



AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE PRACTICE STATEMENT

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Title:	Clearance of Cargo - Imports
Purpose:	To outline the policy and processes relating to the clearance of cargo imported into Australia.
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Category:	Operational Procedures (OP)
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Summary of main points

Customs and Border Protection Practice Statements are endorsed policy and must be followed by all Customs and Border Protection employees. This Practice Statement outlines:

- the process of declaring, entering and clearing imported cargo;
- the process of assessment and collection of duties, taxes and charges, as they relate to imported cargo;
- when imported cargo is under Customs control;
- when specific Customs and Border Protection Treatments apply; and
- Procedural Statement.

The electronic version published on the intranet is the current Practice Statement.

Introduction Statement

All cargo arriving into Australia must be dealt with in accordance with the legislative requirements outlined in the *Customs Act 1901* (the Customs Act). This ensures that relevant Customs duties and tax liabilities are met, and that importers are complying with Commonwealth legislation.

The clearance of imported cargo requires information to be submitted to Australian Customs and Border Protection Service (Customs and Border Protection) by responsible parties, in the form of reports and declarations relating to the cargo. Customs and Border Protection uses this information to ensure that all risks are identified and dealt with prior to the release of the cargo into the Australian community.

The intended policy outcomes of this Practice Statement are to:

- provide policy guidance on the clearance process for cargo imported into Australia;
- ensure responsible parties involved in the clearance process understand their obligations and the means for obtaining an authority to deal (ATD) for the cargo; and
- establish and implement nationally consistent instructions and guidelines relating to Customs and Border Protection's treatment of imported cargo.

Context and Scope

Goods imported into Australia may be either entered for home consumption, warehousing, or export. In some cases, goods may be destroyed or disposed of with Customs and Border Protection's approval. All imported goods may also be subject to Customs and Border Protection intervention or examination and prohibited goods may be seized.

For goods imported into Australia, this Practice Statement applies to:

- the reporting of cargo (including goods that are to be transhipped or transited through Australia);
- goods subject to Customs control;
- the process of declaring, entering and clearing goods;
- the process of assessing and collecting duties, taxes and charges; and
- specific treatments such as temporary importations.

This Practice Statement does not apply to:

- the licensing of brokers, depots or warehouses;
- the Customs and Border Protection Cargo Risk Assessment process;
- the export process for transshipment goods;
- the reporting of the impending arrival or actual arrival of ships and aircraft;
- Customs and Border Protection compliance activities;
- the examination of cargo or the processes for detaining goods or seizing goods; or
- the regulation of trade or commodities.

Policy Statement

1. Customs Control

All cargo (including mail) on board an aircraft or ship arriving in Australia from overseas comes under Customs control and remains so whilst that aircraft or ship is in Australia. Cargo also remains subject to Customs control from the time of discharge from the aircraft or ship to the time of Customs release. This control over cargo is necessary to ensure that:

- sufficient and accurate cargo report/declaration information is made available to Customs and Border Protection and other government agencies;
- all duties, taxes and charges are paid;
- the release or underbond movement of cargo is not authorised until all requirements are met; and
- cargo is secure while under Customs control.

Goods subject to Customs control may not be moved, altered or interfered with without permission from Customs and Border Protection. Sections 30 and 31 of the Customs Act are the legal basis for the establishment and maintenance of Customs control.

Customs control extends over a range of activities associated with imported goods, including movement of goods underbond for Customs and Border Protection and Australian Quarantine and Inspection Service (AQIS) examinations, deconsolidation, warehousing, transshipment, goods in transit, ship and aircraft stores and bunkers. Customs control also extends to goods such as aircraft and ships that arrive under their own power and are required to be imported.

Customs control is maintained on imported goods until the goods are:

- dealt with in accordance with an authority to deal (ATD); or
- dealt with in accordance with an entry; or
- delivered into home consumption; or
- warehoused as excise equivalent goods (moved to excise manufacture); or
- exported; or
- destroyed or disposed of with Customs and Border Protection's approval; or
- are seized by Customs and Border Protection.

2. Reporting of cargo

Section 64AB of the Customs Act requires a cargo reporter to notify Customs and Border Protection of all goods the reporter has arranged to be carried to Australia. This includes goods that are to be transhipped or transited through Australia. Cargo reports must be made electronically to Customs and Border Protection through the Integrated Cargo System (ICS) within specified timeframes.

There is no requirement in Customs legislation for "in transit" and "transshipment cargo"¹ to be entered for home consumption.

