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Square Kilometre Array ("SKA") Project Indirect Tax RFI Review Australia

November 2011

Glossary of Terms

ATO	Australian Taxation Office
CoO	Certificate of Origin
FTA	Free Trade Agreement
FTC	Fuel Tax Credits
GST	Goods and Services Tax
OECD	Organisation for Economic Co-operation and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
VAT	Value Added Tax
WCO	World Customs Organisation
WTO	World Trade Organisation

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Section 1

What is Indirect Tax?

Section 1

What is Indirect Tax?

Indirect tax is a “consumption tax” that is levied on goods or services rather than individuals and is paid by generally by an ultimate end customer as an addition to the price paid for those goods or services.

Indirect tax is generally designed not to be a financial burden for businesses as (a) although it is imposed on producers / suppliers, its cost is designed to be passed on to an ultimate end customer and (b) businesses can generally recover from tax authorities certain indirect taxes they incur i.e. import VAT / GST while others are irrecoverable e.g. customs and excise duty and paid directly by the producer or supplier.

Indirect tax is generally composed of the following three taxes which are levied at different times in the supply chain process. Most of those listed below are “ad valorem” taxes i.e. applied as a percentage of the cost of a supply i.e. VAT/ GST, customs duty while others such as excise duty are generally a specific tax i.e. a fixed amount per unit.

- a) Customs duties - is an irrecoverable tax levied at the time products are imported. Customs duty is generally an ad valorem tax payable by the importer of record. A number of elements such as the product tariff classification, its origin and economic sensitivity may influence the rate of duty payable. It is a material tax that has a direct impact throughout the lifetime of the project.
- b) VAT / GST – is a domestic consumption tax levied on goods and services. This is generally an ad valorem tax levied at each stage in the chain from raw materials to the final sale based on the price at each stage. It is typically not a cost to a producer or distributor as they can generally recover any tax paid, however ultimately the tax is generally borne by the end customer ; and
- c) Excise duties - is a domestic consumption tax on fuel, tobacco and alcohol products (and other products in some jurisdiction eg luxury car tax) which is generally levied either upon importation or at the time of manufacture of the product. It is a specific tax generally a fixed amount per unit of commodity consumed.

The above listed indirect taxes form part of the costs SKA has to understand either from a cash flow or obsolete cost perspective. These taxes will apply during the construction phase and lifetime operation of the project either directly incurred by SKA or by third parties associated to the project. The impact of these indirect taxes is significantly material and could result in positively or negatively influencing the project. In general some of the mentioned above taxes will become irrecoverable for the SKA organisation while others can be mitigated / reduced / recovered through planning.

Section 1

What is Indirect Tax? (cont.)

The onus of managing indirect taxes has been shifted from the tax authorities to the businesses. Businesses are required to collect, account for and pay for the indirect taxes applied to the products or services, and therefore compliance with relevant local requirements is key in ensuring compliance and the ability to mitigate, reduce or recover any tax paid. Typically, a number of declarative requirements have to be fulfilled e.g. when goods physically cross borders on a transactional basis or monthly or quarterly returns may instead be required for VAT / GST reporting. Examples of triggers are:

- a) Goods move across borders – businesses who are involved in or connected with, international trade involving the import and export of goods should ensure that they are familiar with general export and import processes and associated requirements in the country of export and importation to (1) meet any non tariff trade barrier requirements at export/import (2) fully comply with the declarative obligations and payments of taxes and (3) optimise the tax position where possible.
- b) Supplies or receipt of supplies – businesses who are involved in the movement of goods across borders or the provision or supply of goods or services should ensure that they are familiar with relevant VAT/GST obligations where these activities are undertaken. This typically involves (1) meeting the local registration requirements (2) registration (3) meeting reporting requirements and payment of the relevant tax. Generally, there is an ability to recover GST incurred on goods and services procured for business purposes provided the costs relate to a taxable activity. Typically businesses are required to register for GST when the value of their taxable supplies exceeds a particular threshold in a given jurisdiction; a business enterprise must be carried on by an organisation in order for it to be eligible to register for GST.
- c) Products become liable to excise duty (eg. fuel tax) as they are manufactured or imported. However, the excise duty liability can be suspended whilst they are stored or processed in an approved excise (tax) warehouse. It may be stored there indefinitely until moved. The liability from there is dependent on the market of consumption and the method of movement. Excise duty generally becomes chargeable at the time goods are sold and removed from the supplier premise and sold on to the end user. The supplier will normally account and pay the excise duty to the relevant tax authorities while the cost will be passed on to the end customer. There are a number of excise duty exemption (eg. fuel tax credit) that may be applicable subject to the end use of the product.

