

Unclassified

**Customs National Consultative Committee**

**Meeting 56**

**Minutes**

**7 April 2009**

Attendees:

Mr Robert Battistel	Observer for the Conference of Asia Pacific Express Couriers
Mr Geoff Clark	International Air Couriers Association of Australia
Mr Eddy Declercq	Shipping Australia
Mr Louis Gross	Law Council of Australia
Mr Chris Jensen	Australian Federation of International Forwarders
Mr Trevor Long	Qantas Group / Board of Airline Representatives of Australia
Mr Brian Lovell	Australian Federation of International Forwarders
Mr Jim Marshall	Australia Post
Mr Stephen Morris	Customs Brokers and Forwarders Council of Australia
Mr Peter van Duyn	Stevedoring Industry

*Australian Customs and Border Protection Service*

Mr Michael Carmody	CEO - Chair
Mr Neil Mann	DCEO Passenger and Trade Facilitation
Ms Jaci Fisher	ND Cargo
Mr Peter White	ND Compliance
Mr Steven Groves	Chief Finance Officer & ND Financial Services Division
Ms Sue Pitman	ND Trade
Ms Teresa Conolan	NM Corporate Strategy and Governance
Ms Pon Chaleune	Secretariat

**Agenda Item 1 – Chairman’s Introduction**

CEO, Customs and Border Protection welcomed to the meeting Jim Marshall, representative from Australia Post and Brian Lovell, CEO, Australian Federation of International Forwarders. He introduced Steven Groves, Chief Finance Officer (CFO) of Australian Customs and Border Protection Service and welcomed back Peter White, ND Compliance, who has returned from a six-month deployment to INTERPOL.

Apologies were noted from:

- Darryl Sharp, Chairman, Customs Brokers and Forwarders Council of Australia;
- Kevin Reilly, Institute of Chartered Accountants;
- Mr Nathan Backhouse, Australian Chamber of Commerce and Industry; and
- Marion Grant, DCEO Border Enforcement, Customs and Border Protection.

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

The minutes from CNCC 55 on 16 December 2008 were accepted.

Mr Declerq from Shipping Australia requested that meeting papers be distributed two weeks prior to the meeting. CEO, Customs and Border Protection noted that the agency will aim to achieve this time frame.

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

### **Action Item 2 from CNCC Meeting 54 on 21 August 2008**

Mr Morris from Customs Brokers and Forwarders Council of Australia (CBFCA) queried the status of this action item relating to a request to change the commencement date for the Harmonized System. ND Trade advised that next steps are for Customs and Border Protection to submit a paper to the next WCO Policy Commission Meeting in June 2009. Customs and Border Protection is preparing a letter to present to the next meeting.

### **Action Item 2 from CNCC Meeting 55 on 16 December 2008**

ND Cargo noted that a number of improvements have been made to industry communication enabling more tailored, personal and targeted interactions. These improvements include changes to the Integrated Cargo System (ICS) Home Page and conducting industry road shows to facilitate face-to-face communication, with around 950 industry participants. Improvements to internal communication initiatives such as more effective communication to staff via an improved intranet will also better inform Customs and Border Protection officers of new processes and policies coming into effect. Feedback from industry was welcomed.

### **Action Item 5 from CNCC Meeting 55 on 16 December 2008**

ND Cargo noted that a report on the achievements of the Industry Action Group (IAG) has been circulated to CNCC members. She also distributed the outstanding IAG issues register together with other industry issues segmented for industry sector to relevant CNCC members. She sought feedback on any omissions to the documents and noted that issues will need to be prioritised moving forward. Industry members were asked to provide comment through their respective Client Managers. Progress of these issues will be managed through the new Sub-Committees to be discussed at Agenda Item 7. It was noted that the program of work would include broader industry issues not just those related to the ICS.

## **Agenda Item 4 – Introduction from Australia Post**

Mr Marshall from Australia Post thanked Customs and Border Protection for the invitation to join the CNCC. As General Manager, Mail and Networks, Mr Marshall is responsible for Australia Post's back-end operations including mail and cargo processing, international gateways and transportation. He provided background information on the organisation including governance and treaty arrangements, the nature of the business, corporate statistics and Australia Post's relationship with Customs and Border Protection.

