

**MINUTES  
CUSTOMS NATIONAL CONSULTATIVE COMMITTEE  
MEETING 51 – 5 OCTOBER 2006**

**1. Chairman's Introduction**

The chairman opened the meeting, welcomed members and advised that Deputy CEO John Jeffery was on leave and that Jon Brocklehurst was acting in the position. The chairman introduced to the meeting Neil Mann the Deputy CEO (Trade Facilitation), noting that Mr Mann had worked in the Australian Taxation Office and the Department of Immigration and Multicultural Affairs before joining Customs.

The chairman asked members if they wished to foreshadow any other business for the meeting. The CBFCA representative (Darryl Sharp) nominated "corporate licences for brokers" as a matter for discussion later during the meeting. The chairman noted that he would like to discuss the possibility of industry involvement in the process of developing customs legislation.

The chairman advised that Trevor Long the AATA representative would now also be representing the Board of Airline Representatives of Australia (BARA).

**2. Minutes of CNCC 49**

There were no objections to the minutes of CNCC 49 and they were confirmed.

**3. Minutes of CNCC 50**

There were no objections to the minutes of CNCC 50 and they were confirmed.

**4. Actions Arising from Previous Meetings – Nos. 49 & 50**

**4(a) Customs to undertake a review of Australian Customs Service manuals and implement a program to ensure manuals are kept up to date**

The chairman advised that Customs was now almost ready to implement practice statements which will include directions from the Customs CEO on procedures, application of law etc and provide the basis for a nationally consistent approach.

The ACCI representative asked whether the content of manuals could relate to evidence in a court case and mentioned that country of origin regulations could be simplified. The chairman replied that a manual did not constitute law.

The LCA representative commented that some manuals are outdated and the chairman added that some manuals could be more readable. The Shipping Australia representative said he had been involved in the development of the website and manuals and was very impressed with the approach Customs was taking.

#### **4(b) Customs to provide an update on development of the Customs Compliance Plan 2006-07 at the next CNCC meeting**

The AE&IA representative commented on the increase in and additional emphasis on monitoring and commented on an incident where there had been an incorrect tariff classification on goods which were duty free. The AE&IA representative commented on the level of pressure created when goods are received on a Friday afternoon and noted that there appeared to be a lack of experience with tariff classification among Customs officers in recent times.

The chairman commented that as this should be a transparent process some form of instruction would be issued on this matter, perhaps a practice statement, setting out clear instructions on this process.

The CBFCA representative referred to Customs Service manuals and the need for manuals and the website to be up to date to give users certainty in the processes. The CBFCA representative noted that with a significant increase in the number of policy decisions being made by Customs, industry has a lack of knowledge of exactly where (ACS Websites v ACN v Practice Statements v Customs manuals v other medium) it should be looking to get access to current and up to date Customs policy across a range of operational and legal issues.

The chairman nominated the issue of provision of materials for practitioners and mapping how the process is evolving for discussion at the next CNCC meeting and suggested that

Customs could work with some industry members before the next meeting to develop this.

The LCA representative noted that it was pleasing to have issues raised in this forum and have them dealt with promptly.

**Action:** An instruction (practice statement) to be issued to Customs officers on tariff classification.

**Action:** Customs to work with some industry members before the next CNCC meeting on material provided to practitioners including information contained in Customs Service manuals.

#### **4(c) Customs to respond to ACCI and Shipping Australia representatives query re broken container seals**

The ACCI representative commented on the concern created with containers arriving with broken seals and noted that many of these containers were coming out of Asia from the US. The ACCI representative also noted that the first question insurers ask is: whether the seal was intact. He said there was a need for Customs to assure members that it would report broken seals when inspecting containers.

The chairman commented that it is not feasible for Customs to inspect all container seals and would expect that any business that received a container with a broken seal would record it.

