Australian BORDER FORCE

Goods Compliance Update

December 2016

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Message from Commander Customs Compliance

Welcome to the December 2016 edition of the Goods Compliance Update. This year has certainly provided industry and the Department of Immigration and Border Protection (the Department) with a number of opportunities and challenges.

I want to thank all of you who have put in processes to help prevent the movement of asbestos across our border. One of the key roles we share as traders and regulators is to protect the Australian community from harmful goods. We need to remain vigilant to ensure harmful goods, such as those containing asbestos, do not enter the Australian community. There is still a lot of work to do in this space as we become more aware of commodities and manufacturing processes that have increased risk of asbestos contamination. I ask you to continue to engage with your supply chain partners and to share information with us where you suspect importation or exportation of prohibited goods is occurring.

December marks one year since the China and Australian Free Trade Agreement (ChAFTA) entered into force. We have worked with industry to ensure sufficient guidance and information on ChAFTA is available. Of note, we have processed all Advance Ruling requests within the service delivery period this financial year to date.

I would also like to note that the final meeting of Trade and Goods Compliance Advisory Group for 2016 took place in December. I would like to thank all of the membership for their contributions throughout the year. In line with the Terms of Reference we are calling for nominations for 2017. You can find more details on how to nominate in this edition.

In this edition you will find articles on recent updates to the Department's website, relevant legislative changes, the Australian Trusted Trader programme and an update on current free trade agreements. We also have further information on our current compliance areas of focus which have been expanded to include Item 34 of the *Customs Tariff Act 1995* - aircraft parts, materials and test equipment.

As always we welcome your feedback on the Goods Compliance Update, or any other compliance matter at goodscompliance@border.gov.au.

Finally I wish you all a safe and happy festive season.

Renae Hutchinson
Acting Commander
Customs Compliance
Australian Border Force

Asbestos

We recognise that industry is an important partner in our efforts to prevent the importation and exportation of asbestos. We are continuing to engage closely with industry, other government agencies, and relevant international government agencies, to effectively mitigate the risk of asbestos at our border. In October we published our factsheet *Managing the risk of asbestos at the border.* The factsheet provides further guidance on how traders and brokers can demonstrate they have conducted due diligence to ensure imported and exported goods have nil asbestos content.

Further information regarding Australia's asbestos border control is available on our asbestos webpage.

Answers to FAQs on asbestos

We will continue to provide further advice through this publication to answer some of the frequently asked questions we receive through the goodscompliance@border.gov.au mailbox on asbestos, such as the one below:

What testing will provide the greatest assurance to the ABF that the goods do not contain asbestos?

When seeking a test report from suitably accredited testing laboratories that your goods do not contain asbestos you are advised to check the following information prior to engaging a laboratory:

1. Is the laboratory suitably accredited?

Testing for asbestos in Australia must be conducted at a laboratory accredited by the National Association of Testing Authorities (NATA). Australian laboratories, accredited by NATA to test for asbestos, are required to test to Australian Standard (AS) 4964. The ABF will accept test reports from Australian laboratories accredited by NATA as assurance that asbestos has not been detected in the goods.

When testing occurs outside of Australia, the laboratory must be accredited to test for asbestos by a NATA-equivalent authority, recognised through a Mutual Recognition Arrangement (MRA). Depending on the test method used, quality of the samples and level of information on the test report, further assurance may be requested by the ABF.

Information on international accredited authorities and their MRA status can be found at the following organisations' websites:

- the Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA, a regional arrangement with participation by upwards of 20 economies including all of Australia's major trading partners in the Asia Pacific region at APLAC
- the International Laboratory Accreditation Cooperation (ILAC) MRA, a global arrangement covering all regions at ILAC

2. Does the laboratory hold accreditation for testing for asbestos, and what is the scope of accreditation?

The scope of accreditation contains important information such as techniques and applicable standards and codes. Scopes for NATA accredited facilities are accessible from the NATA website.

NATA accredited facilities are able to add the NATA endorsement to reports covering accredited activities. Similar arrangements are used by many of NATA's MRA partners too.

