



1. Meeting Agenda

Meeting Number: 02/08
Meeting Name: Trade Facilitation Forum
Date: Wednesday 25 June 2008
Time: 11.00am
Location: Customs House
10 Cooks River Drive
Sydney International Airport

2. Invitees/Attendees

Y-in attendance; A-apology

Customs

Y Wayne Burcher (A/g Regional Director NSW)
Y Catherine Asbridge (National Manager Cargo Operations North)
A Doug Greaves (Director Compliance NSW)
A Jim Fleming (Director Risk and Strategy NSW)
A Pam Radin (Director Air Cargo Operations)
A John Barber (Director Sea Cargo Operations)
Y Theresa Wilson (Director Customs Information & Support Centre)
Y Brian Sheridan (Manager Trade)
Y Stan Pragnell (Manager Exports and National Industry Leads)
Y Kerry Coleman (Manager Import Audit 1)
Y Kim Simmat (Supervisor National Industry Leads – Service Providers)
Y Debbie Buck (Supervisor Revenue Assessments)

AFIF

Y Brian Lovell (CEO AFIF)
A Paul Angel
A Stuart McFarlane

CBCFCA

Y John Law (President CBFCA NSW Branch)
Y Michael Hudson
Y Andrew Crawford
Y Paul Zalai
Y Tony Fatouros

CAPEC

A Stephen Ly
A Robert Battistel

3. Agenda

Item No.	Subject	Presenter
1.	Welcome and Apologies	
2.	Minutes from the previous meeting	
3.	Matters arising from the previous meeting	
4.	Compliance Division Update	Customs
6.	NSW Trade Branch Update	Customs
7.	Regional ICS issues	Customs
8.	General Business	
9.	Next Meeting	

4. Minutes

Meeting commenced: 11.05am

ITEM 1 Welcome and Apologies

Wayne Burcher formally welcomed everyone to the meeting. He passed on apologies from Doug Greaves, Jim Fleming, Stuart McFarlane, Paul Angel and Robert Battistel.

ITEM 2 Minutes from the previous meeting

The Minutes from the previous meeting, held on 26 March 2008, were accepted without change.

ITEM 3 Matters arising from the previous meeting

There were no matters arising from the previous meeting.

ITEM 4 Compliance Division Update

Stan Pragnell opened his report by informing the forum of a number of leadership changes within the Compliance Division. Stan advised that after eight years in Compliance, Sharon Nyakuengama, the National Manager Compliance, was moving into a new role as the National Manager, Research and Development. She is to be replaced by Craig Somerville who has worked in NSW and has had considerable Compliance experience.

Stan also reported that Peter White, National Director Compliance, would be overseas for quite some time working on a high level review for an international organisation, and added that his position will be filled temporarily during his absence by Sharon Nyakuenga. He went on to explain how the roles of the two NSW Directors have been realigned and pointed out how each had previously been involved in both national and regional work. Under the new arrangements, Jim Fleming's new title will be Director Risk and Strategy, and he will be responsible for national issues including risk assessment, strategic planning and staff development. As the Director Compliance Assurance NSW, Doug Greaves' position will be regionally focussed and therefore be responsible for all operational activity carried out by Compliance in this region.

Stan informed the forum that revised targets for the Compliance Division have been published in the Attorney-General's 2008-2009 Portfolio Budget Statement (PBS). He noted that a new performance measure had been included which requires the Compliance Division to undertake compliance verification visits to at least 60% of all licensed warehouses in the course of a year. He said that this determination will affect both general and private warehouses that store under bond goods such as alcohol, tobacco, motor vehicles and textiles, clothing and footwear (TCF). Stan added that there was going to be a change in audit focus, and consequently this will see a reduction in the number of audits. This change in focus will allow Compliance to expand its work into a number of other areas such as:

- Increased number of depot and warehouse visits;
- More real time intervention (through cargo profiles);
- Increase the number of 'record keeping reviews' (of depots, warehouses, owners and brokers); and,
- More awareness and education campaigns.

