



# ICS User Representative Newsletter

24 June 2003

Number 7

## In This Edition

A large chunk of this newsletter is devoted to a Q & A section that is a result of my recent letter to Customs on pertinent CMR issues. Also included are Updates on Releases 2 and 3 and PKI.

A reminder about the software developer's meeting this Friday is referenced as well.

## Recent Q & A on CMR Issues with Customs

Earlier this month I wrote to Customs for clarification on a wide variety of topics that are of interest to the import/export community. Copied below are my questions and Customs answers.

- 1) *Many of the Release 3a messages were published in the Software Developers Guide this week. Can Customs advise dates for the remainder of the 3a messages and all the 3b messages?*

All Release 3a messages are due to be documented in the Software Developers Guide and provided to industry by end June 2003. Release 3b messages will be rolled out progressively, through the Software Developers Guide, over the next three months. It is anticipated that all Release 3 messages will be documented in the Software Developers Guide by early September 2003.

- 2) *Industry welcomes the Customs recent announcement of its intention to register "automatically" clients who have had two or more import or export entries quoting an ABN. This initiative has generated some questions:*

*When will this facility begin operation for both import and export clients? In other words, will the conversion facility be run prior to August 18 when export clients can begin registration, and when will the conversion facility for import clients be undertaken?*

Pre Registration of export clients that have been reported in EXIT twice or more over 12 months will be in place by 18 August. The comparable process for importer registration is intended to be completed before the import client registration facility is made available to industry in March 2004.

**"Copied below are my questions and Customs answers"**

**"It is anticipated that all Release 3 messages will be documented in the Software Developers Guide by early September 2003"**

**“The rules related to client registration records are complete for Release 2”**

**“Customs is not intending to pre-register any direct communicators in the new electronic systems”**

***What will be the start and end dates that will be used for checking whether two entries have quoted an ABN?***

It is intended to pre-register export clients that have been reported in EXIT twice or in the financial year 1 July 2002-30 June 2003. To ensure that import client data is as up-to-date as possible it is likely that the calendar year 2003 will be the reference period.

***For Import clients, will Customs use the current client bank account information for EFT purposes, or will a broker (or client) have to enter this information separately?***

A full analysis is yet to be completed on this issue. Any requirement to obtain new authorisations from clients and to register this information in the ICS will be communicated to industry in the near future.

***When will Customs have all the rules for client registration, particularly relating to who can create or update a client registration record, who can add roles when the record was created by the client himself or herself or by Customs or by a third party?***

The rules related to client registration records are complete for Release 2. A detailed description of these rules is currently being compiled and will be supplied to you for distribution to industry by end June. The rules related to client registration for Release 3 will be completed by September.

***Will this facility be run as a “one off” exercise, or will the facility be in place and automatically create a new client record until the decommissioning of the relevant legacy systems?***

The facility will be run as a “one off” exercise for exports and a “one off” exercise for imports.

***Will Customs automatically create a client registration for service providers based on current information?***

No. Customs is not intending to pre-register any direct communicators in the new electronic systems (other than for testing purposes). Where pre-registered exporters or importers also become direct communicators (for example for Customs Interactive use) they will still be required to register certain details (e.g. relating to their digital certificates) when accessing the systems.

***Will Customs make available to industry a transition table mapping the current supplier codes to the new supplier client registration details? If so when will this be available?***

Customs is currently looking at the feasibility of making the list of ABN's that have been pre-registered for exports available on the CMR Internet site. Customs is considering security and other issues that may result from this approach.

Customs is also looking at the feasibility of providing a similar list for

imports. This includes the provision of a mapping facility from current COS codes to new codes as registered. Again, Customs is considering security and other issues that may result from this approach.

3) *The recent sessions on PKI advised that for Import Declarations, the company ABN-DSC certificate would be used by Customs for digital signing purposes. The questions raised then are:*

*For Import Declarations, will a broker be required to enter their broker license number on each declaration?*

Yes.

*In the case of a penalty action arising from an import declaration, whom will Customs hold responsible: the individual broker, the “authorizing officer” on the ABN-DSC or the brokerage?*

There are two types of penalties that apply to false or misleading statements in an import declaration. These arise under section 243T of the *Customs Act 1901* (for false or misleading statements resulting in loss of duty) and section 243U (for false or misleading statements *not* resulting in loss of duty). Under section 243T the person liable for the offence is the owner.