3. What type of analysis is being performed, and which standard, codes or specifications are being used?

Polarised light microscopy (PLM) with dispersion staining is required by AS 4964 as the principal method. It involves the identification of asbestos fibres by examining prepared samples using a conventional microscope but under polarised light. This method is the standardised reference method in most countries. PLM with dispersion staining can be used to identify the three common (commercial) asbestos types (Chrysotile, Crocidolite and Amosite). This method can provide the ABF assurance that no asbestos or other unidentified mineral fibres were detected in the goods. PLM with dispersion staining can detect asbestos fibres up to 0.1% - 0.01%. Where testing overseas cannot be undertaken by an appropriately accredited laboratory to the AS 4964, asbestos testing using PLM with dispersion staining to an international equivalent standard may be considered to provide a level of assurance that the goods are asbestos free in some cases.

The US National Institute for Occupational Safety and Health (NIOSH) Standard NIOSH 9002 uses PLM with dispersion staining; however, the reporting measurement for NIOSH 9002 is 1%. This means that detections of asbestos fibres less than 1% can be reported as 'no asbestos detected' by the overseas laboratory. NIOSH 9002 can be used as a testing standard by laboratories outside the US.

To provide assurances that the goods do not contain asbestos when testing to NIOSH 9002, the report will need to state additional information confirming that there was no level of asbestos detected to the testing limit, being 0.1% - 0.01%, and that no unknown or unidentified mineral fibres were detected. Where unknown or unidentified mineral fibres are detected, a secondary confirming test would be required. Without the inclusion of the additional information stated in the report, testing using NIOSH 9002 may not provide adequate assurance to the ABF no asbestos has been detected in the goods.

Scanning electron microscopy with energy dispersive X-ray (SEM-EDX) is another type of analysis method able to detect all six types of asbestos and smaller fibres not able to be identified under PLM. This method is generally used when PLM testing is inconclusive or when further testing is required.

Other techniques include Transmission Electron Microscopy (TEM), X-ray diffraction and infrared absorption are used in some applications but all have inherent limitations in terms of expense, application and/or limits of detection.

4. What information should you request to be provided on the testing certificate?

It is important that you clarify your needs with the laboratory to ensure the information you need to demonstrate assurance at the border that goods do not contain asbestos.

The testing report provided must contain adequate information to be able to demonstrate assurance to the ABF. This includes:

- the test method used
- the date and origin of the sample

- description of the sample (and sub-sample if applicable) including weight, size and colour
- whether fibres are detected under Polarised Light Microscopy / Dispersion Staining method
- (PLM/DS) at the detection limit, and if so what type of fibre
- if an unknown type of mineral fibre/s is detected, a confirming technique may be required by us to assure us that the goods do not contain asbestos
- content/ingredients
- name of the analyst
- name of the laboratory

Further information is available from the NATA Information for Industry page through the Industry User Guide 7 *Working with NATA Accredited Asbestos Facilities* and User Guide 7.1 *Working with NATA Accredited Asbestos Facilities for Import/Export.*

Trade and Goods Compliance Advisory Group call for nominations

The Trade and Goods Compliance Advisory Group (CAG) is calling for membership nominations for 2017. The CAG is a collaborative forum with industry to co-design solutions for trade and goods compliance issues.

The CAG membership is comprised of representatives from the Department, including officers from the Australian Border Force (ABF) and members of industry. Industry members include representatives from the Customs Brokers and Forwarders Council of Australia, the Freight and Trade Alliance, the Australian Federation of International Forwarders and the Council of Asia Pacific Express Carriers, as well as six non-industry association members. In accordance with the Terms of Reference, non-industry association membership representation is limited to a period of 12 months. This is your opportunity to join this collaborative forum and have input to solutions to trade and goods compliance issues. If you wish to nominate for CAG please email goodscompliance@border.gov.au noting your interest and briefly outlining why you wish to join. The first meeting in 2017 is scheduled to be held in March.

For more information on the CAG, including the Terms of Reference and previous meeting minutes, please visit our CAG webpage.

Recent changes to border.gov.au to assist with tariff classification and concessions

We have recently modernised our website with a new, searchable online format for tariff related information.