Section 2

What does the local landscape look like?

Section 2

What does the local landscape look like?

- Australia's trade policy framework continues to be characterized by an unusually high degree of transparency. This involves rigorous economic analysis undertaken by government institutions and independent advisory bodies (notably the Productivity Commission), from which policy-makers benefit in formulating cost-effective trade and trade-related policies, including continuing regulatory reforms aimed at removing barriers to improved productivity and facilitating rather than impeding) the reallocation of domestic resources (WTO Secretariat report - WT/TPR/S/244).
- Australia introduced GST on July 1, 2000, replacing a former local sales taxes. GST is an indirect, broad-based consumption tax. It is essentially a value added tax similar in design to those operating in virtually all OECD countries. Despite its name, the tax is not limited to goods and services as such, but applies to the supply of most goods, services and anything else, including real estate and the creation of rights.
- Rates of customs duty have fallen steadily in Australia with most imported goods attracting a rate of between zero percent and five percent. The exception to this is goods such as alcohol, tobacco products, motor vehicles, textiles, clothing and footwear which have significantly higher rates of customs duty. Concessions may be available for certain goods used in selected industries. In general, if a concession is granted, the goods will be free from customs duty. Concessions are not automatic and application for concessional duty treatment must be made prior to the arrival of goods in Australia.
- It has been a WTO member since 1 January 1995 which means for example there is alignment and consistency in relation to certain customs global standard principles e.g. customs valuation. Generally, the customs value is determined by reference to the price of the goods at the place of export , with prescribed addition such as certain royalties and license fees. The legislation also provides for the exclusion of certain costs such as post-importation charges. Other method of valuing goods exist depending on a number of factors including, where the sale of goods takes place relevant to the importation of goods and whether the relationship between the parties has affected the price of the goods.
- Excise duty is levied on a number of commodities manufactured or produced in Australia. Broadly this includes fuel and tobacco products and certain alcoholic beverages. The rates of excise duty vary between products. With the exception of petroleum and other types of fuel, the rates may be increased each year in line with movements in the Consumer Price Index. On July,1, 2006, changes were introduced by the Australian Government to simplify and expand concessions for businesses using fuel in the course of their business. By July,1, 2012, all business use of taxable fuel is intended to be eligible for a fuel tax credit. From July,1, 2008, all off-road business use of fuel became eligible for a 50 percent fuel tax credit.
- Australia has a tiered strict liability penalty system for any incorrect declarations made to customs. This penalty system includes errors where there has been no effect on the customs revenue. Penalties for short payment can be as high as 100 percent of the duty short-paid.
- The most commons forms of business taxpayers in Australia are companies, partnerships and trusts. Companies are treated as taxable entities. A company is defined in the Australian income tax legislation to include any body or association (other than a partnership) whether incorporated or unincorporated.

