

# Customs and Border Protection National Consultative Committee (CBPNCC)

## Meeting 58

### Minutes of the Meeting

10 December 2009

#### Attendees:

Mr Trevor Long	Qantas Group
Mr Tim Chapman	AQIS
Mr Geoff Clark	International Air Couriers Association of Australia
Mr Eddy Declercq	Shipping Australia
Mr Louis Gross	Law Council of Australia
Mr Jeff Talbot	Australian Federation of International Forwarders
Ms Judith Welsh	Australia Post
Mr Stephen Morris	Customs Brokers and Forwarders Council of Australia
Mr David Katte	Customs Brokers and Forwarders Council of Australia
Mr Kevin Reilly	Institute of Chartered Accountants

#### *Australian Customs and Border Protection Service (Customs and Border Protection)*

Mr Michael Carmody	CEO – Meeting Chair
Mr Neil Mann	DCEO Passenger and Trade Facilitation
Ms Linda Smith	DCEO Corporate Operations
Ms Marion Grant	DCEO Border Enforcement
Ms Sue Pitman	ND Trade and Compliance
Ms Jaci Fisher	ND Cargo

Ms Erica O’Sullivan	Secretariat
Ms Pon Chaleune	Secretariat

#### Apologies:

Mr Nathan Backhouse	Australian Chamber of Commerce and Industry
Mr Robert Battistel	Observer for the Conference of Asia Pacific Express Couriers
Mr Damian Burton	Stevedoring Industry
Mr Michael Pezzullo	Chief Operating Officer, Customs and Border Protection
Mr Jim Marshall	Chief Operating Officer, Australia Post

## **Agenda Item 1 – Chair’s Introduction**

The Chair welcomed attendees to the final meeting of the Customs and Border Protection National Consultative (CBPNCC) for 2009.

The Chair congratulated Mr David Katte who was elected to Chair of the Customs Brokers and Forwarders Council of Australia (CBFCA) on 6 November 2009.

## **Agenda Item 2 – Minutes of the previous meeting**

The minutes from CBPNCC 57 on 7 September 2009 were accepted.

## **Agenda Item 3 – Actions arising from previous meetings**

### ***Actions arising from CBPNCC Meeting on 7 September 2009***

***Item 1 - Proposal to change the commencement date for the Harmonized System at the 44<sup>th</sup> session of the Harmonized System Committee (HSC) September meeting at the World Customs Organization in Brussels.***

Mr Morris from the CBFCA spoke to this item. He thanked Anita Langford, Director Tariff Policy, Customs and Border Protection for submitting the matter for inclusion on the HSC agenda. An industry paper through International Federation of Freight Forwarders Associations (FIATA) supporting the proposal was also tabled at the September meeting. Mr Morris advised that the proposal was not endorsed by the Committee. He informed the meeting that this will continue to be a work in progress.

**Action Item closed**

### ***Actions arising from CBPNCC Meeting on 7 September 2009***

***Item 2 – Customs and Border Protection to provide a copy of the DHL survey to CBPNCC members.***

Copy forwarded to members 26 November 2009.

**Action Item closed**

### ***Actions arising from CBPNCC Meeting on 7 September 2009***

***Item 3 – Investigate whether Customs and Border Protection has cargo trade statistics on express air couriers.***

ND Cargo advised that Customs and Border Protection are unable to provide data on cargo trade volume statistics on express air couriers. Currently there are difficulties in extracting air cargo data by industry groups as it requires an intensive manual extraction. The capability for an automated extraction is to be explored.

**Action Item closed**

## ***Actions arising from CNCC Meeting on 7 April 2009***

***Item 2 – Advise CBPNCC members on the status of classifications given in Tariff Concession Orders (TCO).***

ND Trade and Compliance indicated that the tariff advice system is currently under review. Industry representatives were thanked for their comments on the draft Australian Customs Notice (ACN).

**Action: Ongoing**

## **Agenda Item 4 – Feedback from CBPNCC Sub-committee Meetings**

### Service Delivery Sub-Committee

ND Cargo provided feedback from the Service Delivery Sub-committee meeting on 30 October 2009:

- The industry issues list was finalised and prioritised and resulted in the development of an agreed forward work program. The work plan was distributed to industry representatives.
- Members were provided with the first quarter analysis of Cargo performance metrics against the 2009-10 Portfolio Budget Statement (PBS) targets, and the draft Time Release Study 2008 for feedback.
- Customs and Border Protection has conducted a number of Business Continuity exercises that achieved valuable learnings and noted that a broader education strategy is required to foster broader industry involvement.
- The agency welcomed the opportunity to work with industry to develop a robust communication strategy and acknowledged industry's participation in the survey conducted by Stamford Consultants.
- Customs and Border Protection will continue to publish Australian Customs Notices (ACN) and Australian Customs Cargo Advices (ACCA) to inform industry of changes to policy and procedures, pending the development of the overarching communication arrangements.
- All future sub-committee meetings will be rotated between Sydney and Melbourne. The next sub-committee meetings are scheduled for Melbourne in March 2010.