Changes include:

The Working Tariff: This is an online version of the *Combined Australian Customs Tariff Nomenclature and Statistical Classification*. It incorporates the Harmonized Commodity Description and Coding System, which defines internationally accepted tariff classifications for traded goods. It also records Australian rates of customs duties for imported goods, and related statistical codes from the Australian Bureau of Statistics.

Tariff Concession Orders (TCOs): More than 15,000 TCOs are now easily searchable and more accessible for importers and manufacturers. The website changes include a webpage dedicated to the interests of domestic manufacturers and importers, who are key stakeholders of the Tariff Concession System.

The updated online versions of the Working Tariff and TCOs will significantly improve the capability of users to search our website for specific tariff related data. We have engaged with stakeholders and have received feedback to improve both the accessibility and user friendliness of the tariff related data. As always, any suggestions or comments are welcome. Please email your suggestions or comments to goodscompliance@border.gov.au.

Legislative changes

Harmonized Commodity Description and Coding System

On 13 October 2016 Bills to enable the implementation of changes to the Harmonized Commodity Description and Coding System were introduced into Parliament. The bills received royal assent on 23 November 2016 and the changes will come into effect on 1 January 2017.

- Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016
- Custom Act Amendment (2017 Harmonized System Changes) Act 2016

These Acts give effect to internationally negotiated policy changes, on which consultations were held during the fifth HS review cycle, which concluded in 2014. The Office of Best Practice Regulation has advised us that there was no requirement for a regulatory impact statement for these legislative changes.

More information is available on the HS 2017 customs tariff changes webpage. We have also published Department of Immigration and Border Protection Notice (DIBPN) 2016/34 2017 Harmonized System Changes, which provides information on the Bills, Explanatory Memoranda, statistical codes, free trade agreements, other Departmental instruments and advices, as well as the Australian eight digit concordance table.

Expanded Information Technology Agreement

On 20 October 2016, the Customs Tariff Amendment (Expanded Information Technology Agreement Implementation and Other Measures) Bill 2016 was introduced into Parliament. The bills received royal assent on 8 December 2016 and the changes will come into effect on 1 January 2017.

- Customs Tariff Amendment (Expanded Information Technology Agreement and Other Measures) Act 2016

This Act gives effect to commitments made at the Tenth World Trade Organization Ministerial Conference in December 2015. Consultations were undertaken prior to this and led by the Department of Industry, Innovation and Trade and the Department of Foreign Affairs and Trade. The financial impact of this Act was included in the 2016-17 Budget Measure "World Trade Organization – Information Technology Agreement".

For more information please refer to DIBPN 2016/36 Introduction of the Customs Tariff Amendment (Expanded Information Technology Agreement Implementation and Other Measures) Bill 2016.

Australian Trusted Trader – Helping Australian businesses to trade internationally

Over the next 12 months, the economic benefits of the ABF voluntary Australian Trusted Trader (ATT) programme are likely to expand enormously as Mutual Recognition Arrangements (MRA) with China, Singapore, Hong Kong, Korea, Canada and Thailand progress. MRAs are a significant benefit for Trusted Traders that result in a reduction in regulatory burden, allow Trusted Traders faster clearance when exporting overseas, and enable Trusted Traders to access trade-facilitation benefits in Australia's key trading partner countries.

The Department signed its first MRA with the New Zealand Customs Service in July 2016. This MRA will deliver a mutually beneficial outcome that increases both countries' contributions to international supply chain security and trade facilitation. It is anticipated that by 2020 the MRA will facilitate up to $3 billion of New Zealand imports to Australia and $7.5 billion of Australian exports to New Zealand. This combined $10.5 billion of trans-Tasman trade demonstrates a significant return on investment and will increase the international competitiveness of industries in both countries.

MRAs are made possible through the ATT partnership between government and business. ATT seeks to foster legitimate trade in and out of Australia for businesses whose supply chain security and trade compliance practices meet the required standards through a rigorous accreditation process. The programme is free to join and applications are open to all Australian businesses that are active in international supply chains, have an Australian Business Number, two years of trading history, are financially solvent and are able to meet other relevant requirements.

