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Refining our approach

*By Craig Sommerville, National Manager
Compliance Assurance*

It has been a busy time for Compliance since our last Industry Briefing in April 2009.

Recently, Compliance has been incorporated into the new Trade and Compliance Division under the leadership of Sue Pitman National Director Trade and Compliance.

What used to be known as the Compliance Division is now the Compliance Assurance Branch.

As with the 2008/09 financial year, Compliance Assurance is adopting an intelligence-led, risk management strategy to determine the entities of highest interest to Customs and Border Protection.

This approach ensures that intrusive intervention activities are proportional to the compliance behaviour of clients.

During the 2009/10 financial year, Compliance Assurance

will undertake a variety of activities to educate industry on the requirements to retain the appropriate records, especially in relation to goods entered on Self Assessed Clearances.

This update includes our new Compliance Monitoring Unit, Self Assessed Clearance Exercise, Practice Statements, Excise Equivalent Goods Review, Pre-clearance Intervention Review, Cargo Control Review, recent legislative amendments and statistics from the 2008/09 financial year.

We trust that the Compliance Updates are a useful communication tool to provide industry with an insight into concerns, recent initiatives, reviews and activities in Compliance with the Australian Customs and Border Protection Service.

We value your feedback and welcome your suggestions and comments on ways we can communicate issues of relevance to the cargo industry.



Compliance Monitoring Program

Customs and Border Protection has replaced its Benchmark Audit Program with a new program that uses Pre-Clearance, Interventions or Redline processing.

The Benchmark Audit Program was resource intensive for both Customs and Border Protection and industry. The replacement program, known as the Compliance Monitoring Program (CMP), is conducted on a national basis and will be expanded over time.

The new model and process will provide the capability for Compliance Assurance to monitor the import and export declaration environment, and at the same, time reduce the imposition on industry. The import phase of the program commenced on 1 July 2009.

The program randomly selects import declarations and creates a requirement for documents to be lodged under Section 71DA of the *Customs Act 1901*.

PROVIDING COMMERCIAL DOCUMENTS UNDER THE CMP

From an industry perspective there are no changes to the normal process for lodging documents for import declarations which are selected for pre-clearance intervention.

The flowchart on page 4 shows how the documents requested are handled internally by Customs and Border Protection. CMP aims to complete the verification process within 24 hours of the documents being requested.

To avoid any unnecessary delay in lifting a Customs and Border Protection Hold, send the documents electronically to natcommonitoring@customs.gov.au.