### Administration, Policy and Legislation Sub-Committee

ND Trade and Compliance presented feedback from the Administration, Policy and Legislation Sub-committee meeting.

- Members were thanked for their involvement in prioritising the industry issues list and advised that the next step is to expand on the work program.
- Feedback on industry engagement regarding new Free Trade Agreements and Government reviews was noted.
- It was agreed that the legislation program will be routinely shared with industry and ND Trade and Compliance advised that the complete list will be distributed to industry representatives out of session.
- The draft *Authorities to Act – Compliance Approach* would be distributed to industry representatives by the end of January 2010.

**Action:**

- ND Trade and Compliance to circulate legislation updates to CBPNCC industry representatives.
- ND Trade and Compliance to confirm when industry is required to use the new form for Tariff Concession Orders (TCOs).

ND Trade and Compliance to circulate draft *Authorities to Act – Compliance Approach* by the end of January 2010.

**Agenda Item 5 – Release of 2008 TRS Report**

ND Cargo distributed the final report of the *Australian Customs and Border Protection Service 2008 Time Release Study (TRS)* thanking members for their feedback.

- Discussion centred on the key findings of the study, noting that earlier industry reporting has flowed through to improvements in border agency cargo release and clearance times.
- It should be noted that the snapshot depicting the results for the week of 24-30 September 2008 pre-dated the effect of the global financial crisis (GFC) on cargo volumes and the introduction of the refined cargo intervention strategy. It is expected that the impact of these events will be more evident in the 2009 TRS results which will be conducted against cargo arriving in the same week in September 2009.
- The key highlights from the TRS Report were discussed and Mr Declercq from Shipping Australia noted the need for industry to improve the reporting of estimated time of arrival (ETA) of vessels and revise ETA's on a regular basis.
- Committee members discussed comparison of KPIs with other countries. ND Cargo advised that Customs and Border Protection has adopted the World Customs Organization TRS methodology as its benchmark. This is different to the World Bank surveys. The World Bank has expressed interest in the work being undertaken in Australia.
- DCEO Passenger and Trade Facilitation noted that the results of the last survey compared favourably against countries which had conducted similar surveys. ND Cargo indicated that due to differences across Australia, a weighting may be applied for future studies based on the volume of cargo at ports/airports rather than applying broad averages.
- DCEO Passenger and Trade Facilitation informed the committee that the TRS Report has been provided to Infrastructure Australia for consideration in its review of port infrastructure development opportunities. He noted that the 2009 TRS should show improved results.
- The 2009 TRS Report will be released in the second quarter of 2010.

**Agenda Item 6 – General Business****Agenda Item 6.1 – Future Direction of Refined Cargo Intervention Strategy**

- ND Cargo led the discussion, stating that Refined Cargo Intervention Strategy is now largely in place and Customs and Border Protection are continuing to monitor the impact. This is to ensure that refinements are being made to reflect changes in the risk profile and results performance. To date, the analysis and assessment of detection has been positive and is on track, but there is room for improvement. A more rigorous sampling methodology is being considered which may require greater levels of physical examination of cargo. This will help validate the intervention strategy for future intervention levels.
- Mr Chapman discussed AQIS' risk-based approach to cargo intervention. He advised that Stage 1 included mandatory intervention targets where different approaches, sampling and

best practice methods were trialled in order to forgoe 100% intervention. The recent industry round table was well received with cautionary feedback from the farming and livestock sector. Work towards Stage 2 is underway, which will mean lower levels of intervention. AQIS is adopting a cautious approach.

- ND Cargo encouraged industry to flag any issues/problems to Customs and Border Protection to ensure immediate action and discussion regarding impacts.

