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Customs and Border Protection National Consultative Committee (CBPNCC)

Meeting 59

Minutes of the Meeting

5 May 2010

Attendees:

Mr Robert Battistel	Observer for the Conference of Asia Pacific Express Carriers
Mr Craig Birchall	Qantas Group
Mr Tim Chapman	AQIS
Mr Bill Cole	Law Council of Australia
Mr Eddy Declercq	Shipping Australia
Mr Chris Jensen	Australian Federation of International Forwarders
Mr David Katte	Customs Brokers and Forwarders Council of Australia
Mr Stephen Morris	Customs Brokers and Forwarders Council of Australia
Mr Kevin Reilly	Institute of Chartered Accountants
Ms Judith Welsh	Australia Post

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

Mr Michael Carmody	Chief Executive Officer, Meeting Chair
Mr Michael Pezzullo	Chief Operating Officer, Customs and Border Protection
Mr Neil Mann	Deputy Chief Executive Officer, Passenger and Trade Facilitation
Ms Sue Pitman	National Director, Trade and Compliance
Ms Robyn Miller	A/g National Director, Cargo

Secretariat:

Ms Erica O'Sullivan	Director, Parliamentary and Executive
Ms Pon Chaleune	Manager, Executive Support

Apologies:

Mr Nathan Backhouse	Australian Chamber of Commerce and Industry
Mr Damian Burton	Stevedoring Industry
Mr Geoff Clark	Conference of Asia Pacific Express Carriers
Mr Trevor Long	Qantas Group
Mr Jim Marshall	Chief Operating Officer, Australia Post
Ms Marion Grant	Deputy Chief Executive Officer, Border Enforcement, Customs and Border Protection
Mr Joe Attanasio	Chief Information Officer, Customs and Border Protection

Agenda Item 1 – Chair’s Introduction

The Chair welcomed attendees to the meeting. He noted the retirement and acknowledged contributions from:

- Mr Louis Gross from the Law Council of Australia;
- Alan McDermid from Shipping Australia;
- Ms Jaclyne Fisher, National Director Cargo, Customs and Border Protection; and
- Ms Linda Smith, Deputy Chief Executive Officer, Corporate Operations, Customs and Border Protection.

The Chair also welcomed Mr Bill Cole as the new representative for the Law Council of Australia and noted Ms Judith Welsh as the permanent representative for Australia Post.

Agenda Item 2 – Minutes of the previous meeting

The minutes from the CBPNCC Meeting 58 held on 10 December 2009 were accepted.

Agenda Item 3 – Actions arising from previous meetings

Actions arising from CBPNCC Meeting 58 on 10 December 2009

Item 5 - Industry to provide submission to CFO, Customs and Border Protection on proposed terms of reference for Import Processing Charges (IPC) Review.

Industry representatives were reminded to contribute to the terms of reference for the IPC Review. Comments are required to the Chief Operating Officer of Customs and Border Protection urgently.

Mr Morris from the Customs Brokers and Forwarders Council of Australia (CBFCA) indicated that CBFCA will contact Customs and Border Protection to provide comments on this issue.

Item 7 – Customs and Border Protection to develop a think piece on the development of longer term improvement options for the next CBPNCC meeting.

A/g ND Cargo noted that the paper on the ‘Analysis of the Underbond Environment’ tabled under *Agenda Item 9 – Other business* will address this action item.

Action Item closed.

Agenda Item 4 – Feedback from CBPNCC Sub-committee Meetings

Service Delivery Sub-Committee

A/g ND Cargo provided feedback from the Service Delivery Sub-committee meeting held on 25 March 2010:

- Following the ICS outage in December 2009, a significant amount of work has been undertaken to identify its causes and to initiate strategies to minimise further disruption.
- Members were provided with an update on the progress of issues contained in the Industry Priority List.
- The draft Time Release Study 2009 was provided to sub-committee members and there was a great deal of interest in the results. This Time Release Study was on the agenda for discussion at this meeting at Agenda Item 5.2.
- Attendees were advised that the Australian National Audit Office (ANAO) will be undertaking an audit of the implementation of Cargo Management Re-engineering (CMR) Project. Consultation with industry will occur once an ANAO contact officer has been appointed.