3. Entering, declaring and clearing imported goods

A. What goods must be entered?

Section 68 of the Customs Act requires certain goods to be entered for home consumption or warehousing unless a specific concession exists. This applies to:

- goods imported into Australia; and
- goods on board a ship or aircraft that has commenced its journey to Australia and intended to be imported into Australia; and
- a ship or aircraft that is intended to be imported into Australia and that has commenced its journey to Australia.

B. Goods that do not need to be entered

Section 68 also specifies classes of goods that are not required to be entered for either home consumption or warehousing. These include:

¹ The Instructions and Guidelines (I&Gs) on the reporting requirements for transshipment cargo located on the Customs website, provide more detailed information on transshipment cargo.

- accompanied or unaccompanied personal or household effects of passengers or crew;
- goods included in a consignment, consigned by post from one person to another with a value not greater than AUD1,000 (or the amount prescribed);
- goods consigned (other than by post) from one person to another with a value not exceeding the import entry threshold as prescribed (currently AUD1,000 for Self-Assessed Clearance (SAC) declarations);
- sea containers that are temporarily imported or are Australian owned sea containers;
- goods that are prescribed or exempted by regulation from being entered; or
- goods transhipping through Australia to a destination outside Australia (transhipment cargo).

There are special arrangements in place for clearing these goods into home consumption:

- accompanied and unaccompanied personal effects of passengers or crew are declared to Customs and Border Protection using approved forms prescribed under s.71 of the Customs Act;
- specified low value goods are declared to Customs and Border Protection on SAC declarations. The regulations exempt certain classes of goods from the need for a SAC declaration;
- special arrangements also apply to diplomatic goods.

Other goods that are excluded from entry requirements include special clearance goods (s.70 of the Customs Act), like customable goods (s.69 of the Customs Act), goods imported on a temporary basis (s.162A of the Customs Act) and certain goods like live animals, and human remains.

A brief overview of these types of goods is provided under Point 7- Goods that require specific Customs and Border Protection treatments².

C. Entry of goods for home consumption

An entry for home consumption can be made by submitting a declaration in respect of the goods, to Customs and Border Protection. The amount of information communicated in a declaration varies depending on the types of goods imported, and their customs value. All information (i.e. from commercial documentation) required on the declaration must be supplied by the importer (or a customs broker) before cargo is released by Customs and Border Protection.

An import declaration is used for all consignments with a customs value exceeding the prescribed import entry threshold. Information regarding goods valued below the import entry threshold must be provided to Customs and Border Protection on a SAC declaration.

The import declaration, in conjunction with other information (including the cargo report) enables Customs and Border Protection to determine relevant duty, taxes and other charges that may be payable, and assists in identifying whether the goods are subject to controls (for example, under the *Customs (Prohibited Import) Regulations 1956*).

Customs and Border Protection import entry procedures are based on self assessment by importers. Importers are expected to be aware of all their obligations. Penalties may be imposed for the submission of incorrect or misleading information or for the omission of information in order to mislead.

D. Communicating Declarations to Customs and Border Protection

An import declaration must be lodged with Customs and Border Protection by the importer/owner (or by an authorised licensed agent on their behalf). Import declarations can be lodged either electronically through the ICS or manually at a Customs and Border Protection counter, and are subject to import declaration processing charges.

Under certain circumstances, Customs and Border Protection submits documentary import declarations on behalf of importers/owners. There are requirements that must be met by the importer/owner for a documentary import declaration³ to be successfully made.

² There are specific I&Gs providing more detail on the processes and treatment for clearing each category of goods.

³ The I&Gs on Documentary Import Declarations explains the circumstances when a documentary import declaration may be lodged, the processing requirements and the obligations of owners/importers.

SAC declarations⁴ must be lodged electronically with Customs and Border Protection either as part of a cargo report (cargo report SAC) or on a SAC declaration (Short Form) or SAC declaration (Full Declaration Format).

A cargo report SAC must be lodged by a cargo reporter on behalf of the importer/owner. All other SAC declarations can be lodged by the importer/owner of the goods or a Customs broker/authorised representative, on their behalf.

E. Entry of goods for warehousing

Imported goods to be entered for warehousing require a warehouse declaration and are covered under section 71DH of the Customs Act. The warehouse declaration may be made by document or electronically. Once entered into a warehouse, imported goods may be further entered for home consumption or for export.

4. Assessment and collection of duties, taxes and other charges

A. Duty, Taxes and other Charges

All goods imported into Australia are subject to assessment for duty, taxes and other charges at rates that are set down in the relevant legislation. Customs and Border Protection must collect the specified rates of duty and taxes unless concessional treatment can be applied to the goods or the entity importing the goods.