**Agenda Item 5 – Update reports requested by the CBFCA on the following work in progress:**

**Agenda Item 5(i) – Authorities to Act**

ND Compliance noted that Customs and Border Protection has developed a draft compliance approach to the issue of Authorities to Act that meets the requirements of the legislation and requires minimal business changes to express carriers. Mr Morris from the CBFCA and Mr Clark from International Air Couriers Association of Australia (IACAA) confirmed receipt of the draft model and noted that they will respond to Customs and Border Protection in the near future.

**Agenda Item 5(ii) – Value of the taxable importation (VoTI) - update**

ND Compliance reported that the Australian Tax Office (ATO) has received legal advice that the Commissioner can make a legislative determination that involves more than an apportionment of a known amount paid or payable for international transport. This decision represents a significant shift in the ATO's ability to determine that The Air Cargo Tariff (TACT) standard rates or any other substitute or estimate of actual amounts paid or payment could be used to work out the amount paid or payable for international air express courier services to Australia. Compliance Division will meet with the ATO within the next two weeks to discuss this advice. The ATO has advised that they would like to host a meeting with Industry and Customs and Border Protection in May 2009, on an equal Government/Industry partnership basis, to co-design the compliance strategy that will ease the compliance burden on the user. ND Compliance stated that the ATO advised that any new determination cannot be relied upon if the actual costs were known by industry. Mr Gross, Law Council of Australia (LCA) requested that he be provided with a copy of the update provided by ND Compliance.

**Action:**

- ND Compliance to distribute a copy of his update to Mr Louis Gross, LCA, and for ND Compliance to facilitate the meeting with industry.

**Agenda Item 5(iii) – Tariff Concession Order/Tariff Advice Rulings**

ND Trade reported that following representations received from industry, the Department of Innovation, Industry, Science and Research (DIISR) has indicated that issues raised by industry, relating to duty concessional arrangements under the Customs Tariff, would be raised with Government. Customs and Border Protection will be reviewing its administration of Tariff Advices and will look at synergies between the management of Tariff Advices and delivery of the Tariff Concession Scheme.

Mr Gross from the LCA queried the following sentence in the papers: "The legislation requires Customs and Border Protection to determine the classification of the goods covered by a TCO". He asked whether Customs and Border Protection could provide clarification that a tariff classification given as part of a TCO would be upheld in relation to future imports of the same goods by the TCO applicant.

**Action:**

- ND Trade to follow up on the status of classifications given in TCOs and advise CNCC members and other stakeholders of the outcome.

**Agenda Item 5(iv) – Duty Deferral**

ND Cargo discussed the concept of a duty deferral model and advised that evidence to date does not indicate major improvement opportunities, and we need a strong value proposition to put to Government. Further research is continuing to identify possible improvements to the process, reporting outcomes or a reduction in red tape. Input from industry was welcomed.

**Action:**

- CNCC members to provide comments on the duty deferral concept to ND Cargo. ND Cargo to provide analysis of current revenue management arrangements covering the number and type of importers and the associated volume, value and type of imports.

**Agenda Item 5(v) – Outcomes from CBFCA Issues register from outstanding IAG matters**

ND Cargo provided CNCC members with a copy of its register of outstanding IAG issues. This report is Customs and Border Protection's first attempt to bring forward a summary of the key issues raised by each industry sector. These issues will be addressed in the future through the work programs of the proposed CNCC Sub-Committees. Members were asked to provide feedback as to whether all their issues and current status have been captured accurately. This will provide the opportunity to discuss the relative priority of issues across industry sectors for further collaborative development.

**Action:**

- Members to advise ND Cargo of any changes needed to the industry issues register.

**Agenda Item 5(vi) – Cost Recovery**

The CFO, Customs and Border Protection advised that a review of cost recovery arrangements was completed prior to Christmas 2008. The review compares the actual Import Processing Charge (IPC) revenue collected and Customs and Border Protection's costs associated with the activity. In 2007-08 there was a slight under recovery, and in 2008-09 a similar under recovery is expected. The CFO confirmed that Customs and Border Protection has no plans to increase the IPC at this stage. The cost recovery arrangements for the IPC will be formally reviewed in 2010. CBFCA indicated they were willing to participate in a mid year review.