Once accredited, businesses are rewarded with a range of trade-facilitation benefits, including a dedicated Account Manager who is the single point of contact between the Trusted Trader and the ABF; a lighter touch at the border due to their trusted status; and use of the ATT logo, which is recognised by other customs administrations that a business's supply chain security meets the highest standards. Trusted Traders also have the opportunity to work with the Australian Government to co-design and test new trade facilitation initiatives, and have a 'seat at the table' to influence the future policy direction of ATT.

There are now five accredited Trusted Traders. These are Teys Australia Beenleigh Pty Ltd, Target Australia Pty. Ltd., Techwool Trading Pty. Ltd., Pacific Brands Holdings Pty Ltd and IBM Australia Ltd. A series of video case studies on accredited Trusted Traders, highlighting the positive impacts of ATT on Australian businesses, are available on our ATT webpages.

Since ATT opened on 1 July 2016, more than 380 businesses have submitted an expression of interest to join. Interested businesses are encouraged to apply through our website to secure their place in the queue. Any questions about the application process can be emailed to ATTServiceDesk@border.gov.au.

Further information is available in ATT fact sheets on our website as a printable toolkit, or enquiries on the programme can be emailed to trustedtrader@border.gov.au.

United States Bound Air Cargo Security Arrangements

From 1 July 2017, United States (US) legislation requires all air cargo being transported to the US to either be examined at piece-level or originate from a Known Consignor. Complying with this obligation will require Australian-based exporters, freight forwarders and airlines to adopt new security measures for the preparation of US-bound air cargo.

To help industry meet this obligation, the Australian Government has introduced new security arrangements that allow:

- approved businesses to examine air cargo at piece-level off-airport from 2015 with an Enhanced Air Cargo Examination (EACE) Notice. Piece-level means that each individual box, carton or other item in a shipment is examined by technology before it is loaded onto an aircraft.
- export businesses to join a Known Consignor Scheme.

We encourage businesses to discuss their future arrangements for US-bound air cargo with their customers and supply chain service providers.

Update on Free Trade Agreements

Origin Advance Rulings and the AUSFTA

While the Australia-United States Free Trade Agreement (AUSFTA) has been in force for over 11 years, some importers might underestimate the benefit of an origin advance ruling when claiming preferential treatment under the agreement. Origin advance rulings advise importers, producers, or exporters on issues relating to the origin of their goods for the purpose of determining eligibility for preferential rates of duty for goods imported to Australia.

Once issued, an origin advance ruling lasts for five years, as long as the circumstances on which the advice was issued do not change. This provides importers, producers and exporters with a strong certainty in their claims for preferential treatment under AUSFTA and provides documentary evidence in the case of compliance investigations.

As stated in article 5.12 of the agreement, an importer needs to have knowledge or information that the imported good meets the requirements of one of the rules of origin and the consignment rules of the AUSFTA to claim preferential treatment. In practice, this means that by completing an Import Declaration and claiming preferential treatment under AUSFTA, an importer is stating that they have knowledge or information that the good meets originating requirements. The importer does not need to submit a Certificate of Origin or other documentary evidence unless requested by us to do so.

However, at the time of import or up to five years after the importation of the good, we can request the importer provide a statement and evidence that the good qualifies as an originating good.

How to request an Origin Advance Ruling

An importer, exporter or producer can apply for an origin advance ruling. An origin advance ruling is for a single origin issue and might be regarding compliance with the rules of origin, consignment provisions or any other origin matter. To apply for an origin advance ruling you need to complete the form B659, which is available on our website, and email it to origin@border.gov.au. For origin advance rulings regarding compliance with the rules of origin, the application must specify the rule of origin against which the goods are to be assessed.

The AUSFTA rules of origin include:

- goods wholly obtained or produced entirely in US
- goods produced entirely in the US or in the US and Australia exclusively from originating materials
- goods (except clothing and textiles) produced entirely in the US or in the US and Australia from non-originating materials
- goods that are clothing and textiles produced entirely in the US or in the US and Australia from non-originating materials.

The AUSFTA Instructions and Guidelines provide more information on the rules of origin and examples.