Customs and Border Protection has a duty and tax-free import entry threshold of AUD1000⁵. Where the customs value of a consignment of goods does not exceed AUD1000, the duty and tax will not be collected (except where the goods are alcohol, tobacco or tobacco products). However, if the customs value of a consignment exceeds this threshold then the total duty and tax liability and associated charges are collected.

B. Assessment of Liabilities and Charges

For imported goods, where applicable, the importer/owner is required to pay to Customs and Border Protection the correct amount of:

- Customs duty as determined in accordance with the *Customs Tariff Act 1995*;
- Taxes including Goods and Service Tax (GST)⁶, Wine Equalisation Tax⁷ (WET), and Luxury Car Tax (LCT)⁸;
- AQIS charges;
- Charges as defined under the *Import Processing Charges Act 2001*;
- Dumping Duty as determined in accordance with the Customs Act;
- Countervailing Duty as determined in accordance with the Customs Act; and
- Other levies or charges required by Commonwealth legislation.

Duty and tax liabilities may be reduced if the goods are subject to Tariff Concessions, GST exemptions and other instruments that reduce or defer those liabilities.

The ICS calculates all liabilities and charges based on the information supplied by the importer/owner (or the broker acting for the importer/owner), when the appropriate import document is lodged.

5. Authority to Deal (clearance from Customs control)

Goods can only be delivered into home consumption when an ATD is granted by Customs and Border Protection. When all duty and tax liabilities and other charges have been paid and the goods are not subject to a holding direction (including Quarantine holds), Customs and Border Protection issues an ATD.

An ATD may be subject to conditions relating to specified permissions obtained under another law of the Commonwealth e.g. a requirement for a *vehicle import approval* issued by the Department of

⁴ The I&Gs on SAC declarations outlines the process for making a SAC declaration and restrictions for their use.

⁵ A New Tax System (Goods and Services Tax) Act 1999 (GST Act) and Customs Tariff Act 1995 (Customs Tariff Act) refers

⁶ As determined in accordance with the GST Act

⁷ As determined in accordance with A New Tax System (Wine Equalisation Tax) Act 1999

⁸ As determined in accordance with A New Tax System (Luxury Car Tax) Act 1999

Infrastructure, Transport, Regional Development and the Local Government (Infrastructure) in accordance with the *Motor Vehicle Standards Act 1989*. If an ATD is subject to a condition, the ATD is not valid unless the approval has been obtained⁹.

Instructions and Guidelines - Importation of Road Vehicles have been developed to outline the requirements for the importation of road vehicles.

6. Referral of consignments to AQIS prior to Clearance

Goods imported into Australia may present a significant quarantine risk to the Australian community. It is therefore essential that AQIS, which manages quarantine controls at our borders, is given opportunity to review/examine these goods prior to their release into the community.

Instructions and Guidelines - Referral of Consignments to AQIS Prior to Clearance have been developed to outline the process for referring certain goods and consignments to AQIS prior to their release from Customs control.

7. Goods that require specific Customs and Border Protection Treatment

In certain circumstances, Customs and Border Protection has special arrangements for clearing imported goods into Australia. These arrangements fall outside the normal entry process. A brief summary of the circumstances requiring specific Customs and Border treatment is outlined below.

A. Clearance of Goods without an Electronic Import Document

When cargo is reported to Customs and Border Protection, an electronic document in the form of a declaration (entry) is linked up with the cargo report for processing and clearing the cargo. Under limited circumstances, Customs and Border Protection will facilitate the clearance of specified reported cargo without the need for the electronic document. Types of cargo that fall under this category include:

- live animals;
- human remains (including ashes); and
- special clearance goods¹⁰ such as goods required for disaster relief or urgent medical purposes.

(The 'Instructions and Guidelines - Clearance of Goods without an Electronic Import Document' outline the process for clearing these types of goods into home consumption).

B. Unaccompanied Personal Effects

Unaccompanied Personal Effects (UPEs) are household and personal goods imported into Australia that arrive separately from the person to whom they belong. Provided all legislative requirements are met, Customs and Border Protection allows qualifying persons to import their UPEs free of duty and GST. There are exceptions where the goods do not qualify as UPEs, or are excluded from concessional treatment.