CMP PROGRESS TO DATE

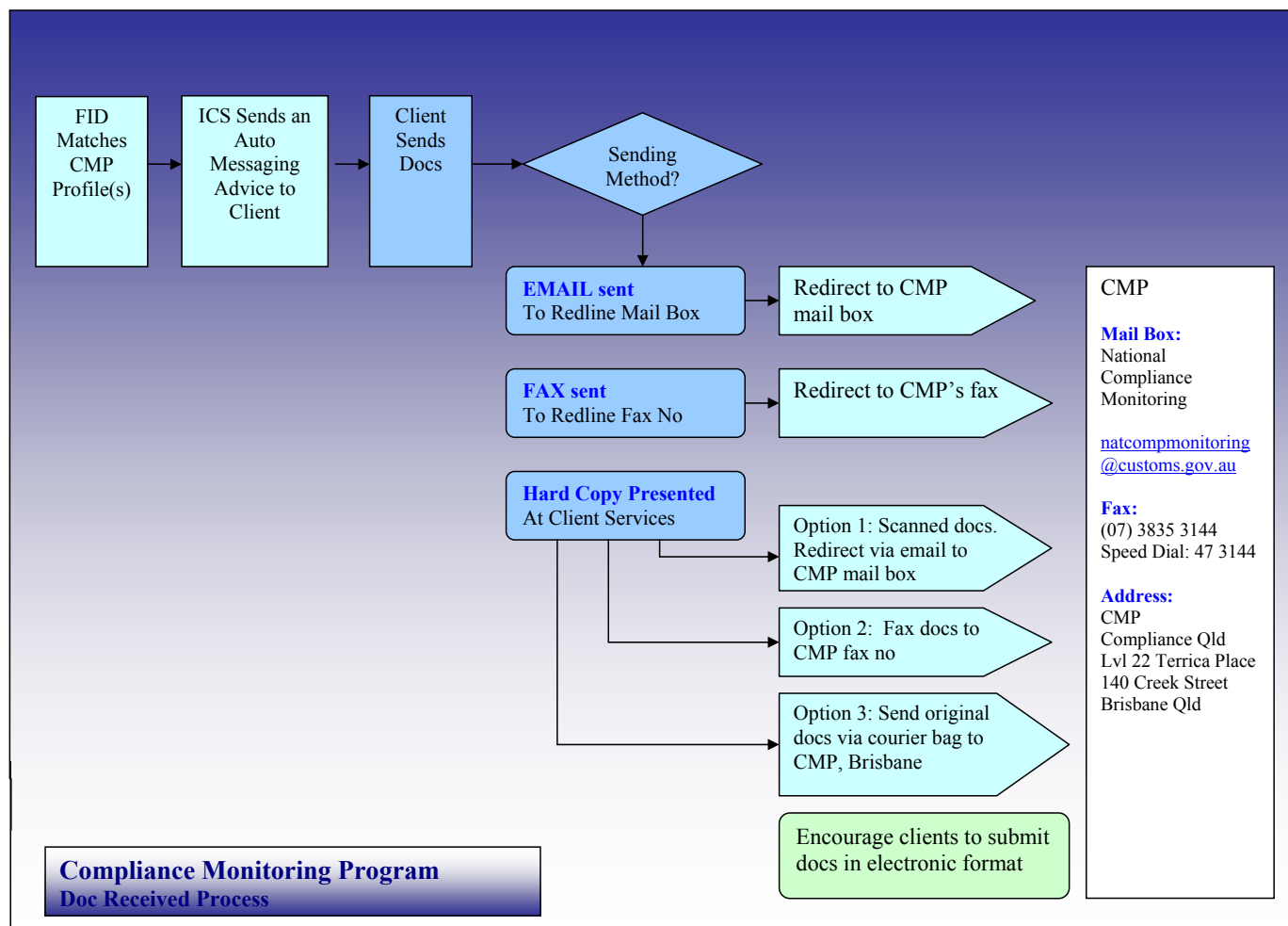
Data collected is being collated and will be analysed periodically. This analysis will enable Compliance Assurance to provide summary data to industry about areas of non compliance and the ways in which it can be improved.

Recent analysis has revealed the detection of the practice of some freight forwarders, who provide door-to-door service, who are not separating Australian transport costs from international transport costs. This has the effect of inflating the Customs value of the imported goods and leads to duty and/or GST being overpaid.

Please ensure when completing import declarations that these costs are entered separately to ensure overpayment does not occur.



Compliance update





Self Assessed Clearances

Self Assessed Clearances (SACs) are designed to clear goods that have a customs value (CVAL) of AUD\$1000 or less, whilst ensuring the correct reporting of revenue assessable goods is met.

Compliance Assurance has recently identified the misuse of SACs particularly carelessness when making SAC declarations and also deliberate undervaluation of imported goods.

Compliance undertook an exercise in the SAC environment, which included desktop verification and pre-clearance intervention exercises.

This exercise is ongoing, however interim results indicate misuse and as such a number of companies identified as high users of SACs will now be subject to full compliance audits.

Further education will be undertaken to ensure that entities are aware of their obligation to retain documents.

You can avoid Customs and Border Protection intervention for the misuse of SACs by ensuring you:

- Declare the correct value of all imported goods and use a full import declaration when goods are valued at AUD\$1000 or more;

- Make yourself familiar with compliance requirements;
- Retain the appropriate documents for the required time; and
- Ask Customs and Border Protection if you're unsure.

Compliance Assurance will continue to monitor the use of SACs through pre-clearance intervention and audit processes during the 2009/10 financial year.

