



Policy for dealing with allegations of damage at Cargo and Container Examination Facilities

Background

Since the commencement of operations at Cargo and Container Examination Facilities (CEFs), a small number of complaints have been received from industry members and representatives advising of damage to imported goods, and alleging that the damage occurred as a result of a Customs and Border Protection examination.

This policy statement outlines the process for consideration of damages claims.

Damages claims will be considered on a case by case basis with Customs and Border Protection when undertaking an investigation into each case.

Making a claim

Any broker, importer or owner who believes that goods have been damaged during a Customs and Border Protection examination should provide details of their claim to

- Email comments@customs.gov.au;
- Call The Complaints and Compliments Unit on 1800 228 227;
- Mail The Complaints and Compliments Unit, free of charge
Complaints and Compliments
Australian Customs and Border Protection Service
GPO Box 9834
In your capital city

The claim should provide all the details available regarding the cargo. In particular the claim should provide sufficient details (eg container number, damage alleged, claimed value of damaged goods, photos of damage) in order for Customs and Border Protection to investigate the claim.

Customs and Border Protection approach

On receipt of a claim, Customs and Border Protection will investigate the claim, including determining whether the goods were subject to examination, the condition of the goods at the commencement of such examination, the examination process, and the condition of goods following the conclusion of examination. Where necessary, Customs and Border Protection will refer claims to its Contractors for consideration.

Customs and Border Protection records information concerning the examination process in a variety of forms, including job sheets, photographs, x-ray images and CCTV footage, and will use these forms of media in investigating the claim.

Where:

- there was no Customs and Border Protection examination of the cargo; or
- Customs and Border Protection records show that damage was caused prior to examination; or
- the cargo was undamaged at the conclusion of the examination and was professionally repacked;

the claimant will be advised accordingly.

Where a claim is received and damage has occurred, Customs and Border Protection will seek to resolve the matter to the satisfaction of the claimant. Where issues such as the quantum of the claim cannot be agreed through discussion, Customs and Border Protection will consider the engagement of third party experts (such as marine surveyors) to assist in resolving the issue.

Any payment of a claim, made by Customs and Border Protection or a party contracted to Customs and Border Protection will be made with the authority of both Customs and Border Protection and the Contractor. Such payment will be made on the condition that the claimant indemnify both Customs and Border Protection and the Contractor against further claims in respect of the damage from the importer, broker or owner or any other third party.

Requests for material

In making claims for damages some claimants have requested access to Customs and Border Protection records, such as footage, examination records or x-ray images.

While any such requests will be dealt with on a case-by-case basis, Customs and Border Protection will not release information pertaining to the examination of particular cargo unless there is a lawful reason to do so under Section 16 of the *Customs Administration Act 1985*, and Customs and Border Protection in releasing such information is complying with all other relevant legislation, such as the *Privacy Act 1988*, and with Customs and Border Protection contractual obligations.