After some discussion about the nature of bond visits, Tony Fatouros queried the move to increased real time activities and asked if this would mean an increase in the number of import declarations going redline. Stan said that an increase in real time intervention would not necessarily mean an increase in redline activity, however, more resources would be allocated to evaluate redline holds.

Andrew Crawford asked if Customs has produced any written guidelines for conducting warehouse checks. Stan said that he was not aware of any but would make enquiries about their availability and report back at the next meeting.

Action: *Stan Pragnell to investigate availability and need for warehouse checking guidelines and report back on availability of these guidelines at the next meeting.*

Andrew Crawford raised a question about how best to identify the nature of a redline hold and source a contact in a relevant redline area rather than going through the Customs Information and Support Centre (CI&SC). Tony Fatouros confirmed that it was much better to be able to talk directly to a Redline area, rather than going through the call centre. Both acknowledged that this did not include Border holds. After some discussion on the pros and cons of the CI&SC being the first point of contact for Redline queries, it was agreed that Stan and Theresa Wilson would take this matter on notice and determine if there was any way to improve the level of access between brokers and specific non-Border redline areas.

Action: *Stan Pragnell and Theresa Wilson to review current process and report on whether improvements are feasible.*

Stan went on to report that during 2007-08, the Compliance Division's new strategic planning processes have worked exceptionally well. He said that the National Industry Leads (NILs) have developed an excellent understanding of their industry sectors and have been able to identify key risks and operational targets that should be pursued. He also noted that the new Risk and Strategy Section has taken the work done by the NILs and integrated it into a new national Risk Management Plan for 2008-09. The document will detail the work which will be carried out by the Compliance Division in the coming

year. Stan advised that the Risk Management Plan will be considered by the Compliance Executive Group shortly. He added that although this document will not be circulated outside Customs, elements of it will appear in other documents which will be circulated including the Cargo Compliance Program 2009-10.

Stan then delivered a presentation covering some of the key “Recently Identified Areas of Non-Compliance”.

Delivery of Underbond Goods to Licensed Premises

Stan informed the forum about an incident where a major importer of high duty goods had been arranging for imported containers to be stored temporarily in unlicensed premises, while waiting for space to become available in its private warehouse. He noted that this had been done without Customs knowledge or consent. The importer encountered a serious dilemma when two of the containers were stolen from those premises and the importer then had to pay over \$250,000 in revenue on the stolen goods.

Brian Lovell asked if the relevant parties were aware that the premises were unlicensed and Stan said that he believed they were aware of this. Stan also revealed that there have been other cases where similar ‘short cuts’ had been taken in the delivery chain for underbond goods. He summed up by saying that the integrity of the supply chain will be scrutinised as part of the warehouse visitation program being implemented.

Deliberate Misclassification of Medicines

Stan advised that in a current case, a broker acting for an importer of medicinal chemicals was found to have deliberately misclassified a consignment of goods, in order to avoid delays that would have occurred while waiting for red-line processing. Stan explained that while a permit often exists for these shipments there was a failure to report this to Customs.

Stan noted that when the broker was challenged over this event, the broker allegedly indicated that a change in practice was ‘highly unlikely’. Stan emphasised that if certain goods don’t have the relevant permits, they become prohibited imports and the importation of such goods becomes a criminal offence. Stan said that Customs would pursue this matter until a change in practice was realised.

Brokers Acting on Inadequate Information from Freight Forwarders

Stan raised an issue concerning brokers who take their instructions from freight forwarders, rather than directly from the importer. He stated that this approach can increase the risk of significant errors occurring. Stan described how in a recent case, it was found that a broker had claimed a tariff concession on advice from a freight forwarder, without the knowledge or approval of the importer concerned. The concession claim was found to be incorrect, leaving the importer exposed to revenue claims and possible penalties.