For more information visit the import/export page on our [website](#).



Practice Statement Update

Customs and Border Protection's Practice Statements are endorsed policy that provides nationally consistent direction and assistance to Customs and Border Protection employees in the conduct of their duties.

Practice Statements must be followed by all Customs and Border Protection employees. Practice Statements are underwritten by instructions and guidelines to assist Customs and Border Protection employees to effectively carry out their duties taking into consideration local, physical and resource differences.

These Practice Statements ensure that our dealings with you are consistent, transparent and professional at all times.

The following Practice Statements have been completed and will be posted on the Customs and Border Protection website under [Media, publications and forms](#).

Goods Compliance Practice Statement outlines the policies used by, and functions performed by, Compliance Assurance officers in relation to goods compliance for imports and exports.

Compliance Powers & Penalty Schemes Practice Statement outlines the powers and penalty schemes available to Customs and

Border Protection officers when they are undertaking Compliance Assurance activities.

These powers are:

- Monitoring Powers
- Export Examination Powers
- Production of Commercial Documents and Records
- Revenue Recovery

The penalty schemes include:

- The Infringement Notice Scheme
- Indirect Tax Administrative Penalties

Cargo Control Practice Statement covers a variety of cargo related issues such as:

- Cargo Reporting Timeliness
- Cargo Reporting Quality
- Cargo Outturns Reporting and Arrivals (Impending & Actual).



These documents provide guidance to Customs and Border Protection officers responsible for undertaking compliance activities.

This will improve the timeliness and accuracy of data lodged in cargo reports; the reporting of impending and actual arrival reporting for vessels and aircraft coming to Australia, and ensures compliance with the following reporting requirements:

- Cargo Out turned by a Sea Cargo Terminal Operator (CTO)
- Cargo Out turned by an Air Cargo Terminal Operator (CTO)
- Cargo Out turned (Unpack and Receipt) at a Depot (S77G)

Licensing Practice Statement outlines the legislative and policy requirements to establish a nationally consistent framework for the issue and maintenance of Customs and Border Protection warehouse, depot and broker licensing.

For feedback on any of our Practice Statements, please email compliance1@customs.gov.au

Excise Equivalent Goods Review

In response to a recommendation made by the Productivity Commission in its *Annual Review of Regulatory Burdens on Business* published in September 2008, the Government requested the Australian Taxation Office (ATO) and Customs and Border Protection jointly develop options to minimise duplication of revenue administration and compliance costs for excise and imported excise equivalent goods (EEGs).

Customs and Border Protection and the ATO established a joint project team to develop various options and consulted EEG related clients, including the tobacco industry, during the process.

The input received from industry was greatly appreciated. In particular submissions regarding administration and compliance issues associated with EEGs and the affect current practice has on business.

Customs and Border Protection and the ATO will report the outcome of the review to the Assistant Treasurer and the Minister for Home Affairs by the end of September 2009 for their consideration.



Profile Effectiveness Review

Customs and Border Protection has recently undertaken a national Profile Effectiveness Review in order to refine and guide our future profile activities.

The outcomes from this review will be implemented shortly, however the review has led to significant improvements in our record keeping and reporting capability for pre-clearance activities and an improved understanding of the risk context.

The work in each region will be aligned with nationwide priorities and will also be managed nationally, allowing Compliance Assurance to rapidly increase or decrease resources on a particular risk in response to changes in the risk context.





Legislative Amendments

On 13 August 2009, the Senate passed the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009. The Bill amends the *Customs Tariff Act 1995* (the Customs Tariff) by enacting changes previously included in the following Customs Tariff Proposals:

- No. 1 (2008) – Implemented new duty rates for certain alcoholic beverages ('alcopops')
- No. 3 (2009) – Continued in force the new duty rates.

The legislation also changes the definitions for beer and grape wine product and inserts eight new tariff subheadings into Schedule 3 to the Customs Tariff.

