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## Customs imposes deadline on compensation claims?

As previously reported, many parties had received forms from Customs identifying a procedure to make claims for storage charges arising from the cut-over to the ICS for import reporting in October 2005.

We have previously expressed reservations regarding the Customs procedures and the issues which were left unresolved.

Anecdotal evidence is that those who received forms from Customs are now being asked to complete and submit the forms by a date in March 2006 or to advise if the claims are being withdrawn. This is certainly creating some confusion.

It is noteworthy that we still have no clarity as to what compensation will be available to claimants and how it will be assessed. Further, the issues raised in my previous updates have yet to be addressed. Now, Customs may appear to be adopting some form of deadline. I am unsure why this approach is being adopted and on what basis. Ironically, those

who have received forms were informed that Customs would only pay compensation if there was a legal liability to do so. Certainly, March 2006 would not be the "legal cut-off" date for claims based on events occurring in October 2005! Importantly, there is no clarity as to what happens if parties do not lodge their claims by the new Customs deadline.

This action has created concern in view of the current uncertainties and the desire of the parties to resolve claims without recourse to litigation. It may be that Customs is seeking to better identify the quantum of claims being made and resolved that March 2006 should be a good starting date. However, that may have been made clearer!

In the meantime, I would encourage you all to complete those forms which have been issued, seek forms if you have not done so to date and otherwise lodge claims with Customs by whatever means possible for amounts other than storage.

## Customs and ANAO announce reviews of CMR and ICS

As a nice present on Valentines Day, Customs have announced an independent review of the introduction of the ICS by consultants Booz Allen Hamilton. At the same time, Customs have announced that the ANAO will also audit the development of the whole CMR project (including the ICS).

These inquiries are vital to industry confidence in the CMR and ICS processes. It is hoped that these inquiries are open to submission by all interested parties, that the terms of the inquiries are very broad, that the conduct of the inquiries is transparent and that the results are made public. The results of the inquiries may assist with compensation claims.

However, keep in mind that these inquiries may be limited by their scope. For example, the review by Booz Allen Hamilton is reported to be "forward looking" which may preclude detailed assessment of past actions of Customs in implementing the ICS for imports in October 2005. Further, Customs have not always been quick to implement various reports. We are still awaiting a response to 2 reports of the ALRC including recommendations to review Customs prosecution provisions. Recommendations as to review of the Trade Descriptions provisions await a response. There has also been no recorded action in response to the recommendations of the House of Representatives Inquiry into Customs use of averment powers.