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## Customs, Trade and Transport Update

### September 2005

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#### Free Trade Seminars

Hunt & Hunt is proud to support this series of breakfast seminars which will be held in Melbourne, Sydney and Brisbane next month. For further information, contact Rebecca Ball on +61 2 9391 3036

#### Customs Issues Business Continuity Plan

Customs continues to move toward a full cut-over to the use of the Integrated Cargo System (“ICS”) by 12 October 2005. This will mean that the ICS will be used for reporting all transactions regarding Customs.

However, there is a concern that there may be “outages” of the ICS. The CMR program allows for alternative reporting requirements where the outage is due to problems with the ICS and the problem cannot be resolved in a reasonable period. These alternative arrangements will be adopted when Customs identifies that there is a serious problem causing an interruption to the use of the ICS and the arrangements will be needed to report transactions to Customs. Section 126DE of the Customs Act 1901 sets out the legislative framework for dealing with such outages.

Customs has now issued their “Business Continuity Plan” (“BCP”). This is a vital document which should be reviewed by all persons who intended to use the ICS. It includes information on what will constitute a Customs “outage”, how details of that outage will be disseminated,

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the types of forms to be submitted to Customs during the outage and how they are to be submitted together with details of reporting to Customs once the outage has been completed. The BCP also sets out the basis on which Customs will accept an undertaking to pay duty after an outage to enable goods to be entered for home consumption during an outage.

A copy of the BCP can be found at the Customs website. Please note that this is **only** the plan which operates in the case where Customs have an outage to the ICS which is due to ICS problems. You should have your own individual continuity or contingency plans in place to accommodate any difficulties you have with your own individual reporting to Customs. This will not only assist in maintaining your business if your systems fail but also represents evidence of your willingness to comply with Customs reporting requirements.

## Would you like a seat at the “Captains Table”?

Hunt & Hunt’s Customs, Trade & Transport Group is soon to launch “Captains Table”, an intimate forum to discuss relevant legal and industry issues. If you would be interested in joining this group, please contact Stacey Drazek +61 3 8602 9236

## Full Federal Court Rolls Over Decision In Pork Case

Previously a single judge of the Federal Court held that the approach adopted by AQIS to consider “level of quarantine risks” for imports of pork was unacceptable in relation to imports from countries where there was an acknowledged risk of disease to that pork. As a result, the judge revoked permits which had been issued by AQIS based on their risk assessment. Based on an action by Australian pork producers, the decision would have stopped imports of pork from the United States.

The Full Federal Court has now overturned the decision at first instance through a judgement handed down on 16 September 2005. In this decision, the Full Federal Court has affirmed the “risk assessment” approach adopted by AQIS and its use to allow permits for pork imports from the United States. On that basis, the Court held that the original permits granted to import the pork from the United States were validly issued by AQIS.

The Federal Ministry for Agriculture has recommended that Australian producers who brought the initial action should not appeal the matter further. However, there is a significant prospect that the Australian producers who brought the action may also seek leave to appeal to the

High Court on the issue which has a direct impact on their market and on risks of contamination from these products.

## Interlaw Newsletter

Hunt & Hunt is the Australian member of Interlaw, an international association of independent commercial law firms. The latest issue of “The Interlawyer” includes a commentary on the Central American Free Trade Agreement and other free trade agreements throughout the world. Visit [www.interlaw.org/newspub.asp](http://www.interlaw.org/newspub.asp).



## Law Institute Of Victoria – New Submissions On Free Trade Issues

In August 2005, the Law Institute of Victoria made submissions to the Feasibility Study into a proposed Free Trade Agreement with Japan, and in relation to the Rules of Origin to be used under ANZCERTA where goods are not “wholly originating goods” of either Australia or New Zealand.

Copies of submissions can be found at <https://www.liv.asn.au/members/sections/submissions/>.

## The APEC Customs Business Dialogue – A Good Korea Move

At the invitation of the Korean Customs Service, Andrew Hudson was a panel participant at the APEC Customs Business Dialogue (“ACBD”) in Gyeongju, Korea this month.