Section 3

Quality of responses

Section 3

Quality of responses

Key Areas	
Foreword	<ul style="list-style-type: none"> ■ The lack of current detail in respect of the envisaged legal structure and supply chains may have had an effect on the quality of responses from the Candidate in respect of providing sufficient certainty in the responses.
Summary	<ul style="list-style-type: none"> ■ The Candidate report is well structure with a number of sections and sub-sections relevant to the indirect tax considerations of the SKA project which answer the RFI brief in general i.e. brief and succinct responses. ■ The Candidate report lacks practicality and although covers a number of specific indirect tax issues / opportunities which are pertinent to the SKA project, there is little or no contextual references (i.e. the impact to the SKA project) and typically it does not provide certainty in respect of key aspects of indirect tax. ■ As a direct result of this, there is still uncertainty as to the impact of the indirect tax regime and the tax treatment to be afforded to the SKA project which requires further dialogue, clarification and consideration without which there could be significant material risk and exposure for the SKA project.
Key Comments	<ul style="list-style-type: none"> ■ The Candidate report acknowledges that SKA's status for GST and other taxes is dependent on its legal status in Australia but does not expand on the GST implications of different legal options, which could if not fully considered lead to a material exposure e.g. GST becoming a sticking tax for the SKA project. ■ Given the multi-jurisdictional nature of the Candidate response full consideration of the potential impact of this on the SKA project has not been fully considered. ■ Consideration is limited in terms of the practices, processes and procedures that must be put in place to ensure compliance and secure an optimum tax position which may hinder the set-up and could impact the SKA project during its life time. ■ The Candidate does not make reference from either a practical experience perspective or from a researched perspective i.e. with government agencies etc the indirect tax treatment of similar projects. This would provide an insight into what hurdles and what may be achievable.
Omissions	<ul style="list-style-type: none"> ■ The Candidate report focus has been limited to the initial phase of the project and not from an on-going perspective. ■ The potential impact of the commercial registration issues have not fully considered, in particular the potential impact. ■ Alternative customs reliefs have not been considered. ■ The Excise duty position has not been fully considered.

Section 3

Quality of response – Comments (cont.)


Key Areas	
Risks & Impact Identification	<ul style="list-style-type: none">■ There is a substantial material risk that the SKA project may not be able to recover GST unless further consideration and understanding is provided.■ The position in terms of the SKA projects exposure to customs duty needs further clarification, consideration and quantification.■ Further clarification in respect of the potential impact of Excise duty, such as fuel tax, is required.■ The Candidate report focuses on Australian indirect tax issues and does not provide sufficient clarification of the potential impact of a multi-jurisdictional indirect tax environment.
Practicality	<ul style="list-style-type: none">■ Candidate report lacks practical input and consideration, is typically generic in its responses and does not provide any certainty in respect of the indirect tax treatment in the different phases of the SKA project.

Section 4

General high level comments

Section 4

General high level comments – GST overview


Priority	Risk / Opportunity	Impact	Recommendations
1	GST overview		
<p> High</p>	<p>The Candidate report states that import GST will be “<i>generally reclaimable</i>” as credit for “<i>business expenses</i>”.</p> <p>GST (both import, and GST charged on domestic purchases) is recoverable only to the extent that:</p> <ul style="list-style-type: none"> ■ The business is GST registered; ■ It holds the required evidence to support the claim; and ■ The goods/services are to be used by the business in making taxable supplies. <p>Taxable supplies are defined as “<i>supplies made in the course or furtherance of an enterprise carried on by the business</i>”.</p> <p>The Candidate report does note that an entity must first be GST registered before being in a position to recover GST but does not provide detail as to what circumstances the SKA project would be required to be registered.</p> <p>The underlying inference is that SKA entity will be carrying on an enterprise within the scope of Australian GST, and that the enterprise would constitute taxable activities to provide a direct and immediate link for the GST to be recoverable.</p>	<p>Should the SKA entity not be considered to be carrying on an enterprise within the scope of Australian GST, import GST at 10% will then represent an absolute cost to the project for any direct imports undertaken by SKA. This cost would be borne at the outset and for the on-going life of the project in respect of an ongoing operation cost.</p> <p>Furthermore, GST incurred on domestic purchases would also represent an absolute cost (at 10%) if SKA is not eligible to register for GST.</p>	

The detailed findings and recommendations set out in this section have been prioritised in the form of a strategic plan as follows:

- High priority for Candidate to address.
- Medium priority for Candidate to address.
- Lower priority for Candidate to address.