### **5. Implementation of Recommendations of the Booz Allen Hamilton Report – Review of the Integrated Cargo System**

Customs Deputy CEO (Trade Facilitation) provided a brief progress report to the meeting on implementation of recommendations in the Booz Allen Hamilton Report, in addition to the status report provided to members in the agenda paper.

The Deputy CEO advised that internal workshops had been held on ICS issues. A management consultant had been engaged to review plans and capabilities and to recommend improvements. The internal expert group is turning attention to Customs direction from here – looking at alternative cargo reporting regimes, undertaking more analysis and looking at how supply chain security will impact in the future. With further change occurring, Customs would be concerned with stabilising the environment and will be talking to industry.

The chairman advised that Customs officers would be meeting with a high level New Zealand delegation later that day, which would include discussion of Authorised Economic Operators. Similar discussions may be held with Singapore in the future.

Customs Deputy CEO (TF) advised that alternative cargo reporting processes will be considered by the Steering Committee in December 2006 with a possible timeframe for implementation no earlier than January – July 2008 and Customs would be interested to hear from industry.

The CBFCA representative commented that the working group meetings on this issue have been productive and proactive.

## **6. Standing Reports**

### **6(a) International Issues**

The meeting noted the agenda paper and the chairman suggested that further consideration of APEC take place with agenda item 7.

### **6(b) Legislation**

The meeting noted the agenda paper.

## **7. APEC 2007**

The chairman noted the series of officials meetings to be held in 2007. A number of Australian led Customs focus agenda items are being formulated, including: the Single Window Development Plan and the Authorised Economic Operators (AEOs) Pilot Program. The chairman added that an invitation is to be issued to industry for input – Teresa Conolan (Customs) will be contacting industry shortly.

Customs Deputy CEO (Drury) commented that he had attended a previous Customs Business Dialogue meeting in Bangkok and noted the robust debate that occurred.

The CAPEC representative commented that he had recently attended APEC business dialogue sessions in Vietnam and noted that it was a great opportunity to explore issues affecting other economies. The CAPEC representative added that there was a

high regard for Australia in APEC, which presented an opportunity for business to interact with government officials and to showcase Australia.

The chairman noted that Australia had supported the Vietnam meeting behind the scenes. The chairman commented that contributions from business for APEC 2007 would be welcome and encouraged the business community to work with Customs particularly in relation to the APEC Customs Business Dialogue being held 29 June 2007. It was also important to work with APEC colleagues between meetings so progress can be made.

## **8. Materiality and Revenue Recovery**

The AEIA representative commented that materiality has a different context in industry and that it also relates to non-revenue matters, noting that \$125 would not be considered material from an industry perspective. He said this can send a mixed message about what an agency is actually pursuing.

The LCA representative asked how this applies to cargo.

The chairman commented that this was an administrative approach and \$125 is a low figure but that governments have a different view of what is material. The \$125 figure and the lower figures for multiple errors are based on the general principle that an underpayment of duty and indirect tax will be considered immaterial if it is uneconomical to recover.

A discussion followed on use of the term “materiality” and the chairman stated that Customs would consider the use of another term to describe this concept. The chairman added that this could be covered in the first practice statement. The CBFCA representative suggested the term “revenue recovery threshold”.

The CAPEC representative asked whether the threshold would impact on the auditing regime. The chairman confirmed that it would, in that we would not recover amounts under \$125 for a single entry or the lesser amounts involved on multiple entries. The CAPEC representative also asked what would happen if a person did not voluntarily amend the import declaration?

A discussion followed on the issue of compliance and whether there would be penalties if duty is not paid. Customs advised that an instruction issued by head office in May was in place,

guiding decisions on what amounts need to be pursued for recovery of duty. If duty is not to be recovered there is no penalty to be considered.

The IACAA representative sought clarification on the impact on voluntary disclosure and whether there would be exposure to the infringement notice scheme.

The chairman agreed to provide clarification around voluntary disclosure.

**Action:** Customs to re-issue the existing policy advice as a practice statement covering the issue of materiality in relation to underpayments of revenue and indirect tax penalties. Consideration to be given to use of an alternative to the term “materiality”.