To be eligible for the UPE concession, the importer/owner must be an arriving person from a place outside Australia and the items must be their personal property that they have owned and used whilst overseas. The goods must also be suitable, and intended for, use by the arriving person. The owner/importer of UPEs must complete an Unaccompanied Personal Effects Statement (form B534) to have their goods cleared by Customs and Border Protection. *(The 'Instructions and Guidelines - Unaccompanied Personal Effects processing' outline the process for clearing UPEs).*

C. Temporary imports (s.162 and s.162A)

The Customs Act permits the temporary importation of various goods without the payment of duty and taxes. Generally, goods may be temporarily imported for a period of up to twelve months, unless the Chief Executive Officer agrees to extend this period. This is to ensure that importers do not use the temporary import provisions under the Customs Act to avoid their Customs duty and taxation liabilities for goods that will, in practice, remain in Australia in the longer term.

⁹ Section 71C(10) of the Customs Act refers

¹⁰ Section 70 of the Customs Act refers

Where approval is given for goods to be temporarily imported, Customs and Border Protection takes a security equivalent to the amount of duty and tax payable at the time the goods are imported. (*Instructions and Guidelines on Temporary Imports (s162) and Carnets (162A) have been developed to outline the process for clearing the different types of temporary imports*).

D. Like Customable Goods

Section 69 of the Customs Act requires an importer of 'like Customable goods' to apply to Customs and Border Protection for permission to deliver those goods into home consumption, without entering them for that purpose. The permission is granted on condition a return is made to Customs and Border Protection, and duties, taxes and other charges are paid at that time. A return is normally made in the form of an ex-warehouse declaration.

'Like Customable goods' are excise equivalent goods such as:

- alcoholic beverages; and
- tobacco and tobacco products.

Other goods may be prescribed for the purposes of s69. (*The 'Instructions and Guidelines - Like Customable Goods (s69)' outline the process for clearing these goods*).

E. Diplomatic Mail and Cargo

All diplomatic cargo (including mail), arriving in Australia from a place outside Australia must be reported to Customs and Border Protection to ensure goods are cleared from Customs control in a timely manner.

Diplomatic Missions, Consular Posts and their privileged staff are entitled to import goods free of duty, GST and cost recovery charges, provided that the goods meet all legislative requirements (including the *Customs (Prohibited Imports) Regulations* and *Quarantine Regulations*). Exemption from customs duty, GST and LCT is granted under the provisions of the *Diplomatic Privileges and Immunities Act 1967* or the *Consular Privileges and Immunities Act 1972*. (*The 'Instructions and Guidelines on reporting requirements for diplomatic mail and cargo' provides procedural guidelines for the reporting and Customs clearance of diplomatic mail and cargo*).

F. Treatment of Goods - Status of Forces Agreements

A Status of Forces Agreement (SOFA) is an internationally recognised means of handling issues arising out of the presence of one country's visiting military forces in the territory of another country.

The *Customs Tariff Act 1995* covers goods prescribed by by-laws, which are used for persons subject to SOFA agreements. There are separate by-laws for each SOFA that is in force, which prescribe the concessional treatment that is to be granted. (*Instructions and Guidelines are currently being developed to specify requirements for goods arriving under SOFAs*).

G. Unentered and Certain Abandoned Goods

The Customs Act contains provisions for the treatment of goods found at a Customs place that are not required to be entered or not able to be entered, and where the owner has abandoned those goods. There are also specific procedures for goods that are required to be entered but have not been entered within the prescribed timeframe. (*The Unentered and Certain Abandoned Goods Instructions and Guidelines describe the treatment of unentered and certain abandoned goods*).

H. Importation of Ships and Aircraft (vessels)

When a vessel arrives in Australia under its own power, and the arrival constitutes a break in an international voyage (e.g. because the vessel will be remaining in Australia or will be engaging in domestic commerce), the vessel is considered *imported*. Unless specifically exempted, importation requires the owner (the operator of the vessel) to *enter* the vessel. An exemption from the requirement to lodge an entry occurs where:

- the vessel holds a permit or is covered by a declaration issued by the Minister for Infrastructure allowing it to operate in Australia coastal waters; or
- Customs and Border Protection grants the vessel a control permit for a specified period.

The policy on vessels also covers intended activities of the vessels and status of persons on board (*Instructions and Guidelines have been developed for Ships and Aircraft to outline Customs and Border Protection's requirements and treatment of imported ships and aircraft respectively*).

I. Goods suspected of being stolen

Where Customs and Border Protection has information or a suspicion that certain imported goods (not prohibited imports) might be stolen goods, it is current policy to refer those goods to the appropriate law enforcement agency. There is no legislative basis for Customs and Border Protection to detain suspected stolen goods. (*Instructions and Guidelines on Customs and Border Protection's treatment of suspected stolen goods have been developed to describe the process of handling such goods*).

