursor Chemicals and Equipment Project. The aim of the Framework is to promote

consistency of precursor chemical regulation entire supply chain through the development of a Best Practice Frameworks and guidelines for precursor chemicals and equipment.

The first stage includes development of an environmental Scan. The role of the environmental scan is to:

- list the precursor chemicals presently regulated in Australia as of October 2007
- document the supply chain of indicative classes of precursor chemicals including, pseudoephedrine, ketamine, and phenyl-acetic acid, and
- document the existing controls on precursor chemicals and establish an understanding of legislative, administrative and other restrictions on precursor trade in Australia.

PACIA Code

The Precursor Working Group has strong industry representation and continues to engage industry in a variety of projects, especially through awareness raising initiatives. An associated example is the development of a Code of Practice for the Supply Diversion into Illicit Drug Manufacture by PACIA.

The objectives of this Code are to establish a common system of practice for Australian scientific suppliers and chemical manufacturers, importers and distributors to:

- protect against the diversion of chemicals and scientific equipment into the illicit production of drugs
- cooperate with government and law enforcement agencies in the controlled delivery of chemicals and scientific equipment destined for use in the illicit production of drugs, where this is expected to lead to the apprehension and conviction of criminals involved in such trade or production, and
- educate and train staff and where practical end users of the precursor drug chemicals as to the issues involved and the procedures to be adopted.

Federal Precursor Offences

In 2005 federal serious drug offences were expanded to include new offences targeting those who trade in precursor chemicals for the purpose of illicit drug manufacture. The precursor offences cover those who sell precursor chemicals believing that another person intends to use the precursor for illicit drug manufacture. They also cover those who manufacture or possess precursor chemicals with the intention of using them to manufacture illicit drugs or selling to another person for that purpose. Precursor offences carry penalties of up to 25 years imprisonment depending on the quantity of precursor involved. They apply throughout Australia and operate alongside any State and Territory precursor offences.

A national working party, established by the Ministerial Council on Drug Strategy, recently produced a comprehensive list of precursor chemicals that are used, or have the potential to be used, in illicit drug manufacture. Updating of the federal precursor offences will be considered by the incoming government after the federal election.

KEY PRECURSOR WORKING GROUP PROJECTS

Enhanced intelligence and information sharing capacity amongst law enforcement and regulatory agencies

The following projects are being progressed against this outcome:

- National Clandestine Laboratory Database
- National Industrial Chemicals Notification and Assessment Scheme (NICNAS) Precursor Chemical Module
- Precursor Chemicals Information Resource

Enhanced law enforcement, forensic and judicial responses through training

The following projects are being progressed against this outcome:

- Clandestine Drug Investigators Training
- Customs Precursor Chemical Training
- Customs Serious Drug Offences Training
- Judicial Online Education Program

National regulatory approaches to control access to chemicals and equipment whilst also recognising the legitimate needs of business and the public

The following projects are contributing to this outcome:

- Pseudoephedrine Rescheduling
- Project STOP
- Evaluation of Existing Controls – Pseudoephedrine
- Evaluation of Existing Controls – Tablet Presses
- National Precursor Control Framework
- Remediation of Clandestine Laboratory Sites

Awareness raising for key stakeholders on the problems and issues surrounding precursor chemical diversion

The following projects are contributing to this outcome:

- Awareness Raising for Pharmacies
- Australian Self Medication Industry (ASMI) Awareness Raising Initiative
- Australian Crime Commission (ACC) / Plastics and Chemicals Industries Association (PACIA) / Science Industry Australia (SIA) awareness raising campaign
- National Chemical Diversion Congress