Section 4

General high level comments – GST overview (cont.)

Priority	Risk / Opportunity	Impact	Recommendations
1	GST overview (cont.)		
 High	<p>The Candidate does note that SKA’s taxation status will depend on its legal constitution in Australia. The Candidate has outlined the legal status options but not having had sight of that section of the report, we cannot comment as to whether the candidate has considered the GST implications (if any) of these options.</p> <p>Candidate response briefly outlines the fact that imports into New Zealand are subject to import GST at 15% and GST at 15% is levied on taxable supplies. The Candidate response does not put this into context of the SKA in terms of whether any GST incurred in New Zealand is recoverable.</p> <p>Candidate response does not detail whether SKA will need to be registered for GST in New Zealand, and what conditions need to be satisfied in order to recover import GST. Nor does it consider the long term implications or potential GST impact in relation to ongoing operational costs in New Zealand.</p>	<p>Should SKA be unable to recover New Zealand GST (import and domestic), the GST will represent a cost of 15%.</p>	<p>Confirmation should be obtained from the Candidate as to the eligibility criteria in both jurisdictions in relation to the SKA project and eligibility against any criteria, and how its operations may have to be structured to maximise GST recovery or mitigate the potential GST cost.</p>


Section 4

General high level comments – GST overview (cont.)

Priority	Risk / Opportunity	Impact	Recommendations
1	GST overview (cont.)		
<p> High</p>	<p>Candidate response acknowledges that the GST treatment of funding from partner governments is complex and will depend on the legal status of SKA. However, the response then states the funding will likely not trigger a GST liability on the basis that SKA would be treated as making non-taxable exports. This is not supported by any legal references to the GST Act. Candidate response does not explore the potential impact in relation to GST registration and GST recovery of the funding being treated as outside the scope or exempt from GST.</p> <p>Candidate response states that the Australian government is willing to work with the SKA project to address taxation status issues within the existing legislative and policy framework. Some examples are given but the GST implications are not explored.</p> <p>More generally, the candidate response only considers the initial phase of the project, specifically referring to imports. There is no reference to potential GST implications of the ongoing operational costs of the project, as per the RFI.</p>	<p>If the funding is treated as outside the scope of GST (for example as non-business income) or exempt from GST then any GST incurred on imports or domestic purchases could be restricted, representing an absolute cost to the project.</p> <p>Impact could be financial, however, as the future stages of the project have not been covered, it is difficult to identify.</p>	<p>The Candidate should provide an analysis of the GST treatment, in both jurisdictions, of funding by government partners under different scenarios.</p> <p>Consideration should be obtained from Candidate of the optimal legal/funding structure in order to mitigate GST costs.</p> <p>Further, the GST implications of the ongoing project costs including eventual decommissioning should be provided.</p>


Section 4

General high level comments – GST general administration

Priority	Risk / Opportunity	Impact	Recommendations
2	GST general administration		
 Low	<p>Candidate response contains no information regarding:</p> <ul style="list-style-type: none"> ■ Frequency of returns; ■ Payment requirements; ■ Fiscal representatives for overseas entities; ■ Additional reporting requirements; ■ Reputational implications for non-compliance; ■ Penalties for non-compliance; and ■ The cost associated with maintaining a good level of compliance with the ATO. Furthermore there is no indication of ATO approach/attitude to compliance <p>The Candidate response refers to the ATO operating a Deferred GST Scheme (through the Australian Customs and Border Protection Service). A brief explanation of the purpose of the scheme is given but gives no regard to eligibility, ease of operation and impact of non-compliance with the scheme.</p>	<p>Materiality is likely to only relate to on-going administration costs. However, consideration should be given to understanding the compliance requirements and the development of suitable processes to mitigate against penalties, managing the relationship with the relevant governmental agencies and understanding the ongoing costs involved in doing so.</p> <p>The impact in respect of the SKA project being unable to operate a GST deferment scheme or something similar in any other jurisdiction would be purely cash flow.</p>	<p>Seek determination by the Candidate of exact requirements and set-up and on-going cost of compliance.</p> <p>Analysis of conditions of any schemes (e.g. available to non-Australian entities, requirement to give security) and consideration of any alternative schemes.</p>