The Chair advised attendees that the forthcoming Federal Budget will see the Government continuing to exercise tight control over spending. This will impact on the delivery of the work program for industry. The limited budget means the agency will be in maintenance mode for its systems. Industry will need to inform Customs and Border Protection of any critical issues so that these may be prioritised.

Administration, Policy and Legislation Sub-Committee

ND Trade and Compliance provided feedback from the Administration, Policy and Legislation Sub-committee meeting held 25 March 2010.

- Attendees reviewed the work program contained within the Industry Priority List. The outstanding issues remain consistent with industry's areas of interest.
- Attendees were advised that Australia's request to the World Customs Organization to consider a change to the commencement date of the Harmonized System (HS) had been unsuccessful.
- In relation the Compliance Assurance Program, three compliance updates have been provided to industry to date. The next step is to work with industry to link the 2010-11 compliance program to an industry education approach that will focus on reducing tariff and classification errors. This will be pursued at the next meeting of the Sub-Committee.
- Attendees were advised that Mr Stephen Skehill has been appointed as the new Chair of the National Customs Brokers Licensing Advisory Committee.
- Mr Cole from the Law Council of Australia discussed the tariff classification error statistics tabled at their meeting in Melbourne and enquired about acceptable levels of non-compliance of immaterial errors.
- The Chair confirmed that the Administration, Policy and Legislation Sub-Committee will focus on working through these matters.

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Technology Sub-Committee

On behalf of the Customs and Border Protection's Chief Information Officer (CIO), A/g ND Cargo provided feedback on the inaugural CBPNCC Technology Sub-committee held on 25 March 2010:

- Attendees agreed on the need for a Technology Sub-Committee and noted that the focus should be strategic in nature, with information sharing on areas such as best practice.
- The CIO is preparing a draft Terms of Reference for the Sub-Committee for discussion at the next meeting.

Agenda Item 5 – General Business

Agenda Item 5.1 – Update on US 100 percent Sea Cargo Scanning Requirements

A/g ND Cargo spoke to this item, highlighting:

- That the paper submitted provides an update on the requirements for security screening of 100 percent of sea cargo bound for the US, it does not refer to air. Air cargo issues are addressed in Agenda Item 5.3.
- That during the December 2009 Congressional Hearings, Department of Homeland Security (DHS) Secretary, Janet Napolitano, advocated risk-based alternatives. She indicated in testimony to the US Congress that 100 percent screening of containers was neither technically feasible nor desirable from a security perspective.
- The World Customs Organization (WCO) and the European Union (EU) continue to advocate for a multi-layered, risk management approach.
- That recent testimony by the DHS Secretary in both the House Homeland Security Committee and US Senate hearings suggests a softening in the stance by the House Homeland Security Committee and US Congress on this issue.

Mr Morris from the CBFCA complimented Customs and Border Protection on this paper. Referring to the last paragraph of the briefing paper, '...are not considered to have altered the landscape in terms of a repeal of the "100 percent legislation" any time soon.', he suggested that the Committee devote time to understand the implications of this legislation to industry. DCEO (P&TF) noted that no-one knows how this scheme would work, not even the US is clear on how it would operate should it come into effect. So it would be difficult to devise scenarios to assess the impact on industry. He advised that the Customs and Border Protection representative in the US is closely monitoring developments and has yet to receive any indication that this system would be implemented within the next two years.

Mr Cole from the Law Council of Australia raised the issue of introducing the Authorised Economic Operator (AEO) Program for branding purposes. DCEO (P&TF) noted that there is no empirical evidence to support the implementation of an Australian AEO program at this time, however if industry representatives believe that there is a real benefit for them from such a program, or that they are experiencing market access problems, Customs and Border Protection would reassess this decision.

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Action:

- A/g ND Cargo to continue to provide updates on the US 100 percent sea cargo scanning requirements to industry at CBPNCC meetings.

Agenda Item 5.2 – Time Release Study 2009 – Initial Findings

A/g ND Cargo presented the key findings of the Time Release Study 2009 noting that the improved results appears to have flowed from the increased timeliness of cargo reporting. This is allowing border agencies to finalise their risk assessment earlier, providing benefits for transport and logistics planning.