Mr Gross enquired as to whether Customs and Border Protection's expenditure on lawyers is taken into consideration. The CFO advised that the review does not collect that level of detail in the cost recovery arrangements.

**Agenda Item 5(vii) – Future Risk Management Approaches (ex Review of Homeland Border Security)**

Industry representatives provided a report on how their industry sectors were performing in the current economic climate:

- Mr Long from Qantas Group / BARA reported that passenger numbers (particularly within the premium class) have declined and staff reductions will be concluded in June 2009. Investigating the potential for a trans-Tasman “domestic experience”. Freight is down and some routes have been ended. Jetstar has also replaced Qantas as the carrier for air cargo to NZ. On a positive note, Qantas remains one of the few airlines in the world still operating profitably at the moment.
- Mr Morris from the CBFCA noted a downward trend in import and cargo declarations. CBFCA members had commenced human resource rationalisation and others were moving to nine day fortnights or similar arrangements. Members would also evaluate their outgoings as well as aspects such as membership industry associations including the CBFCA.
- Mr Lovell from Australian Federation of International Forwarders (AFIF) noted that his industry has reported a downturn of 20%-40% and that Executives are moving into sales areas. He has also seen a rise of start-up companies for niche markets.
- Mr Declerq from Shipping Australia noted that exports are still good but that imports have declined.
- Mr Marshall from Australia Post noted that the experiences in the international and domestic markets were not uniform, and that the transport division has been hit the hardest. The US Postal Service have invited 150,000 staff members to take early retirement and the domestic TNT operations in the Netherlands have accepted a 15% wage reduction in order to maintain jobs in the postal environment.
- Mr Clark from IACAA noted that 700 jobs have been lost in the domestic UK market, but that import declarations for air over the last two months are at the highest levels due to exchange rate fluctuations. Acquisitions are still occurring to expand networks such as those to South America, road based operations are increasing and there is more freight than aircraft capacity.
- Mr Battistel from the Conference of Asia Pacific Express Couriers (CAPEC) noted that FEDEX has parked some aircrafts. The US domestic market has experienced salary reductions, investment have been confirmed in hubs in Guangzhou China and the business is seeing a greater product mix, but the premium segment is down.

From Customs and Border Protection’s perspective the CEO noted that the Federal Budget on 12 May 2009 will provide further detail on the Government’s position. The Government is currently operating in a difficult budgetary environment and this is unlikely to change. Customs and Border Protection is required to achieve an efficiency dividend, and further savings of 15% for IT business as usual expenditure for the next two years. To do this the agency has reduced the number of IT contractors by \$20M. In response to budgetary pressures, cuts have also been made to travel expenses. Management structure and overheads are being examined and reviews have been initiated to achieve leaner operations. Front line operations will undertake a risk-based approach to interventions and quality information is required to achieve this. Customs and Border Protection will undertake specific campaigns regarding interventions and seek support for these risk based interventions.

Regarding the PACE redevelopment, the DCEO Passenger and Trade Facilitation noted that significant inroads have been made in the redevelopment but that the exercise was not yet complete. Given the budgetary outlook, we may need to consider slowing further development down. This should not impact business continuity.

## **Agenda Item 6 – Cargo Facilitation**

### **Agenda Item 6(a) – Intermodal Hub Developments**

ND Cargo noted that the pace of intermodal hub development may slow due to the decline in freight levels at port terminals. This view was supported by Mr van Duyn from the Stevedoring Industry. It was also suggested that rail corridors may present challenges and that now would be the ideal time to look at this process before cargo levels increase.

### **Agenda Item 6(b)(i) – APEC Trade Recovery**

ND Cargo advised that the Operational Exercise (OpEx) to further develop and validate the Trade Recovery Programme Guidelines will be held from 20-30 April 2009 and that the outcomes from this exercise will be shared with the Committee. She noted that to date there was little interest from industry in progressing Authorised Economic Operator (AEO) model. Many were taking a wait and see approach on the outcomes of the 100% US Screening requirements.