Frequently asked questions: changes to the Harmonized Commodity Description and Coding System and Free Trade Agreements

How will Free Trade Agreements (FTA) be affected by the Harmonized Commodity Description and Coding System (HS) 2017 changes?

On 1 January 2017, some classifications in the *Customs Tariff Act 1995* will change as a result of amendments to the Harmonized Commodity Description and Coding System. Detailed information regarding the changes is available in Department of Immigration and Border Protection Notice (DIBPN) 2016/34.

Under the HS 2017 changes, there will be approximately 950 new and amended classifications and descriptions in the *Customs Tariff Act 1995*.

The changes affect all countries that are signatories to the Harmonized System, all of whom are obliged to make equivalent changes to their domestic tariffs. Countries may also supplement the six-digit international classification with additional digits for their own domestic purposes.

Amendments will also be required to the Product Specific Rules (PSRs) for all of Australia's FTAs to reflect the 2017 changes. Australia is negotiating with its FTA partners to progress the required changes. There will be consequential amendments to the relevant Customs Tariff Regulations.

Has there been a change in policy requiring that tariff classification must be correct for a Certificate of Origin (COO) to be valid in relation to the China and Australia Free Trade Agreement (ChAFTA)?

No, there has been no change of policy on the treatment of HS codes for COOs.

We have prepared guidance on minor errors and discrepancies on Certificates of Origin obtained for the purposes of the China-Australia Free Trade Agreement. This guidance is consistent with our approach since ChAFTA entered into force.

As a general rule, the HS code on the COO should match the HS code that is or will be stated on the import declaration. However, if there are legitimate circumstances where the HS codes used for a particular good in China and Australia differs, then the difference in HS code will not invalidate a COO if it does not cause doubt as to the origin of the goods, and if other information on the COO is sufficient to demonstrate that the COO is for the goods.

Will there be a 'grace period' after 1 January 2017 while traders become acquainted with the HS2017 changes, allowing them to still use HS2012 classifications?

In accordance with the minor errors paper, if there are legitimate circumstances where the HS code on a COO used for a particular good in Australia and an FTA partner country differs, then the difference in HS code will not invalidate the COO—provided that the discrepancy does not cause doubt as to the origin of the goods and if other information on the COO is sufficient to demonstrate that the COO is for the good. In such circumstances, the importer or their customs broker should make a reasonable effort to rectify the discrepancy in HS classification.

A legitimate circumstance would be if one of Australia's FTA partners has not yet updated their domestic tariff in accordance with the HS2017 or if Australia and its FTA partner have not yet renegotiated the PSR schedule. The Department will advise when PSRs have been updated to HS2017 by Australia and its FTA partners.

Notwithstanding the above, from 1 January 2017 in cases where the COO or self-certification has been issued with 2012 classifications, the importer will need to ensure that the goods are classified using HS2017 when completing an import declaration.

For more Information

We will continue to update the information available on our FTA webpage. This includes a number of Frequently Asked Questions (FAQs) that might be of assistance to you. More information on FTAs is available on the Department of Foreign Affairs and Trade website. If you would like to know more about advance rulings under AUSFTA, please email origin@border.gov.au or call 1300 805 876.

Obligations of licence holders

Are you aware of your obligations?

We licence customs brokers, depots and warehouses, including duty free operators, so that they can carry out import and export roles. The statutory scheme for licensing has three underlying objectives: to facilitate trade by their client; to protect Commonwealth Revenue; and to protect the Australian community.

Licence holders are subject to a number of conditions on their licence which impose legal obligations on how they must carry out their roles and responsibilities. As a licence holder, you have the responsibility to ensure you are aware of all your obligations and to work with the Department and the ABF to uphold them. Some key obligations for licence holders are:

- The licence holder must advise the Comptroller-General within 30 days of certain events. Certain events include, but are not limited to, bankruptcy or the refusal, suspension or cancellation of an Aviation Security Identification Card or Maritime Security Identification Card.
- The licence holder must do all things necessary to ensure that persons that participate in the work of the customs brokerage or licensed premise are persons of integrity.
- If the licence holder becomes aware that information that has been provided to the Department by or on behalf of a client of the broker is false, misleading or incomplete, the licence holder must, as soon as practicable after becoming aware of the error or omission provide written particulars of the incident to the Comptroller-General through Border Watch.
- The licence holder must not allow Departmental systems or information provided by the Department to be used for an unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity.