For section 243U the person liable for an offence is the statement maker. Subject to the operation of the Infringement Notice Scheme Guidelines released by the CEO last year, the primary responsibility will rest with the entity which signs the communication, i.e. in most cases the corporate brokerage whose ABN-DSC is used. This does not absolve a licensed broker from complying with responsibilities under his/her licence, nor does it prevent the operation of Division 2 of Part XI of the Customs Act relating to personal liability of agents.

Generally the responsibility of a person who is an authorised officer for digital certificate purposes relates to the application for, and use, storage and security of, the digital certificate itself. For the purposes of lodging import declarations, however, if an organisation uses a type 3 certificate the related type ABN-DSC must be issued in the name of a licensed broker. Generally this will mean that the authorised officer will be a licensed broker. Further clarification on the application of section 243U is provided in response to the next question.

4) *The issue of bureau services and situations where one party reports information on behalf of another party is very cloudy from the industry perspective. The current legislation suggests that the party actually reporting information to Customs is legally responsible for the information contained in the communication. Is this Customs intention? Other questions raised are:*

*Will a bureau (such as Tradegate, 1-Stop or CCA) be subject to penalties for incorrect information contained in export declarations, SACs or cargo reports, cargo receipt advices etc they supply to Customs on behalf of other parties? Will such bureaux be subject to penalties for late cargo reports?*

**“For section 243U the person liable for an offence is the statement maker”**

**“In relation to Import declarations and SACs if the false or misleading statement results in a loss of duty the owner will be liable for an offence under section 243T”**

**“these amendments will make the person providing the information to the statement maker also liable for an offence”**

In relation to Import declarations and SACs if the false or misleading statement results in a loss of duty the owner will be liable for an offence under section 243T.

Import declarations, export declarations and other export reporting requirements are subject to section 243U of the Customs Act if they contain false or misleading information that does not result in the loss of duty. Section 243U applies to the statement maker. Generally this will be the entity whose electronic signature is applied to the communication (through the use of a digital certificate). If a bureau signs, the bureau is the statement maker.

As indicated by the CEO’s Guidelines on the Infringement Notice Scheme, published in 2002, where a statement maker has reasonably relied upon information provided by another party to prepare a declaration, and that information is inaccurate or incomplete, then Customs would not expect to serve an infringement notice on the statement maker. The statement maker should retain sufficient records/documentation to substantiate any claim to Customs as to the reasonable of their reliance on the information sent to Customs and verifying the content of the statement and their role in affecting that content.

Consistent with this approach there are currently amendments to section 243U before Parliament. If passed these amendments will make the person providing the information to the statement maker also liable for an offence under 243U if that information causes the statement to Customs to be false or misleading in a material particular. These amendments are included in the *Customs Legislation Amendment Bill (No.2) 2003*. The text of this Bill is available from the following web address:

<http://parlinfoweb.aph.gov.au/piweb/browse.aspx?NodeID=39>

False or misleading statements in a cargo or outturn reports are subject to the provisions of section 243V. In applying section 243V Customs will exercise similar considerations to those outlined above for section 243U. Section 243V is also subject to similar amendments to those described for 243U.

***Will cargo reporters (such as Qantas or Universal Air Cargo) who make cargo reports on behalf of others be subject to penalty for incorrect information contained in such reports? Will they be liable for late reports?***

The provisions of section 64AB surrounding timeliness of reporting apply to the cargo reporter.

As above primary responsibility for cargo reports, and therefore potential liability for late reporting or false or misleading content, will rest with the entity (e.g. CTO or freight forwarder) that makes (i.e. electronically signs) the report, whether on their own behalf or on behalf of another. Again, however, the Guidelines on the Infringement Notice Scheme further qualify this liability and the proposed amendments to s. 243V may serve to shift liability to another entity that causes information in the report to be false or misleading.