### **Agenda Item 6(b)(ii) – 100% US Screening Update**

ND Cargo noted that developments relating to the US proposals for the screening of cargo destined for the USA continue to be monitored. The Office of Transport Security (OTS) and Customs and Border Protection are currently exploring opportunities for joint discussions with the US Transport Security Administration (TSA) and US Customs and Border Protection with the US administration. It appears that the treatment of air and sea cargo will take diverging paths with doubts that the 2012 deadline for sea cargo will be achievable.

### **Agenda Item 6(b)(iii) – Trans Tasman Trade Update**

ND Cargo reported that Customs and Border Protection are working together with their counterparts in NZ Customs Service to assess current supply chain performance with the view to develop joint performance measures for an end-to-end view of trans-Tasman cargo processing. DCEO Passenger and Trade Facilitation noted the need to assess the role of Customs organisations clearance of outgoing goods and aircraft leaving the country to examine how we can maximise pre-arrival risk assessment and clearance of goods. He also spoke about a proposed model for the facilitation of trans-Tasman passenger travel.

**Agenda Item 6(b)(iv) – UPU/WCO Committee Meeting Update**

ND Cargo provided feedback on the Universal Postal Union (UPU) and the World Customs Organization Joint Contact Committee Meeting held in Berne Switzerland on 6 April 2009. One of the discussion points related to the expanded use of electronic data exchange (EDI) between Postal authorities. This capability creates opportunities to transmit postal data to Customs authorities. This would allow greater streamlining of risk management approaches to intervention activities. The United States (US) and the European Union (EU) have now stipulated in legislation the exchange of information in this manner. Trials have also commenced between the US and Germany. The challenge of the EDI capability, especially in developing countries, would be the transfer of information into an electronic format. Customs and Border Protection is pursuing discussions with Australia Post and the Australian Quarantine and Inspection Service (AQIS) to keep abreast of developments in this area.

**Agenda Item 6(c) – Overview of Compliance Activity and Cargo Trade Volume Observations**

ND Cargo proposed to regularly bring data on performance metrics to the Committee and sought feedback on whether this information is valuable to CNCC members. The information related to cargo volumes, number of entries, emerging trends and forecasts and could be used to inform strategic planning discussions by the Committee about modes of transport, future warehousing requirements, identification of risk and so on.

CAPEC agreed this was useful and could identify trends in routing changes which may be of interest for our profiling approaches. CBFCA noted that it would usefully inform compliance activity and industry could work with Customs and Border Protection on remedial action.

ND Compliance provided an overview of compliance activity. He noted that the amount of revenue understatements identified in 2008-09 (July to January) is much higher than for the same months in the previous year, and that sea cargo reporting compliance rates have improved significantly. This will continue to be a focus but also shifting to improve accuracy of reporting. He also outlined a number of Compliance priorities for 2009-10 including targeted compliance activities and deploying resources to meet emerging risks such as self-assessed clearances (SAC) and deliveries without authority. With regard to the SAC issue, ND Compliance highlighted some concern with the SAC being utilised inappropriately, an example was provided where FCL imports were undertaken via SAC where the value of goods far exceeded the \$1,000 threshold. Focus will be on improving voluntary compliance.

Mr Clark from IACAA noted the concern about SAC declarations was not solely an air courier issue. Mr Clark also sought feedback from Compliance on an outstanding issue that has been raised with Customs and Border Protection regarding ACN 2006/27 and ACN 2006/59 (SACS arriving on the same master bill). Mr Clark believes that the IACAA have different interpretations on these notices to Customs and Border Protection.

**Action:**

- ND Compliance to follow up on the status of the correspondence from IACAA relating to ACN 2006/27 and ACN 2006/59 and to provide a response.

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- CNCC members to provide information to Customs and Border Protection on changing transport routes and volumes.
- CNCC members to provide feedback on the value of this type of information for future meetings.