### **Agenda Item 6.2 – International Developments in International Trade**

- ND Cargo reported that the US Department of Homeland Security has advised Congress that it is not expecting to achieve the 100% Cargo Maritime Screening requirements within the timeframe set by Congress. She will forward the US media releases setting out this position to CBPNCC members.
- Mr Long from Qantas Group noted that the air cargo security requirement for the US has been extended to 10 August 2010. From this date, 50% of cargo traffic within and going to the US will be screened by Qantas. He advised that requirements for sea and air cargo will be very similar in the future. Transport Security Administration (TSA) will also require every air passenger to be screened against a terrorist list prior to arrival and at check-in.

#### **Action:**

- ND Cargo to provide relevant media releases on 100% US Cargo Maritime Screening to CBPNCC members by 31 January 2010.

### **Agenda Item 6.3 – Administrative Arrangements – Excise Equivalent Goods (EEGs)**

- ND Trade and Compliance advised that as a result of the Productivity Commission's *Annual Review of Regulatory Burdens on Business: Manufacturing and Distributive Trades*, from 1 July 2010 the Australian Tax Office (ATO) will administer legislation applying to EEGs. This relates to goods held in a licensed section 79 warehouse.
- Customs and Border Protection will maintain responsibility for all border protection activities related to the importation and exportation of EEGs as well as those EEGs that are imported and not warehoused. Customs warehouse license holders who store EEGs will deal only with the ATO in relation to all aspects of their licence. Importers of EEGs will also deal with the ATO for any authorisations or permissions relating to the EEGs.
- These new arrangements will be phased in over 18 months commencing on 1 January 2010 with up to 22 full-time positions transferred from Customs and Border Protection to the ATO to take up this role. Ministers have requested that both agencies monitor the implementation of these arrangements and include industry feedback in the six monthly updates provided to them.
- Customs and Border Protection and the ATO are working together to finalise a communication strategy which will ensure that parties are engaged throughout the implementation and transition process.
- Mr Gross from the Law Council of Australia (LCA) noted that he has received contradictory tariff and excise advice from the ATO and Customs and Border Protection. ND Trade and

Compliance indicated that Customs and Border Protection will continue to work closely with ATO, particularly in the transition of EEG administration, to ensure that there are arrangements that support consistent tariff advice.

#### **Agenda Item 6.4 – Import Processing Charges Review**

- DCEO Corporate Operations spoke to this item and advised that the annual price review of the Import Processing Charge (IPC) is currently being undertaken. The Australian National Audit Office (ANAO) is finalising their *Annual Special Report* on the cost recovery arrangements for the IPC and has not identified any major issues at this stage.
- It has been recommended that no action be taken at this stage to vary the IPC as the impact of the global financial crisis was a one-off event resulting in an under-recovery of IPC costs in 2008-09 when compared to 2007-08. The IPC will be subject to a formal cost recovery review in the context of the 2011-12 Budget process. This will require an internal review of the IPC be completed by October 2010. This review will then be the subject of a Submission to Government which will be considered as part of the 2011-12 Budget process. Any change to the IPC rate would be subject to Government decision. Industry was invited to submit its views in relation to issues that should be considered as part of the terms of reference for the IPC Review. These submissions should be forwarded to Mr Steven Groves, Chief Finance Officer, Customs and Border Protection, by 28 February 2010.
- Mr Morris from the CBFCA advised he is keen to work with Customs and Border Protection on the development of alternate revenue models that may include user-pays and cost recovery arrangements.

#### **Action:**

- Industry to provide submission to CFO, Customs and Border Protection on proposed terms of reference for IPC Review.

#### **Agenda Item 6.5 – International Vessels - Development**

##### Cargo Vessels

- DCEO Border Enforcement advised that Customs and Border Protection is finalising a *Maritime Intervention Strategy*. The Strategy uses a risk-based approach to ensure resources currently dedicated to low and medium risk first port boarding duties are redeployed to treat higher risks in the maritime domain.

##### Cruise Vessels

- In response to the growth in cruise ship passenger numbers, an inaugural meeting of the National Sea Passengers Facilitation Committee (NSPFC) was held on 28 October 2009. The NSPFC will provide a forum for industry and government border agencies to work collaboratively to improve the clearance of international cruise vessels.
- Customs and Border Protection is currently developing a work plan to improve the clearance of international cruise vessels and will report back to this meeting in early 2010. The work plan will include targeted operations (highlighted red), campaign activities (highlighted amber) and routine basic controls (highlighted green).