## **9. Other Business**

### **9(a) Corporate Licences**

The CBFCA and LCA representatives raised the issue of Customs not recognising ACNs provided by brokers when applying for corporate licences, as the ACN applies to the trustee company, which for Customs purposes is not the identity running the business. A further complication arises when the company applies for a digital certificate. As Customs does not recognise the ACN, in some cases brokers have been given three months to provide an alternative ACN.

The LCA representative noted that the situation is out of step with the Australian Taxation Office procedures.

Customs advised that it was aware the issue of trusts had been raised and it would be examined further.

**Action:** Customs to follow-up on the issue.

### **9(b) Legislative Review Program**

The chairman opened discussion on engaging with industry to develop Customs' legislation agenda and indicated that he was interested in the views and perspective of industry.

The chairman queried whether:

- (1) issues had the right priority and he was not sure if we are approaching it from shared priorities of Customs and industry.
- (2) there was scope for expanding the agenda for draft legislation.

The AATA representative commented that, regarding the Customs Act some aspects were out of date and did not recognise present circumstances. In relation to consultation the AATA representative commented that there should be an opportunity for industry to debate draft legislation.

The LCA representative commented that, regarding exposure drafts there is frustration in that people have more access in other areas, for example with tax legislation and queried why this could not happen with Customs. The LCA representative acknowledged that there are issues of security but queried why there is not more discussion with people on commercial issues, for example with item 50A. The LCA representative commented that there should be more consultation perhaps through sub-committees.

The AEIA representative noted his support for the LCA representative's views. Regarding priorities, he suggested the focus should be on making trade work and gave an example of Customs valuation legislation sitting in "limbo" for several years.

The chairman commented that he would discuss this with the Minister and subject to the outcome of those discussions, would explore the development of more formalised arrangements.

### **9(c) Papua New Guinea Liaison**

Customs Deputy CEO (Drury) spoke to the meeting about the need for improvement in the relationship between Customs and business in Papua New Guinea and signalled the intention to

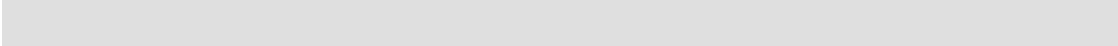
discuss the matter with CNCC members with the aim of establishing dialogue with business in PNG.

### **9(d) Accredited Client Program**

The LCA representative asked about progress with the Accredited Client Program. Customs advised that the Accredited Client Program in revised format is proceeding, legislation is before Parliament and systems changes are being undertaken. Customs added that the Business Partnership Group had not met for some time. Customs advised that it would provide an update on this issue.

**Action:** Customs to provide an update on the issue.

The chairman then closed the meeting.



**PARTICIPANTS CNCC 51 – 5 October 2006**

Mr Michael Carmody	Australian Customs Service
Mr John Drury	Australian Customs Service
Mr Neil Mann	Australian Customs Service
Mr Jon Brocklehurst	Australian Customs Service
Ms Sue Pitman	Australian Customs Service
Ms Marion Grant	Australian Customs Service
Mr Paul Angel	Australian Federation of International Forwarders
Mr Alan McDermid	Shipping Australia
Mr John Collins	Australian Chamber of Commerce and Industry
Mr Geoff Clark	International Air Couriers Association of Australia
Mr Louis Gross	Law Council of Australia
Mr Darryl Sharp	Customs Brokers and Forwarders Council of Australia
Mr Trevor Long	Australian Air Transport Association
Mr Kevin Reilly	Institute of Chartered Accountants
Mr Christopher Vicary	Stevedoring Industry
Mr Tom Curtis	Australian Exporters and Importers Association
Mr Chris Charlton	Conference of Asia Pacific Express Couriers

**SECRETARIAT**

Ms Margaret Mahoney	Australian Customs Service
Mr Bob Jepsen	Australian Customs Service