There are also requirements for licensed customs brokers to undertake accredited Continuing Professional Development.

Use of pro-forma invoices

We have found that details included in pro-forma documents, including the value of the goods, may be inaccurate. You should not rely on pro-forma documents to support your statements made in declarations without further verification. Traders have a statutory obligation to ensure that information provided in the statements provided to us is not false or misleading. If we request you produce documents to verify particulars of goods declared, pro-forma and shippers' invoices might not be accepted as evidence of the import sales transaction. It is recommended you conduct regular reconciliations to ensure the quantities and values declared correspond with goods imported and payments made. The customs value must include any price related costs as defined in section 154 of the Customs Act.

Commercial invoices record the trade terms between a seller and a buyer and stipulate price and payment requirements. A pro-forma invoice is an abridged or estimated invoice sent by a seller to a buyer in advance of a shipment or delivery of goods. It notes the kind and quality of the goods, their value, and other important information such as weight and transportation charges. Pro-forma, or shippers' invoices, are sometimes used during initial negotiations as a preliminary invoice between parties and while they might contain important information, they do not represent the contract of sale and are not a demand or request for payment.

Compliance areas of focus

We are committed to working with industry to resolve trade and goods compliance issues. Since the establishment of ABF we have communicated our areas of compliance focus to industry. We will continue to engage and work with you to raise awareness and understanding of the issues as a way to improve overall compliance with Australia's border laws.

Our compliance areas of focus are:

- Undervaluation
- TCOs
- Self-Assessed Clearance (SAC) declarations
- Cargo reporting
  - Timeliness
  - Reporting of deficient terms

We have recently added two new areas of focus based on identified non-compliance of concessions under Schedule 4 of the *Customs Tariff Act 1995*:

- Treatment Code 744 administered under the Enhanced Project By-law Scheme (EPBS)
- Treatment Code 734 – Aircraft parts, materials and test equipment

As always, any suggestions or comments regarding how we can support industry to increase compliance are welcome. Please email your suggestions or comments to goodscompliance@border.gov.au.

Holds on cargo reports containing deficient terms

As mentioned in previous editions of the Goods Compliance Update, we are currently undertaking pre-clearance activities on cargo reports containing deficient terms. Cargo reports containing deficient information may have Integrated Cargo Scheme (ICS) deficient holds applied. Deficient information within a cargo report includes a consignee or consignor name or address, or goods description that provides us with minimal or no information about the cargo for risk assessment. Examples include 'goods', 'unknown' and 'shipment'. The use of deficient information might not comply with cargo reporting obligations.

Should an ICS deficient hold be applied to your consignment, an amendment of the deficient information in the cargo report will be required prior to the hold being lifted. There may be delays in the movement and clearance of consignments during this process. Ensuring you report the correct information will assist in faster border clearance of consignments.

For a list of published deficient terms, please visit our trade and goods compliance webpage.

The Enhanced Project By-law Scheme

The EPBS is an Australian Government assistance program, which provides duty free concessions for eligible goods imported for use in industries such as mining and resource processing.

Recent cases have been brought to our attention where importers have incorrectly utilised AusIndustry determinations to claim a duty concession for goods that are not eligible. This incorrect application of the determination may result in the importer claiming free duty for goods not included in the scheme.

We are focusing on both import declarations and refund applications claiming free duty under the scheme. In order to ensure duty free concessions are correctly claimed, we have recently reached out to importers that have claimed AusIndustry determinations to encourage them to review their importations and voluntarily disclose any errors they might identify.

To date this self-assessment has proven to be a helpful method in the process of ensuring the correct concession has been applied. We are pleased to note that the majority of importers have taken this opportunity to undertake a self-assessment, and have voluntarily disclosed errors identified and directly amended the relevant declarations within the ICS.

The process has provided minimal disruption to business operations and protected the importer from offences under section 243U and 243T of the Customs Act, related to the errors identified. Importers who have not yet responded are encouraged to complete self-assessments of importations utilising the scheme and to voluntarily disclose any identified errors.