## Agenda Item 6.6 – National Security Changes

- The Chair spoke to this item and highlighted the changes in the role of Customs and Border Protection following the Prime Minister’s National Security Statement in December 2008. These include:
  - the name change to Australian Customs and Border Protection Service to reflect the agency’s responsibilities and new role leading the whole-of-government response to maritime people smuggling;
  - the substantial package of new measures to combat maritime people smuggling, spread across seven agencies;
  - enhancing existing or establishing new posts in the region at key people smuggling locations to ensure that Australian agencies operating overseas continue to work in an integrated and co-ordinated fashion;
  - strengthening the integrity of the marine domain by enhancing air surveillance measures and increasing sea days of some patrol assets;
  - establishing the People Smuggling Intelligence Hub within Customs and Border Protection to create a central location for the production of people smuggling intelligence and coordination of counter-people smuggling operational responses.
- The Chair advised that these changes have involved Customs and Border Protection more heavily in operational and intelligence priorities with other agencies and confirmed that people smuggling by air continues to be the responsibility of the Department of Immigration and Citizenship (DIAC).

## Agenda Item 6.7 - Organised Crime Framework

- The Chair circulated the *Commonwealth Organised Crime Strategic Framework: Overview* which was launched on 25 November 2009 by the Attorney-General Robert McClelland and Minister for Home Affairs Brendan O’Connor.
- The Framework will ensure Commonwealth intelligence, policy, regulatory and law enforcement agencies work together to prevent, disrupt, investigate and prosecute organised crime. Customs and Border Protection is currently drafting an Organised Crime Strategy to implement the Framework and drive an integrated approach to combating organised crime.
- The Chair noted that the Parliamentary Joint Committee on the Australian Crime Commission inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime may have asked CBPNCC members to provide submissions regarding attempts for organised criminal networks to infiltrate businesses. Mr Long from Qantas Group advised that he has been invited to provide a submission.

## **Agenda Item 6.8 – Implications of Gershon Review**

DCEO Corporate Operations outlined the impact of the Gershon Review recommendations on Customs and Border Protection, highlighting:

- the Gershon recommendations has strengthened the agency's position in Government IT with the CEO holding a position on the Secretaries' IT Governance Board (SIGB) to oversight Government IT investments;
- the agency's IT was already within the benchmarks suggested by Gershon and efficiency savings under Gershon are expected to be met without negatively affecting services;
- the agency is leveraging centrally negotiated procurement for IT commodities which should derive long time savings through efficiencies and reduced unit costs;
- the agency was developing an IT labour force strategy that strengthens and consolidates its internal IT capabilities; and
- the agency will face ongoing challenges arising from the pace, order of change and financial targets entailed in the Gershon recommendations and within these constraints the agency will need to consider future initiatives and priorities.

## **Agenda Item 6.9 – Future IT engagement arrangements with industry**

- DCEO Corporate Operations proposed the establishment of an IT Processes Sub-committee of the CBPNCC to be chaired by Customs and Border Protection's Chief Information Officer. These meetings will be held on the same days as the Service Delivery and Administration, Policy and Legislation Sub-committees and will examine business needs and develop technology roadmaps for software enhancements for industry.
- The proposal received support from industry representatives. Mr Katte from CBFCA suggested that the Sub-committee comprise an appropriate mix of industry representatives, not just software developers, to ensure that business and technological needs are met.

## **Agenda Item 6.10 – Future ANAO Audits**

- DCEO Corporate Operations noted that the ANAO will conduct a follow up audit on Customs and Border Protection's Cargo Management Re-engineering (CMR) Project. The preliminary scoping meetings with Customs and Border Protection are expected to be held in late January 2010 with the proposed scope of the audit expected to be provided in February 2010. The ANAO intends to consult with industry between March and May 2010.

## **Agenda Item 7 – Other business**

### **Tradegate**

- Mr Clark from IACAA advised that he has been appointed a representative of Tradegate. He expressed Tradegate's desire to engage with Customs and Border Protection and AQIS to achieve mutually beneficial outcomes. DCEO Passenger and Trade Facilitation suggested that Tradegate may wish to work in consultation with other stakeholders within an existing forum rather than in a bilateral relationship.

## **Cargo Screening**

- Mr Long from Qantas Group suggested that 100% US Screening of cargo and ongoing developments be listed as a standing item on the CBPNCC agenda. This was agreed by members.

## **Amalgamation of AFIF and CBFCA**

- Mr Katte from CBFCA noted that an external consultant has been engaged to amalgamate Australian Federation of International Forwarders (AFIF) and CBFCA into one entity. They are working towards a timeline of 30 June 2010 to develop a constitution, by-laws, voting processes etc. The new association will be established prior to the National Conference in October 2010.