Luxury Car Tax Rates

The risk of non-compliance involving the evasion of luxury car tax (LCT) through the undervaluation or wrongful description of imported cars continues to be an issue for Compliance, Stan said. He reported that in February, motor vehicle profiling identified five instances of non-declaration involving \$414,412 in LCT. In March, \$76,728 in unpaid LCT was detected through the profiling of certain non-declared and undervalued motor vehicles. Stan noted that the imminent rise in the LCT rate from 25% to 33% is likely to increase the appeal of this kind of fraud. Tony Fatouros asked if the threshold for LCT is going up, and this was confirmed.

Stan encouraged members of the cargo industry to take considerable care in relation to motor vehicle importations in the coming months, as LCT evasion will receive close attention during the Compliance Division's 2008-09 work program. He added that where appropriate, this will include the detention and physical examination of imported vehicles.

Cars and Other Goods Manufactured in the USA and Thailand

Stan advised that Compliance that encountered a number of instances where goods did not comply with the preference rules for the US and Thai free trade agreements (FTA). He said that in a number of automobile audits, the necessary supporting FTA documentation was found to be inadequate. In one such audit, car parts were declared under the Australia and United States Free Trade Agreement (AUSFTA) based on invoices originating in the USA, but these invoices did not show the actual place of manufacture or the supply of materials/ sub-components. Stan reported that similar issues have been found in relation to commercial vehicles and heavy machinery. Increasingly, motor vehicle manufacturers are building cars outside their brands home country. Stan quoted an example where some passenger cars being exported from the USA were found to have been manufactured in Mexico.

There was some general discussion about FTAs and at what point an importer needs to be satisfied that their goods meet the terms of an FTA. It was acknowledged that the Thai Australia Free Trade Agreement (TAFTA) was a little easier than the US in that certificates had to be supplied from the Thai Chamber of Commerce.

Incorrect GST Exemption Claims

Stan notified the forum that Customs is detecting ongoing problems in relation to GST payments. The most common areas include food stuffs, medical products and appliances, and returned Australian goods. Stan pointed out that unlike some other forms of non-compliance, it is relatively common to detect overpayments of GST i.e. payment of GST on exempt goods. He provided an example where a recent review of GST related activity in Victoria found GST underpayments to the value of \$569,778 and overpayments of GST totalling \$230,177 (for the financial year up to May 2008).

Stan acknowledged that the identification of GST exempt goods can be difficult as the product explanations and rulings can be extensive. He emphasised that brokers need to take care and if any doubt exists in respect to a GST treatment, they should contact the Australian Taxation Office (ATO) for guidance or a particular ruling. Andrew Crawford asked if Customs were aware of a specific contact within the ATO for GST exemption

enquiries. Stan advised that he did not know of one off hand but would find out and report back at the next meeting.

Action: Stan Pragnell to identify direct ATO contact for GST exemption enquiries and provide details at the next meeting.

Goods Originating from the European Economic Community (EEC)

Stan reported that a recent check for the period 1 January to 20 June 2008 revealed 320 import declaration lines with an origin of 'EC'. Of these, 131 were found not to have been loaded in Ecuador and were being reported as coming from the EEC. Stan reminded forum members that there is no country code for the EEC and that goods from Europe should use the specific country of origin code. He noted that on three occasions, goods not loaded in Ecuador had surprisingly also claimed Ecuador preference.

Indirect Tax Administrative Penalties

Stan offered a brief explanation of the nature of Indirect Tax Administrative Penalties (ITAPs). He pointed out that ITAPs apply to any false declaration resulting in a GST shortfall lodged after 1 April 2004. He emphasised that an ITAP may apply regardless of whether it is the first offence and regardless of whether or not the importer is registered to defer GST.

Stan said that ITAPs are payable by the importer and that a 'please explain' letter may be issued to the importer before any recommendation for a penalty is put forward to the relevant delegate. He added that an ITAP can be a warning letter or a penalty amount assessed by a process endorsed by the ATO, depending on the circumstances and the importer's compliance history.