Section 4

General high level comments – Import process

Priority	Risk / Opportunity	Impact	Recommendations
3	Import process		
 Low	<p>Candidate report makes reference to “<i>highly efficient</i>” customs systems and processes which suggest that there is prompt movements of goods in and out of the Candidate site countries. However, the report does not provide a general understanding and practical details of the required processes and impact.</p> <p>Additionally, the report does not highlight the key national requirements the SKA project would have to consider in terms of registration / reporting requirements that could hinder / benefit the project.</p> <p>Finally, although the report mentions that customs documentation requirements “<i>have remained minimal and computerised customs clearance has facilitated virtually all imports and exports</i>”, it lacks practical insight with regards to options available to the SKA project e.g. use of a third party, local customs clearance opportunity.</p>	<p>No/minimal material impact.</p> <p>Issue is one of processes and procedures.</p> <p>The fact that the SKA project is likely to set up a non commercial organisation may have an influence on the way the supply chain is set up and on how customs import declarative requirements are managed; points which have not been considered.</p>	<p>Seek clarification from the Candidate with regards to the national import process and associated requirements.</p> <p>This clarification should include details of :</p> <ol style="list-style-type: none"> 1) The local declarative obligations; 2) The local registration process along with any local advantage / simplification that may be available; 3) Clarification on whether its non commercial status will have an impact on the registration / authorisation process; and 4) Typical likely costs.


Section 4

General high level comments – Customs duty

Priority	Risk / Opportunity	Impact	Recommendations
4a	Customs duty		
 High	<p><i>Customs duty – Tariff classification</i></p> <p>The Candidate report summary stipulates that “goods imported by the SKA into Australia are highly likely to be exempt from tariffs”.</p> <p>In addition to the above, the Candidate provides additional details with regards to the intended taxation and duty status to be afforded to the SKA project should products be the subject to a positive customs duty rate upon importation.</p> <p>In the case of Australia, overall more than 96 percent of the Australian Tariff lines are applied the “most favoured nation” rate of 5 percent or less while 46 percent of the tariff lines are duty free e.g. switching, routing and data processing apparatus.</p> <p>It is however reasonable to envisage that some goods will be the subject to a positive customs duty rate up to 5 percent of their value, if the status of the project does not confirm some form of duty concession.</p> <p>The Candidate report does not clearly specify on whether the non imposition of customs duty would be subject to the SKA project obtaining a concession or based on the product tariff classification.</p>	<p>Customs duty is an <u>irrecoverable tax</u> levied at the time goods are imported into Australia or New Zealand.</p> <p>Until such times as any goods, their origin, value, or classification are known it is difficult at this time to understand the potential impact customs duty may have on the SKA project.</p> <p>Tariff classification is the first source for customs duty mitigation as the duty applicable to the product relates to its tariff classification.</p> <p>The financial impact could be significant as customs duty, for example in Australia, represents an absolute cost in this case between 1 to 5 percent of the value of goods imported. The average tariff rate of 2.9 percent has been sighted by the Candidate. This would represent for example, for the SKA project, if it were to import the goods directly itself, for example, an irrecoverable cost of AUD 290k for each import of a AUD 10m in value.</p> <p>It is therefore potentially a material tax that has a direct impact throughout the lifetime of the project on any goods being imported whether directly by SKA or indeed a third party associated to the project as these costs are likely to be passed directly on in the cost of any goods i.e. hidden duty not directly incurred by SKA.</p>	<p>Obtain clarification from the Candidate on whether discussions at a Governmental level have been undertaken, in relevant jurisdictions, in order to exempt from customs duties any goods (finished, component or raw material) to be imported in relation to the SKA project.</p>


Section 4

General high level comments – Customs duty (cont.)