**Agenda Item 6(d) – Reviewing Cargo Interventions Approach**

**Agenda Item 6(d)(i) – Cargo Processing System Update**

ND Cargo noted that three ICS releases have been introduced since the last CNCC Meeting that incorporate industry requests for changes to current system functionality. Mr Morris from CBFCA commended Customs and Border Protection on the exemplary work completed on ICS to date and noted that more needs to be done.

**Agenda Item 6(d)(ii) – Opportunities for changed approaches following on from Beale and Smith Reviews**

Noted.

**Agenda Item 7 – Proposed Customs and Industry Engagement Model**

NM Corporate Strategy and Governance detailed the proposed Customs and Industry Engagement Framework where the Customs and Border Protection National Consultative Committee (CBPNCC) will become a strategic forum to discuss high level issues, supported by two Sub-Committees set up to develop and progress programs of work to report back to the Committee. She noted that the *Service Delivery* and *Administration and Policy and Legislation Sub-Committees* would be chaired by ND Cargo and ND Trade respectively. It was noted that the intent of the Industry Action Group and Cargo Processing Executive Steering Committee would be incorporated in the new engagement arrangements. Industry contribution to this engagement model was appreciated.

The CNCC Charter has been updated to support the new framework and discussions on the Sub-Committees terms of reference followed. Mr Clark from IACAA thanked Customs and Border Protection for the opportunity to provide input into the proposed framework and Mr Long from BARA noted that “Australian Air Transport Association” should be amended to “Board of Airline Representatives of Australia”. Customs and Border Protection confirmed that the use of Client Managers would continue.

**Action:**

- NM Corporate Strategy and Governance to amend “Australian Air Transport Association” to “Board of Airline Representatives of Australia” in the Customs and Border Protection National Consultative Committee Proposed Charter.

**Agenda Item 8 – Information Papers – Legislation Update**

**Unclassified**

NM Corporate Strategy and Governance noted that this paper provides a record of the Bills currently before parliament. The Customs Legislation Amendment (Name Change) Bill 2009 has been passed in the House of Representatives and was introduced into the Senate on 20 March 2009.

**Agenda Item 9 – Other business**

It was noted that Australian Customs and Border Protection Service will now be referred to as 'Customs and Border Protection'.

**Agenda Item 10 – Next meetings**

The Service Delivery and Administrative Policy and Legislation Sub-Committees will be held at Customs House Sydney on 21 July 2009. The next meeting of the CNCC will be held on 1 September 2009.

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**Actions arising from CNCC Meeting 56 on 7 April 2009:**

<b>Item</b>	<b>Action Arising</b>	<b>Responsible Officer</b>	<b>Status of Action</b>	<b>To Be Completed By</b>
<b>1</b>	ND Compliance to distribute a copy of his update to Mr Louis Gross, LCA, and for ND Compliance to facilitate the meeting with industry.	ND Compliance		30 April 2009
<b>2</b>	ND Trade to follow up on the status of classifications given in TCOs and advise CNCC members and other stakeholders of the outcome.	ND Trade		30 June 2009
<b>3</b>	CNCC members to provide comments on the duty deferral concept to ND Cargo. ND Cargo to provide analysis of current revenue management arrangements covering the number and type of importers and the associated volume, value and type of imports.	ND Cargo		30 June 2009
<b>4</b>	Members to advise ND Cargo of any changes needed to the industry issues register.	CNCC industry representatives		30 June 2009
<b>5</b>	ND Compliance to follow up on the status of the correspondence from IACAA relating to ACN 2006/27 and ACN 2006/59 and to provide a response.	ND Compliance		30 April 2009
<b>6</b>	CNCC members to provide information to Customs and Border Protection on changing transport routes and volumes.	CNCC industry representatives		29 May 2009
<b>7</b>	CNCC members to provide feedback on the value of this type of information for future meetings.	CNCC industry representatives		29 May 2009
<b>8</b>	NM Corporate Strategy and Governance to amend "Australian Air Transport Association" to "Board of Airline Representatives of Australia" in the Customs and Border Protection National Consultative Committee Proposed Charter.	NM Corporate Strategy and Governance		30 April 2009