***5) The introduction of the Customs Interactive Facility (CIF) provides some industry sectors with an alternative to the current EDI only option***

**“The Customs Interactive facility will provide all functionality required”**

**“It is intended that the entry thresholds will be aligned”**

**“New cost recovery procedures are expected to be advised in early 2004”**

*that exists for EXIT, ACA and SCA. To be effective however, the CIF must be fully featured and provide all the functionality an entity requires to meet it's Customs obligations. For example, I know that Customs does not intend to provide for Import Periodic Declarations through the CIF (and I am not suggesting they should). The question this invites is:*

***Can Customs confirm that the CIF will provide all the functionality required by air and sea CTOs, Depots, cargo reporters, importers, exporters and brokers?***

The Customs Interactive facility will provide all functionality required by air and sea CTO's, depots, cargo reporters, importers, exporters and brokers. The only exception to this is the Import Periodic Declaration that can only be lodged through EDI.

***6) New procedures are being developed for low value shipments, namely Self Assessment Clearances and Detailed Self Assessment Clearances (SACs and DSACs). Issues raised by relevant industry bodies include:***

***What are the criteria for a “low value shipment”, including the value threshold?***

Self-assessed clearance (SAC) declarations apply to consignments with a value that does not exceed the entry threshold. A detailed SAC is not a different document as such, but rather the amount and type of information required on a SAC will be dependant on the nature of the goods.

Customs is still liaising with other government agencies on the criteria for when additional detail will be required on a SAC, and will further consult with industry before finalising regulations and approved statements that support the process. This phase is likely to continue until early next year, but in the interim if you receive representations from industry on the topic, I would be grateful if you would bring them to the attention of Customs CMR Process Implementation section in the Cargo and Trade Division or by emailing us at [cmr@customs.gov.au](mailto:cmr@customs.gov.au) .

***Will air, sea and post thresholds be aligned and at what levels?***

It is intended that the entry thresholds will be aligned, but the level at which this will be set is still under consideration.

***When will Customs advise new cost recovery procedures for SACs and DSACs? For example, will SAC/DSAC cargo release be contingent upon paying a SAC/DSAC charge?***

New cost recovery procedures are expected to be advised in early 2004.

***How will “mums and dads” pay the SAC charge?***

A number of methods of payment are currently under consideration. Payment options will be advised early next calendar year.

**“New charges and procedures for low value cargo will apply”**

**“software developers can commence testing their Exports system”**

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### ***Will current low value shipment cost recovery procedures continue?***

No. New charges and procedures for low value cargo will apply. These charges will be advised early next calendar year. Contingent on legislative amendment, communicators are expected to be invoiced for SACs on the 15<sup>th</sup> day of the month following the month in which the SACs are processed. The communicator would be required to pay the invoice within 21 days.

I have already received other question to put to Customs. If you have a CMR question, you want Customs to answer, please drop me a line outlining you issue. Others in industry probably have the same question on their mind!

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## **Release 2 (Exports)**

Integration testing between the Exports component and the CCF is complete, and Customs advises that software developers can commence testing their Exports system. Firstly, they must contact the CMR Transition team to obtain a test digital certificate. Call Nicole Cottrell on 02 6275 6111 for further information.

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## **Release 3a & 3b (Imports)**

Many, though not all, of the Import Cargo Reporting specs were released earlier this month. From the answers above you can see that the remainder of these specs should be released by the end of the month, with Import Declarations due by end September.

I recently participated in a Customs workshop on identifying risks to the successful implementation of Release 3. Many issues were listed, and strategies developed on addressing those risks. However, it seems to me there has been little strategic analysis undertaken by industry on the risks that the implementation of CMR poses to this community.

My efforts over the next few weeks will be devoted to addressing CMR Risk Management. If you have any risks you would like to identify, please drop me a quick e-mail.

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## **Digital Certificate (PKI) Update**

Customs and Verisign are working on the last few legal issues before parties can obtain Digital Certificates. Industry will be able to obtain Digital Certificates “any day now” according to Customs.

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## **Software Developer Forum**

A reminder to Software Developers, in-house and third party about the meeting this Friday in Sydney at 10:00 am. If you have not received an invitation please call me. At this stage I have about twenty acceptances and I will distribute an agenda in the next few days. I am happy to add any issues you would like to raise at the meeting.

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