Other Issues

Infringement Notice Scheme

Stan reported the following statistics for various actions taken under the Infringement Notice Scheme (INS). He pointed out that the figures are for the three months since the last TFF meeting.

Action	National	NSW	NSW % Share
Infringement Notices served	11	4	36%
Delegate Warning Letters sent	15	9	60%
Non Delegate Warning Letters sent	55	3	5.5%

Stan explained that the 16 actions in NSW can be broken down by offence in this way:

Offence	IN Served	DWL	NDWL
33(6) – Permit or direct to move, alter or interfere with goods	-	-	1
113(1) – Failure to enter for export or export with ATD	-	-	1
243T(1) – False or misleading statement loss of duty	3	2	-
243U(1) – False or misleading statement – not loss of duty	-	7	1
243V(1) – False or misleading statement – cargo/ outturn report	1	-	-

At the last meeting Doug Greaves advised the forum that Jim Fleming would be taking over the INS delegate role from Gail Batman. Stan further advised that Jim has now also taken over the Delegation of the Commissioner (Tax) for all NSW Indirect Tax Administrative Penalties.

Cargo Reporting

Stan distributed a number of cargo reporting graphs and emphasised that the timely and accurate reporting of cargo is vital to ensure that Customs is able to undertake adequate risk analysis. He reminded the forum that late cargo reporting undermines the effectiveness of Custom’s profiling and targeting systems, and can lead to further, and often unnecessary delays. Stan explained how the graphs illustrate the recent trends in the timeliness of cargo reporting, for both air and sea cargo. He said that overall, the national trends are promising, however there were still large numbers of cargo reports being reported late. He sighted an example in April where some 93% of the air cargo reports were reported on time. Stan noted that despite these figures, 32,979 reports came in after first port arrival. He noted a similar trend with the sea cargo figures for April, with some 87% of sea cargo reports being reported on time, but 10,399 came in after the vessels arrival.

It was acknowledged that although there had been improvements, NSW was not doing too well in terms of sea cargo reporting. Brian Lovell asked if it was possible for more detail to be provided about the specific nature of the problems being encountered in sea cargo reporting. Stan said that he would do some further analysis and provide more details at the next meeting.

Action: *Stan Pragnell to provide further details on the reasons for NSW level of non-compliance in sea cargo reporting by the next meeting.*

Paul Zalai said that the CBFCA has had a number of meetings with CO on cargo reporting and import declaration issues. Paul stated that whilst the new Impending Arrival Report (IAR) reference file was a positive step, it needs to be made available in a user friendly format and through third party software applications in order to be a useful compliance management tool for industry. This functionality also needs to be supported by an education program to make forwarders aware of the functionality.

Paul also highlighted that identifying the import vessel into Australia can be difficult in circumstances when cargo has been transhipped through an intermediary port and changed vessel from origin. Due to the fact that the ICS will not permit amendments to vessel details, forwarders will wait for the import vessel information to avoid the need to cancel and re-report their cargo report. Ideally, functionality would exist in a manner similar to ICS air cargo that uses the Master Air Waybill as the matching field. The CBFCA has asked Customs to examine the feasibility of similar functionality for sea whereby the container number, within a specified data range, could be used for matching purposes within the cascade report at an FCL level.

Andrew Crawford and Tony Fatouros also highlighted the difficulty of obtaining transshipment vessel details for Import Declaration purposes.

Paul Zalai stated that whilst the Import Declaration functionality allows for amendments, some members are concerned that lodging an early Import Declaration and entering vessel details with subsequent amendment may have compliance implications. This became apparent in a “straw poll” of 20 Customs brokers completed by the CBFCA on a national basis. In an attempt to encourage earlier lodgement of Import Declarations to support Customs risk assessment activities, the CBFCA have forwarded a summary of this exercise to Customs CO. The CBFCA has also asked for a decision as to whether it would be acceptable to enter vessel details with some type of reference to “to be advised” and subsequent amendment with correct details.”