Priority	Risk / Opportunity	Impact	Recommendations
4b	Customs duty (cont.)		
 High	<p><i>Customs duty – Customs duty relief</i></p> <p>Candidate report also states that “<i>the Australian’s customs tariff system offers a number of general concessions, several of which would likely apply to the SKA</i>”.</p> <p>The report does mention the fact that a number of elements such as legal structure and factual matters will have to be accounted for in order to determine on whether goods imported by the SKA would be duty free on the basis of local concession e.g. scientific instruments and apparatus to which certain UNESCO agreements apply.</p> <p>Although issues have been flagged by the Candidate site, the report does not provides practical insight on whether a specific legal structure would compromise the benefit of such concession.</p> <p>In addition to the above, the Candidate site does not advise on whether the available tariff concession could be extended to parts, components or raw materials to be used in the local manufacture of a scientific apparatus for example.</p> <p>Finally, the Candidate report does not make reference to any alternative customs relief and / or procedure with economic impact that may be relevant to the SKA project eg. customs warehouse, end use relief etc.</p>	<p>There is a high chance that a number of products to be imported will not benefit from this tariff exemption and will therefore potentially create a material cost.</p> <p>The multi-jurisdictional nature of the SKA project needs to considered in this respect.</p> <p>The Candidate has a number of other taxes and customs duty concessions that may come into consideration dependent on the tax status of the entity.</p> <p>By ignoring any alternative customs relief with economic impact from the response, that may be applicable to the project, could financially hinder the SKA project.</p>	<p>Obtain further clarification from the Candidate for the potential for the SKA project to hold some alternative form of duty concession such that customs duty will not crystallise. The potential criteria for this concession, its scope and applicability to the SKA project and its potential suppliers needs to be clarified.</p> <p>Obtain clarification from Candidate Site on whether the SKA project could benefit, in all jurisdictions, from customs duty relief by way of major project concessions.</p> <p>Obtain clarification on the ability of any concessions to the project to other entities involved in the SKA project e.g. third party suppliers.</p> <p>Seek clarification from the Candidate with respect to alternative customs procedures (along with requirements), in addition to the above, that could be used to mitigate any duty liability if goods do not qualify for a concession or as scientific apparatus, e.g. customs warehouse, temporary admission.</p>


Section 4

General high level comments – Customs duty (cont.)

Priority	Risk / Opportunity	Impact	Recommendations
4c	Customs duty (cont.)		
 High	<p><i>Customs duty – Free trade agreement</i></p> <p>The Candidate's jurisdictions have signed a number of Free Trade Agreements ("FTA") which are available between the jurisdictions and various countries e.g. US and Singapore. The Candidate jurisdictions have entered into FTA negotiations process with a number of other countries such as China, Japan and Korea.</p> <p>FTAs could be bilateral or multilateral trade agreements signed by two or more countries which agree to eliminate tariffs, import quotas, and preferences on most (if not all) goods traded between them.</p> <p>The origin of goods is important as the FTA would only apply to goods originating from and to signatories parties of the FTA. Specific rules with regards to a specific percentage of value added on a product or place of last substantial transformation would need to be determine at product level.</p> <p>The FTAs, subject to a number of conditions that need to be fulfilled, could be directly applicable to the goods imported to the Candidate jurisdictions which could subsequently be utilised during the projects lifetime.</p>	<p>Making use of a FTA could significantly reduce the imposition of customs duty at the time goods are imported resulting in an absolute benefit to the SKA project throughout the project lifetime.</p> <p>FTAs for a project of this size would generally be a secondary source of concession after applying for major project status for primary components.</p> <p>This could potentially have a beneficial material impact, if other duty concessions or reliefs are not available, applicable or optimal.</p>	<p>Analysis by the Candidate of the potential scope of duty mitigation that this may provide.</p> <p>Determination by Candidate jurisdiction of documentary evidence requirements under the FTAs and the process for obtaining any FTA relief.</p> <p>Seek clarification from Candidate on discussion progress with regards to the new FTAs under discussion and on the potential date of provisional entry in force of the new FTAs and the likely scope of applicability.</p>