She welcomed feedback from CBPNCC members regarding any industry correlations to these findings.

Clarification was sought to confirm whether the graphs provided at *Attachment B* relate to ‘first port’ arrivals.

Action:

- A/g ND Cargo to confirm whether *Attachment B: Cargo Status at Arrival* refers to “first port”.

Agenda Item 5.3 – Implications of the Government’s Announcement on Aviation Security for Australian Customs and Border Protection

- A/g ND Cargo led the discussion, stating that the Office of Transport Security (OTS) within the Department of Infrastructure, Transport, Regional Development and Local Government is responsible for Australia’s aviation security.
- The Minister of Infrastructure, Transport, Regional Development and Local Government announced in February 2010 funding of \$200 million over 4 years to strengthen aviation security.
- The US *Implementing Recommendations of the 9/11 Commission Act* requires the US Transport Security Administration (TSA) to implement a system to screen 100 percent of cargo carried on passenger aircraft by August 2010.
- The TSA and other security regulators from Australia, Canada and the EU are proposing a cargo screening model that would see cargo identified as either low risk cargo originating from accredited known or regulated shippers, or as high risk cargo originating from unknown or non-regulated shippers.
- The TSA, OTS and counterparts in the UK and Canada are seeking to lobby Congress to accept the introduction of Regulated Shipper arrangements to satisfy the cargo screening requirements for air cargo destined for the US. It is not clear at this stage whether the US Government will accept this proposed approach.
- OTS is working with Customs and Border Protection, AQIS and industry to develop the policy settings for the Regulated Shipper Scheme and to consider how it would best integrate with the border agencies existing regulatory frameworks and industry logistics.
- Mr Birchall from Qantas Group noted that they are currently working with OTS to develop an accreditation scheme.

Agenda Item 5.4 – Update on European Commission Safety and Security Amendment to the European Commission Customs Code

- A/g ND Cargo reported that the EU is implementing a series of new security measures for import and export cargo similar to the United States' (10+2) Pre-Load Model.
- She noted that this paper has been submitted for attendees' information only and requested feedback from CBPNCC members on this matter.
- Mr Morris noted that the EU has been struggling to make this system work for a variety of reasons.

Agenda Item 6 – Update on Trade and Compliance Matters

- ND Trade and Compliance provided a verbal update on Trade and Compliance matters.
 - Customs and Border Protection is completing its review of the Tariff Advice System. This involved reviewing the system for consistency; has involved industry in the process; and will include the establishment of a reference group to review tariff classifications and precedents. Customs and Border Protection will contact CBPNCC members regarding the establishment of a reference group.
 - In terms of current operational activities in the regulated goods environment, Customs and Border Protection are encountering a series of issues around asbestos. This remains an on-going management, policy and operational challenge. Customs and Border Protection are working with major industrial equipment importers, and working with States/Territories on testing and certifications. Industry was invited to provide any information to assist in identifying importations that may present a risk.
 - Other work in the area of regulations at the border includes consideration of options for addressing illegally logged timber, the status of the controls on firearms and Defence exports.
 - There are also a number of Government reviews currently underway including:
 - the Productivity Commission Review into Bilateral and Regional Free Trade Agreements;
 - the Tariff Concession Rationalisation and Simplification Review – examining Schedule 4 of the *Customs Tariff Act 1995*; and
 - the Productivity Commission Review on Australia's Anti-dumping and Countervailing System.
 - In relation to the Compliance Program, work is progressing on the transfer of the administration of Excise Equivalent Goods (EEG) warehousing and of 22 Customs and Border Protection staff to the Australian Tax Office on 1 July 2010. A communiqué will be sent to parties involved in this area.