Kim Simmat asked who was dealing with the reference file issue in Central Office and Paul replied by saying that Steve Moore was the appropriate contact.

ITEM 5 NSW Trade Branch Update

Brian Sheridan presented the forum with an overview of his area’s workload statistics for the month of May. He commenced by reporting that 285 refund applications had been processed in May. Of these, 20 applications were rejected with a value of \$176,086.59. The refund applications were rejected on the following grounds:

- 7 invalid circumstances;
- 2 failure to produce redline documents within 30 days; and,
- 11 no response to query advices.

He reported that the Tariff section received 164 tariff advice (TA) requests in May and that of these 97% were answered within the 30 day service standard. Brian advised that of the decisions made in May, 37% did not support the applicant’s submission.

Brian provided an update on his current staffing situation, advising that Wayne Gubbins, Supervisor Securities and Temporary Importations, had retired in May after 37 years in Customs, 9 years of which were spent in the Securities area. He added that Tony Lundy was now performing the role of Supervisor, Securities and Temporary Importations.

Brian briefly mentioned that a review of refunds had been carried out and that he would be in a better position to provide the forum with more details at the next meeting.

Action: *Brian to brief forum on the outcomes of the refunds review at the next meeting.*

The World Youth Day event has seen some interesting temporary importations including the Pope mobile and a number of religious relics, including the remains of Blessed Pier Giorgio Frassati, Brian said.

Brian elaborated on an FTA issue Stan Pragnell raised earlier about being able to claim refunds for up to four years. Brian revisited an anomaly which a broker had brought to Customs attention. It involved a potential conflict between the refund time limit expressed in the Customs Regulations (four years) and the time limit for the issuing of certificates of origin by the Thai Ministry of Commerce (one year) expressed in the Thailand-Australia Free Trade Agreement (TAFTA) regulations. Brian reminded the forum that Customs clarified this issue and agreed that if the Thai Ministry of Commerce will issue a certificate of origin after 12 months (this is a matter for the Thai Ministry), Customs will accept a refund application within the 4 year period permitted by the Customs Regulations.

Andrew Crawford posed a question about how closely Customs looks at Thai Chamber of Commerce certificates of origin. The issue specifically related to situations where details such as quantities and values on the certificate varied from those on the actual invoice. After some discussion Stan Pragnell agreed to find out more about Thai FTA certificates and the accuracy and level of scrutiny of these certificates are given and report back at the next meeting.

Action: *Stan to investigate the Thai FTA certification process and provide further advice at next meeting.*

ITEM 6 Regional ICS Issues

Theresa Wilson acknowledged that the CI&SC had been very busy recently with the introduction of its new technology. She said that the new Enhanced Client Management System (ECMS) was up and running and informed the forum that there will be increasing functionality added over the next five months. Theresa stated that her area was keen to receive feedback on the Interactive Voice Response (IRV) functionality and other features of the new telephone system.

Theresa noted that there had been a number of outages over the last three months. The first outage affected Fedex over the week-end of 22-23 March 2008. Fedex had reported a consol in excess of 12,000 house bills. She advised that the Integrated Cargo System (ICS) could not cope with more than 10,000 house bills being reported under one master and, and the underbond to move the cargo chained as a result. Consequently, no clear status could be obtained for more than 12,500 house bills and thousands of clearances needed to be manually applied for through the CI&SC.

On 2 April 2008, the link between Westpac and QSP Financial went down for the afternoon. As a result of the link being down, Theresa said that approximately \$30 million worth of concessions within QSP could not be processed. She added that goods awaiting import or export were not able to be cleared or released until the link had been restored, and approximately \$2 million of worth of contractor payments were not able to be paid. Theresa stated that the incident was reported as being resolved at approximately 3pm the same day.