The new definitions of beer and wine ensure that imported beer and grape wine product that mimic spirit based pre-mixed drinks commonly known as alcopops or Ready To Drink (RTD) are taxed at the same rate as alcopops or RTDs.

These goods will be subject to higher or new excise equivalent duties as well as the protective (*ad valorem*) component of customs duty, where applicable. Further information on the amendments and an Australian Customs Notice (ACN) will be available on the Customs and Border Protection [website](#).

The amendments came into effect on 28 August 2009.

If Compliance Assurance has any concerns about the declared classification of the imported product such as where the characteristics in terms of appearance, smell and taste are inconsistent with conventional products, Customs and Border Protection may undertake further investigations and this may include testing.

For more information on the legislative changes visit our [website](#).



Compliance statistics 2008-09 financial year

Infringement Notice Scheme

INs - Infringement Notices served
 DWL - Delegate Warning Letter
 NDWL - Non-Delegate Warning Letter

1 July 2008 to 30 June 2009

Export related offences

Offence	INs served	DWL	NDWLs
102A(4)-Failure of holder of warehouse licence to notify Customs of prescribed goods for export	1	1	0
113(1)-Failure to enter goods for export and loading/exporting without authority to deal	0	1	1
115(1)-Permitting goods to be taken on board a ship or aircraft without authority	0	0	1
118(1)-Departing without Certificate of Clearance	0	0	1
119(3)-Failure to communicate outward manifest	0	1	3

False and misleading statement related offences

Offence	INs served	DWL	NDWLs
S243T(1)- false or misleading statement – loss of duty	49	29	32
243U(1)- false or misleading statement- no loss of duty	1	8	12
243V(1)- False or misleading statements in a cargo report or outturn report	1	1	3

Movement of goods related offences

Offence	INs served	DWL	NDWLs
33(2, 3 & 6)- Moving, altering or interfering with goods subject to Customs control without authority	26	36	66



Cargo reporting and arrival related offences

Offence	INs served	DWL	NDWLs
64(13)- Failure to meet reporting requirements for the impending arrival of a ship or aircraft	0	0	5
64AA(10)- Failure to meet reporting requirements for the arrival of a ship or aircraft	0	0	7
64AB(10)- Failure to meet reporting requirements for the report of cargo	0	0	2
64ABAA(9)- Failure to meet reporting requirements for outturn reports	0	0	37



Importing Goods

Focussed Program 1 July 2008 to 30 June 2009

Import audit statistics

Total Number of Audits	201
Total Number of Lines Checked	19,860
Total Number of Revenue Errors	17,007
Total Number of Non-Revenue Errors	559

Import: areas of non-compliance

Error type (Revenue)	Number	Percentage
Assists	1588	9.34%
Classification	7931	46.63%
Invoice terms	1136	6.68%
Overseas Freight	1093	6.43%
Overseas Insurance	578	3.40%
Price	1224	7.20%
Relationship affecting price	799	4.70%

The error types indicated in the Importing Goods tables list the top seven error types identified as a result of 2008/2009 Audit program.

Error type (Non-Revenue)	Number	Percentage
Cos codes	466	83.36%
Prohibited Imports	63	11.27%
Trade Description	4	0.72%
Unauthorised delivery	25	4.47%
Wildlife	1	0.18%



Exporting Goods

Focussed Program 1 July 2008 to 30 June 2009

Export audit statistics

Total Number of Audits	34
Total Number of Lines Checked	1,283
Total Critical Errors	1,096
Total Non-Critical Errors	441

Critical Error type	No	%
AHECC	44	4.01%
FOB	736	67.15%
Permits	36	3.28%
Quantity	135	12.32%
Destination	13	1.19%
Origin	26	2.37%
Owner Name	51	4.65%
Consignee Name	55	5.02%

The Exporting Goods chart lists the errors that are considered “critical errors”. Critical errors are errors that result in incorrect reporting of important information that is reported in our trade statistics, and information that allows us to risk-assess the cargo for prohibited exports.

INACCURATE EXPORT VALUES

Compliance Assurance (audit and non-audit) identified more than \$14.1 billion in overstated export valuations and about \$90.2 million in understated export valuations.