## **Update from Australia Post**

- Ms Welsh from Australia Post reported on a drop in international post to Australia. This trend was also similar in the US, but letters received into China increased by 8%.
- Mr Clark from IACAA indicated his interest in the outcome of the new profiling strategy, as compared to physical inspections. He noted that profiling using value by weight by country of dispatch relationships requires the production of many documents.
- Ms Fisher advised that in the postal environment, profiling is based on the country of origin and weight. Electronic screening is done physically and electronically and this initiative is supported by IACAA.

## **Port Developments**

- DCEO Passenger and Trade Facilitation noted that Customs and Border Protection is involved in various projects around Australia including the Ports of Melbourne Corporation Container Logistics Study looking at issues such as supply chain and port congestion. In particular, he noted the work being undertaken by the Victorian University Institute for Logistics and Supply Management reviewing Port of Melbourne cargo handling logistics arrangements. He expressed the need to embed our processes into the supply chain as cargo delivery delays, for whatever reason, had a significant impact on the delivery of cargo and port congestion.

## **Industry engagement**

- Mr Clark from IACAA enquired about the progress of a semi-secure, password login page on the Customs and Border Protection website. ND Cargo indicated that this was still an outstanding action item as the mechanics of the facility is still being worked out.

## **Action:**

- ND Cargo to liaise with CIO regarding the potential to have a 'sharepoint' type document distribution arrangement for CBPNCC and Sub-committee members.

## **Reflections**

- The Chair asked members to reflect on how they might bring their involvement in other forums to the table and to also give consideration to broader strategic issues for the CBPNCC to address at future meetings.
- Mr Gross discussed the use of dispute/resolution issues as a possibility to consider at this forum. He noted that the same sort of disputes continue to be conducted in an unproductive manner, e.g. the classification of olives. ND Trade and Compliance noted that it may be timely to involve Customs and Border Protection's new established Legal Services Branch to revisit the topic.
- The Chair raised that this forum may wish to consider developing a more forward looking agenda that could explore longer term improvement options, for example, the potential to reshape the underbond control system.
- A number of representatives indicated that the co-design work undertaken on the Alternative Cargo Reporting had provided a collaborative model for industry, AQIS and Customs and Border Protection to work together to develop options to solve business problems. It was proposed that Customs and Border Protection scope a terms of reference for discussion with CBPNCC members by the end of January 2010, on the movement of underbond goods, linked in with airport/port logistics and revenue management.
- The Chair also broadly reflected that this Committee could also establish working groups to address the three work items of alternate revenue models, port communication systems and port congestion issues if members felt it worthwhile.
- The Chair noted this was the last CBPNCC meeting for Mr Gross of the Law Council of Australia and thanked him for his contribution.

## **Action:**

- Customs and Border Protection to develop a think piece on the development of longer term improvement options for the next CBPNCC meeting.

## **Agenda Item 8 – Next Meetings**

- The date for the next Service Delivery and Administrative Policy and Legislation Sub-Committees meetings to be held in Melbourne will be confirmed out of session.
- The date for the next meeting of the CBPNCC will be confirmed out of session.

**Actions arising from CBPNCC Meeting 58 on 10 December 2009:**

<b>Item</b>	<b>Action Arising</b>	<b>Responsible Officer</b>	<b>Status of Action</b>	<b>To Be Completed By</b>
1	ND Trade and Compliance to circulate legislation updates to CBPNCC industry representatives.	ND Trade and Compliance		31 December 2009
2	ND Trade and Compliance to confirm when industry is required to use the new form for Tariff Concession Orders (TCOs).	ND Trade and Compliance		29 January 2010
3	ND Trade and Compliance to circulate draft <i>Authorities to Act – Compliance Approach</i> by the end of January 2010.	ND Trade and Compliance		31 January 2010
4	ND Cargo to provide relevant media releases on 100% US Cargo Maritime Screening to CBPNCC members by 31 January 2010.	ND Cargo		31 January 2010
5	Industry to provide submission to CFO, Customs and Border Protection on proposed terms of reference for IPC Review.	Industry representatives		28 February 2010
6	ND Cargo to liaise with CIO regarding the potential to have a ‘sharepoint’ type document distribution arrangement for CBPNCC and Sub-committee members.	ND Cargo		31 January 2010
7	Customs and Border Protection to develop a think piece on the development of longer term improvement options for the next CBPNCC meeting.	ND Cargo		31 January 2010