Procedural Statement

Customs and Border Protection provides information to assist the importing community understand the processes relating to the reporting, movement and clearing of goods imported into Australia, and their obligations. Customs and Border Protection's expectations are that:

- The imported goods will remain under Customs control until they are delivered into home consumption, warehoused, exported; or destroyed/disposed with Customs and Border Protection approval, or seized by Customs and Border Protection.
- Cargo reporters will report the best information available to them based on the commercial documentation associated with the cargo. Cargo reporters should ensure that they use the functionality provided by the ICS to notify Customs and Border Protection of lower level cargo reporters (cascade reporting). This will allow Customs and Border Protection to more rapidly identify responsible parties and facilitate processing cargo reports.
- Depot operators, stevedores, cargo/container terminal operators report the arrival and removal of import cargo in accordance with the Customs Act.
- In relation to imported goods, importers/owners or their agents must:
 - ensure that, in reporting and declaring goods to Customs and Border Protection, relevant information is accurately communicated in accordance with the legislation;
 - provide supplementary information to Customs and Border Protection, when required;
 - ensure that relevant duty, taxes and other charges are paid; and
 - obtain clearance from Customs control.
- In relation to low value goods and goods that are not required to be entered, importers/owners or their agents must meet the relevant requirements of the Customs Act and obtain clearance from Customs control.
- In relation to goods entered into licensed warehouses under s.71DH of the Customs Act, that those goods will subsequently be entered into home consumption or for export.
- Unentered and certain abandoned goods are treated in accordance with the requirements outlined in the Customs Act and relating Instructions and Guidelines.
- All parties involved in the clearing of imported cargo have certainty of Customs and Border Protection providing information on cargo availability once all requirements have been met.

Related Instructions and Guidelines

- Unentered and Certain Abandoned Goods - July 2009
- Temporary Importations Section 162 - July 2009
- Temporary Importations Section 162A - July 2009
- Treatment of Suspected Stolen Goods - July 2009
- Unaccompanied Personal Effects (UPEs) - July 2009
- Importation of Road Vehicles - July 2009
- Clearance of Goods without an Electronic Import Document - TBA
- Processing of Documentary Import Declarations - TBA
- Special Clearance Goods (s70) - TBA
- Importation of Aircraft - TBA
- Importation of Ships - TBA
- Like Customable Goods (s69) - TBA
- Referral of consignments to AQIS prior to clearance - TBA
- Reporting Requirements for Diplomatic Mail and Cargo - TBA
- Self-Assessed Clearance (SAC) declarations – TBA

Related policies and references

- Instructions and Guidelines (I&Gs) on the reporting requirements for transshipment cargo

Key roles and responsibilities

National Manager Trade Policy and Regulation Branch

- Provision of strategic, directional and operational policy development related to the cargo clearance and importation of goods.
- Policy outcomes required by Government, Customs and Border Protection and other Government agencies for the clearance of cargo.

Director Import/Export Policy

- Provision of strategic, directional and operational policy advice on matters relating to importation of goods into Australia, including the development of Practice Statements and Instructions and Guidelines.

Regional Directors

- Assisting in the development, revision and maintenance of Instructions and Guidelines related to this practice statement.
- Ensuring that managers are provided with the resources to ensure staff have access to the Practice Statements, Instructions and Guidelines and are trained accordingly.
- Ensuring that at all levels the outcomes driven by the Practice Statement are achieved by adherence to approved Instructions and Guidelines.
- Ensuring breaches of the Practice Statement are dealt with in a timely and appropriate manner.
- Ensuring errors or potential improvements identified in Instructions and Guidelines are reported to the Director Import/Export Policy.

Managers

- Providing training to supervisors and officers, ensuring they have a sound understanding of the Practice Statement and understand how to follow related Instructions and Guidelines to achieve nationally consistent outcomes.
- Assisting in the development and maintenance of Instructions and Guidelines
- Ensuring that Practice Statements and associated Instructions and Guidelines are complied with.

Supervisors and Officers

- Ensuring they are familiar with this Practice Statement and undertake appropriate training.
- Knowing and understanding the application of Instructions and Guidelines related to this Practice Statement when doing duty in respect of clearance of import cargo.
- Complying with the instructions and guidelines.

Consultation

External Consultation

Not Required. External consultation would take place during the development of relating Instructions and Guidelines.

Internal Consultation

The following internal stakeholders have been consulted in the development of this Practice Statement:

- Compliance
- Cargo
- Customs Legal Unit
- Enforcement Operations

Approval

Approved on	23 July 2009	(signature)
By	Sue Pitman ND Trade and Compliance	
Endorsed on	23 July 2009	(signature)
By	Neil Mann DCEO Passenger and Trade Facilitation	