Common errors include the incorrect placement of decimal points, the use of incorrect currency when declaring the Free On Board (FOB) value and the placement of the Australian Harmonised Export Commodity Classification (AHECC) codes in the valuation field.

To minimise “critical errors” please take the time to check all decimal places, ascertain the appropriate currency for FOB goods and check that all valuation codes are entered correctly.

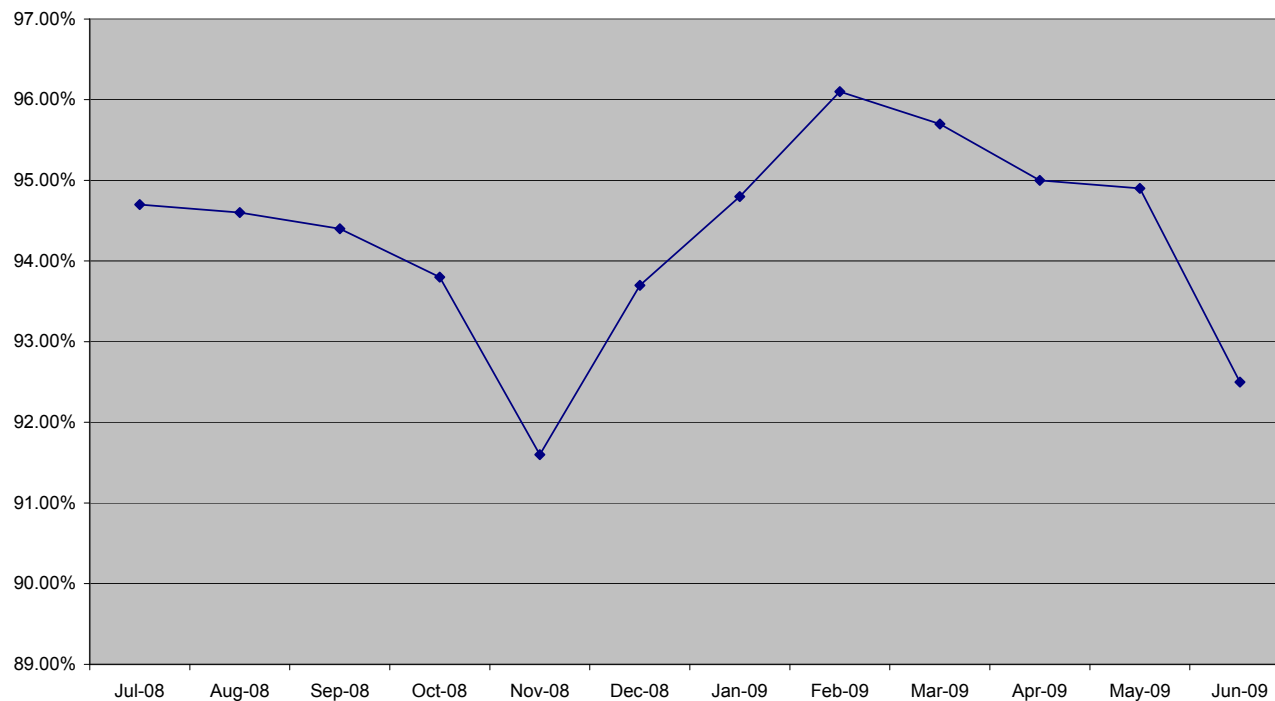
This will save you time, money and resources in the future.