Section 4

General high level comments – Excise duty

Priority	Risk / Opportunity	Impact	Recommendations
5	Excise duty		
 High	<p>It appears that the Candidate has envisaged that Excise duty (e.g. fuel tax) would only be applicable at import and therefore the Candidate states that its is unlikely that the SKA project would require import of excisable products. It apparently fails to appreciate the excise duty payable domestically on certain commodities.</p> <p>Although the above mentioned statement may be valid i.e. for import purpose only, the report has not envisaged the potential excise duty impact on the project lifetime in light of the fact that a number of vehicles / generators etc will be used for the construction and maintenance phases of the project either directly or indirectly.</p> <p>The Candidate report does not provide an indication of the local fuel tax / electricity tax costs associated with the consumption of fuel commodities.</p> <p>Therefore, the Candidate report lacks details of the potential savings achievable in the arena and /or any registration, reporting requirements etc.</p>	<p>Excise duty represents an absolute cost to the SKA project and should therefore be examined as an issue both directly and indirectly.</p> <p>Excise duty such as fuel tax will be levied on fuel used to propel the vehicles during the lifetime of the project and for other purposes. It is a specific tax generally levied per litres of fuel used.</p> <p>Excise duty is therefore a significant potential on-going costs that will apply over the projects lifetime.</p> <p>Excise duty will be incurred for all fuel acquisitions – generally a major cost in a construction phase. Fuel Tax Credit (FTC) entitlements depend on registration, the entity that has acquired the fuel and the use to which it is put.</p>	<p>Examine with the Candidate to obtain clarification of the Excise duty domestically and any opportunities to mitigate in this respect along with any relevant conditions.</p> <p>Specifically, fuel tax rebates available e.g. off road vehicles, fuel used to generate electricity along with a detailed description of the conditions e.g. legal structure required, declarative requirements.</p> <p>Obtain clarification from Candidate site of availability of FTCs.</p> <p>Seek confirmation from Candidate site of contractual and structural requirements to ensure FTCs entitlements are passed through.</p>

Section 4

General high level comments – Import restrictions /export restrictions

Priority	Risk / Opportunity	Impact	Recommendations
6	Import restrictions /export restrictions		
<p> Medium</p>	<p>Candidate report states that there are no import / export restrictions expected to impact the SKA project.</p> <p>Import restrictions are generally imposed on a limited number of prohibited and restricted goods such as certain chemicals, weapons and radioactive substances for example.</p> <p>Generally, countries worldwide impose export restrictions for more advanced electronic integrated circuits and products with encryption technology. Some of these products may be controlled and the subject of export licence requirements when the goods leave the local country e.g. The US. The more advanced the product is the higher the risk is that it may be controlled by the originating country.</p> <p>To the extent that the SKA project may need to import or export restricted goods, the Candidate advises that it is generally possible for the restrictions to be lifted with the approval of the relevant government agency. There are insufficient details in the report on example of products that are restricted neither does the report provides for a high level overview of the process to be undertaken.</p>	<p>Goods will typically not receive Customs clearance unless the relevant permit is obtained and presented, therefore it could potentially restrict the flow of certain technology out of or into a relevant jurisdictions.</p> <p>Typically, this is likely to be more of a procedural impact, requiring assessment and implementation of relevant policies, statements and procedures to be implemented.</p> <p>Contravention of relevant export / import controls could give rise to substantial fines and penalties.</p>	<p>Identify with the Candidate what determination has been undertaken to suggest that no restrictions apply.</p> <p>Examine what consideration has been given to origin export control requirements in the statement made e.g. US export control laws.</p> <p>Determination by Candidate Site of exact requirements for the approval to be obtained, the process required, costs and timescales.</p> <p>Whether any consideration has been given to intangibles and the potential restrictions on information, data etc being transferred into and out of the jurisdictions.</p>



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