Theresa noted that an IT transition outage occurred from 1600hrs 12 April to 0200hrs on 13 April 2008. The outage occurred to allow for the movement of the mainframe that houses the ICS. Theresa said that the outage affected both the Customs Interactive (CI) and Electronic Data Interchange (EDI).

Theresa advised that on 30 April 2008, a scheduled CI External outage did not recover and therefore all CI users were affected. The Business Continuity Plan (BCP) was invoked up to phase 3 and access was not restored until 1730hrs, Theresa said. There was a second CI External outage at 0900hrs on the following day, 1 May 2008. BCP Phase 3 was again invoked, with access restored at 1215hrs. Theresa reported that the next outage occurred between 1600hrs on 17 May and 0200hrs on 18 May 2008. The reason for the outage was the transition of the platform hosting the Customs Connect Facility (CCF). Between 19 May and 30 May 2008, Theresa said that there had been a number of problems reported by users since the CCF cutover. The types of problems reported included the following:

- External CI running slowly;
- Internal Customs users unable to access the ICS;
- AQIS internal users unable to access the ICS;
- Problems with Authority to Deal emails and Payment Receipt emails; and,
- EDI reference files not up to date.

Theresa noted that these problems had appeared intermittently at various times during this period.

Theresa concluded her report by saying that the CI&SC was conducting research into call trends and that she hoped to be able to provide more details on this at the next meeting. When asked about the cargo support queue numbers, Theresa advised that there were up to 35 staff on duty “on a good day”.

ITEM 7 General Business

Catherine Asbridge opened up discussion by stating that the airfreight industry appeared to have better reporting processes than sea. Paul Zalai responded by saying that ideally, ICS sea cargo functionality would exist in a manner similar to ICS air cargo that uses the Master Air Waybill as the matching field. Paul explained that even if the forwarder’s cargo report or Import Declaration have incorrect flight details, the ICS is “smart” to override this error and automatically matches all reports based solely on the Master Air Waybill data (and House bill data for consolidated cargo). The CBFCA has asked Customs CO to examine the feasibility of similar functionality for sea whereby the container number, within a specified data range, could be used for matching purposes within the cascade report at an FCL level. Catherine said that she was not sure if this could be done but she will “ask the question”.

Action: *Catherine Asbridge to raise the sea cargo functionality issue with Central Office, determine the feasibility of having this function enhanced and report back at the next meeting.*

Paul also asked for further details in relation to the tabled air cargo statistics stating that the data may be skewed due the high volume transaction by express couriers. Assuming that express carriers all report in accordance with statutory provisions, Paul was interested in the industry performance for the remainder of the air cargo sector. Paul stated that some forwarders with overseas agents do not always receive pre-alert information and that this may account for the percentage of reporting that occurs after aircraft arrival.

Catherine Asbridge moved on and advised the forum that Customs will be increasing its focus on export risk assessment and examinations, particularly for air freight, as a part of an “Export Air Security” initiative.”

Andrew Crawford pointed out that with the move towards improved compliance, brokers are more actively reviewing and auditing their files and identifying and correcting errors. He raised the issue about applying for multiple refunds and how time consuming it was to create and lodge post delivery amendments for numerous refunds, some for as little as \$20.00. Andrew asked if there was any way that multiple refund applications could be submitted on a spreadsheet and processed in a similar way to that of ‘imports’. After some general discussion about the difference with refunds and the possible legislative constraints, Stan agreed to take this question on notice and report back at the next meeting.

Action: *Stan to investigate and report back on the feasibility of circumventing the current refund application process to facilitate the processing of multiple refunds payments.*

ITEM 8 Next Meeting

The next TFF meeting is scheduled for **Wednesday 27 August 2008**. It was noted that it is only two months until the next meeting, rather than the usual three. The scheduling of an August meeting means that the last meeting of the year can be scheduled in November, rather than December.

Meeting concluded: 12:45pm.