Air and Sea Cargo Reporting

AIR CARGO

Air Cargo On-Time Reporting
July 2008 - June 2009



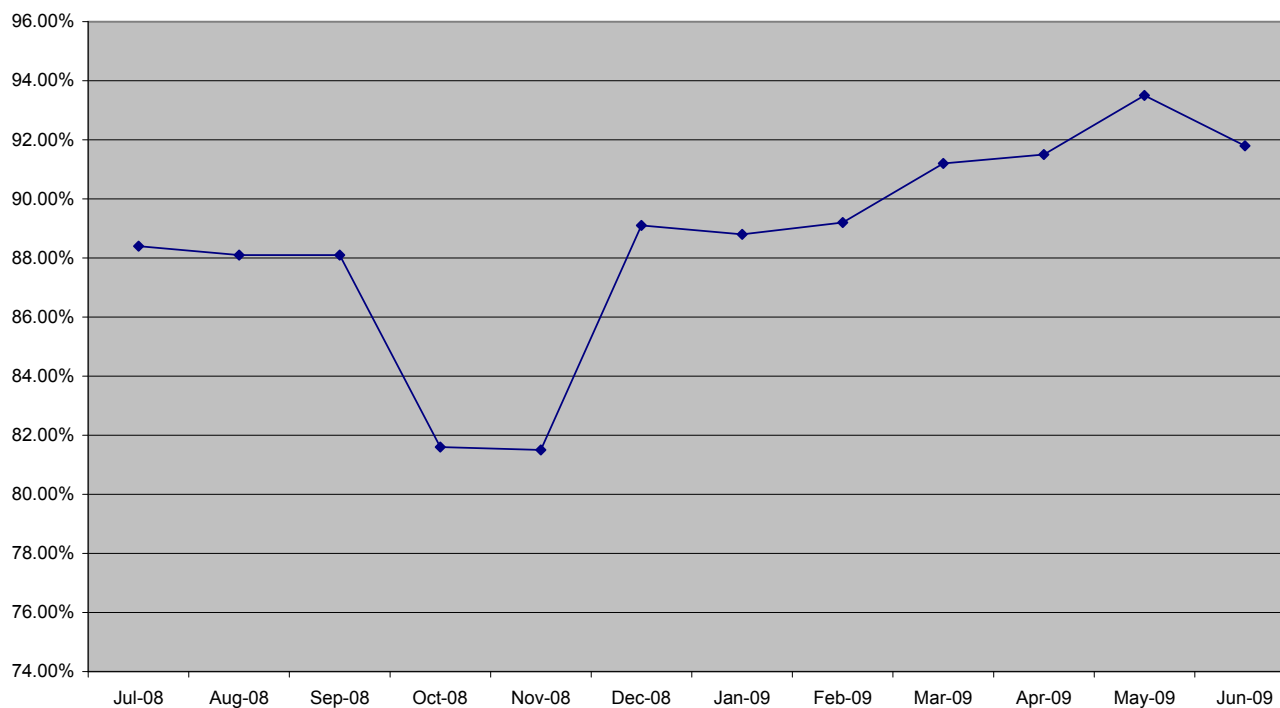
Statistics are calculated on performance against legislative timeframe (2hrs prior to aircraft's ETA at first port).

Reduced timeliness in October 2008 and November 2008 can be attributed to process issues with a single client.



SEA CARGO

Sea Cargo On-Time Reporting
July 2008- June 2009



Timeliness is based on latest ETA at first port on any version of the Impending Arrival Report.

Reduced timeliness in October 2008 and November 2008 can be attributed to process issues with a single client.



Pre Clearance Intervention

NON-AUDIT ACTIVITY FOR 01 JULY 2008 TO 30 JUNE 2009.

Lines checked	Lines in error	% of lines in error
181,970	43,519	23.92%

	Overstated	Understated
Actual Duty	\$1,855,133	\$18,269,684
Standard Duty	\$63,461,513	\$173,607,528
Goods and Services Tax	\$56,185,535	\$177,043,448
Luxury Car Tax	\$48,919	\$860,588
Wine Equalising Tax	\$0	\$26,829

Cargo Control and Accounting

In 20008/09 financial year 76.10 percent of *Licensed Premises (warehouses and depots)* were checked.



Australian Government
Australian Customs and
Border Protection Service

Compliance update

September 2009

Coming up...

Over the next few months, Compliance Assurance will continue to monitor and improve our services and relationship with industry.

You can provide compliance-related comments and feedback to:

compliance1@customs.gov.au

Phone number 1300 363 263