Agenda Item 7 – Overseas Developments

- DCEO (P&TF) provided an update on a number of overseas developments including:
- **The Australia-European Union PNR Agreement.** The Committee has passed a resolution directing the European Council to issue new mandates and re-negotiate the US, Canadian and Australian agreements based on key principles that would form the basis of an EU PNR agreement. Australia will seek to work with active member states and the Commission to respond to this resolution in a constructive way. The resolution seeks to place limitations on the use of passenger data which will affect the EU's own use of PNR data. The resolution asserts that Advanced Passenger Information (API) is insufficient.
- **Supply chain and security issues.** The EU is implementing:
 - an AEO program and is trialling the use of technology for better security of the supply chain such as radio frequency identification devices (RFID); and
 - using a single window approach across the EU for the purposes of its pre-load cargo reporting.
- **World Customs Organization – Risk Management Approaches.** Australia could consider recognising AEO status without having a domestic AEO program. China and Korea outlined a relatively sophisticated approach to risk management at the WCO Regional Heads Forum. There is a greater value proposition in countries with relatively high levels of manual border processes for an AEO program.

Mr Bill Cole noted that Australia does not have an AEO program. He argued that this trend overseas appears to be important at a commercial level. DCEO (P&TF) questioned the additional value of AEO based on evidence, rather than trends. He noted that we need to be alert to indirect trade barriers and that trials for an AEO program have already been conducted in Australia, but that it comes at a cost to industry and to Government.

- **Co-ordinated Border Management.** Examples of co-ordinated border management approaches raised at the WCO Regional Heads Forum included using TRS to identify border clearance issues, single window trade systems and cross-agency co-ordination arrangements at the strategic level such as the Border Management Group in Australia.

Agenda Item 8 – Forward Agenda

The Chair noted that due to the tight fiscal environment, Customs and Border Protection are not in a position to undertake major systems development projects. Instead he suggested taking advantage of this time to develop long-term strategies for the future.

Further discussion on this agenda item was included under Agenda Item 9.

Agenda Item 9 – Other Business

Analysis of the Underbond Environment

- A/g ND Cargo noted that Customs and Border Protection's analysis of the underbond movements has confirmed that there appear to be opportunities for both industry and Customs and Border Protection from a review of the current control regime. This could be the first piece of work in the development of longer-term improvement options within the end-to-end cargo process. Members agreed this matter is worth pursuing further.
- A/g ND Cargo suggested that the CBPNCC Sub-Committees could conduct further work in this area. For instance, the control regime could be examined to see whether it is targeted too broadly and the option of relaxing controls around goods moving across the border could be explored.
- AQIS indicated its support of the proposal for inland clearance but suggested that further work needs to be done to ensure that the analysis is conducted correctly and that it is appropriately targeted.
- Mr Chapman noted that AQIS is focussing on the on-going evolution of intervention of passengers, mail and cargo. AQIS are trialling their model and are undertaking data analysis to progress to the next stage. He is confident that good compliance models will evolve over the next few years.
- Mr Chapman stated there is important, challenging work ahead providing opportunities for both Government and industry to work together to achieve better frameworks.
- All CBPNCC members agreed that it is necessary to conduct a detailed analysis of the underbond movement issues to determine the advantages of proceeding with a working party. CBPNCC members would nominate their interest in participating and if there is sufficient interest to proceed with the working group, a forward work plan will be developed.

Action:

- A/g ND Cargo to amend the draft Terms of Reference for the working group based on feedback from the meeting and invite CBPNCC members to nominate a representative for the working group.

Agenda Item 10 – Next Meetings

- The next Service Delivery; Administrative Policy and Legislation and Technology Sub-committee meetings will held on 22 July 2010 at Customs House Sydney.
- The date for the next meeting of the CBPNCC will be confirmed out of session.

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Actions arising from CBPNCC Meeting 59 on 5 May 2010:

Item	Action Arising	Responsible Officer	Status of Action	To Be Completed By
5.1 Mtg 59	A/g ND Cargo to continue to provide updates on the US 100 percent sea cargo scanning requirements to industry at CBPNCC meetings.	A/g ND Cargo		30 September 2010
5.2 Mtg 59	A/g ND Cargo to confirm whether <i>Attachment B: Cargo Status at Arrival</i> refers to “first port”.	A/g ND Cargo		30 September 2010
9 Mtg 59	A/g ND Cargo to amend the draft Terms of Reference for the working group based on feedback from the meeting and invite CBPNCC members to nominate a representative for the working group.	A/g ND Cargo		22 July 2010