The main theme of the ACBD was “Strengthening Customs-Business Co-Operative Engagement for Seamless Movement of Goods in the Transparent and Secure Trade Environment”.

The panel session dealt with “Enhancing Freer and Facilitated Global Trade through the Effective and E-Friendly Customs and the Strengthened Customs – Private Sector Partnership”. Other speakers on the panel included the Deputy Secretary-General of the World Customs Organisation (“WCO”), the director for Asia of the International Chamber of Commerce and the Director-General of Shanghai Customs.

For a copy of the presentation visit [www.hunthunt.com.au/hunthunt/Publications/KoreaAPECPresentation.ppt](http://www.hunthunt.com.au/hunthunt/Publications/KoreaAPECPresentation.ppt).

The second panel addressed issues relating to trade security and trade facilitation.

Many of the speakers drew upon the new WCO “Framework of Standards to Secure and Facilitate Global Trade”. The Framework is an interesting document building on earlier WCO work on trade facilitation. The Framework is built on two “pillars” the first of which is the “Customs – to – Customs Pillar” and the second is the “Customs – to – Business Pillar”. Both Pillars set standards to be met by Customs authorities in their dealings with each other and in their dealings with private enterprises.

In relation to the Second Pillar, paragraph 3.3 of the Framework states that:

*“Each Customs administration will establish a partnership with the private sector in order to involve it in ensuring the safety and security of the international trade supply chain. The main focus of this pillar is the creation of an international system for identifying private businesses that offer a high degree of security guarantees in respect of their role in the supply chain. These business partners should receive tangible benefits in such partnerships in the form of expedited processing and other measures.”*

Part of this arrangement is the creation of the concept of “Authorised Economic Operators” (“AEO’s”) who, once approved, reap benefits such as faster processing of goods by Customs. The adoption of new processes for these AEO’s is intended to ensure that they receive a benefit from their investment in good security systems and practices. Interestingly, the Framework recognises that the category of AEO’s may include all parties in the supply chain such as importers and exporters, transport companies and service providers such as customs brokers and freight forwarders. This is a different proposition to that contained in our Accredited Client Program which does not enable benefits to be conferred upon service providers.

## Book Reviews

### *The Dictionary Of International Trade*

The Dictionary of International Trade is the largest-selling book of its kind in the world, with nearly a quarter million units having been sold over the last decade. From its humble beginnings as merely a dictionary of international trade terms, the book (now in its 6th edition) has grown into a nearly 700-page, truly comprehensive international trade resource.

In fact, the Dictionary of International Trade is both a dictionary and an encyclopaedia. As with previous editions, the 6th edition includes thousands of definitions of international trade terms, a translation of 650 of the most important terms into the eight major languages of international trade, and a description and sampling of trade documents, as well as carefully illustrated guides to Incoterms 2000, letters of credit, and both ocean and air freight containers.

The current 6th edition contains such added material as a comprehensive section on security issues; detailed diagrams of airliner and ocean-going vessel cargo holds; colour relief maps; a listing of hundreds of international trade resources to be found on the Internet, and information about every major world seaport and airport (by IATA code and location). In addition, it contains an international dialling guide, information about international currencies, descriptions of the types of business entities to be found in various countries, and a weights and measures converter and glossary.

The Dictionary is also available as an electronic database and can be accessed at [www.worldtraderef.com](http://www.worldtraderef.com).

### *Short Course Series Of Books*

The Short Course Series covers twelve different aspects of international trade including negotiating, payments, marketing, contracts, business culture and trade documentation. The books are stand-alone training and reference texts that teach key skills, and each is designed as a practical guide with immediate application. Each book includes an introduction to the parties to the transaction/interaction, step-by-step instructions with illustrations, real-life examples, checklists for the parties, standard forms and documentation, a glossary of terms, and a bibliography.

### Further information

Contact Kenn Kovitz at World Trade Press on 415-898-1124, ext. 201 or [kkovitz@worldtradeexpress.com](mailto:kkovitz@worldtradeexpress.com).