We will undertake our own review to ensure all AusIndustry determinations have been correctly claimed on eligible goods in the coming months. If errors or omissions are identified during our review, we will apply the appropriate compliance treatments. Treatments can range from education and awareness for those genuinely trying to comply, demand for payment of outstanding duty and taxes, to the issuing of infringement notices and/or prosecution for more serious and systemic breaches.

Item 34 of Schedule 4 – Aircraft parts, materials and test equipment

Item 34 was introduced to develop and maintain the international competitiveness of Australia's aerospace industry through duty free access to specialised parts, items of equipment and materials for use in the manufacture, repair, maintenance or modification of aircraft. Furthermore, it allows Australian manufacturers to be competitive with overseas manufacturers through reducing the manufacturing costs associated with this industry.

We have encountered instances where the Item 34 concession has been applied to goods that are not eligible. Therefore we are currently reviewing the correct use of Item 34 of Schedule 4, which reads as follows:

Item 34 – Aircraft parts, materials and test equipment Aircraft parts, materials or test equipment for use in the manufacture, repair, maintenance or modification of aircraft, except the following: a) Textiles and goods made from textiles b) Goods for use in the servicing of aircraft	**Duty Rate**: Free **GST**: Payable **GST Exemption Code**: N/A **Instrument**: No **Instrument Number:** N/A **Treatment Code**: 734

The incorrect use of this concession might result in the non-payment of duty and GST and an uneven playing field for industry. The Guidelines to Schedule 4 (guidelines) provide further information regarding the background and eligibility. The guidelines provide an explanation of what is required for goods to qualify as aircraft parts, materials and test equipment and lists various products that do not qualify for the Item 34 concession.

Examples of goods that do not qualify include but are not limited to:

- Tools (including specialist hand tools), stands, tow bars, hoists and jacks
- Signs, labels, placards, markings and other printed matter
- Textile based goods such as carpets, cushions, brushes, bags, leather goods and other textiles
- Portable fire extinguishers
- Headsets (including aviator headsets), life jackets and life rafts
- Portable/Non-Standard aircraft navigation aids and refuelling equipment.

We encourage importers and customs brokers to ensure the Item 34 concession has been claimed correctly for eligible goods. If errors or omissions are identified, it is recommended to voluntarily disclose these to ensure minimal disruption to your business and avoid administrative penalties or legal action.

Voluntary disclosures

As mentioned in previous updates this year, we would like to reiterate that all importers and customs brokers are encouraged to proactively review their importation documents, to ensure they are accurate and that the correct amount of duty and GST has been paid. As an importer, you might need to talk to your customs broker about undertaking a review of your importations.

If during the course of your internal review an error or omission is identified, we encourage you to amend the information as soon as possible. This ensures that the correct duty and GST is paid with minimal disruption to your business operations. You may also avoid paying administrative penalties under the Infringement Notice Scheme (INS) ranging upwards from $8,100 for businesses.

Additionally, in consultation with industry members from the Trade and Goods Compliance Advisory Group, we have published a new DIBPN on voluntary disclosures titled, 2016/35 Voluntary disclosures under Section 243T and Section 243U of the *Customs Act 1901*.

For more information regarding voluntary disclosures, please visit our voluntary disclosures webpage.

Goods under customs control

Underbond Movement Requests

We have recently identified a lack of industry awareness regarding Underbond Movement Requests (UBMRs). An UBMR is a request to move imported cargo subject to customs control between licensed establishments. A UBMR may be required for one of the following reasons:

- an air consolidation is to be moved from a cargo terminal operator (CTO) to a depot (section 77G premises) for deconsolidation
- a container that has arrived via sea with multiple consignees and various cargo types and is to be unpacked at a depot (section 77G premise)
- inter and intra state moves (for example, cargo placed on a vessel for the purpose of moving to a different state or port) are necessary
- the import cargo is destined for an overseas port (transhipment) and needs to move from one cargo terminal to another for loading onto the export vessel (for example, moving to another CTO or stevedore to be loaded for export)
- time-up cargo
- cargo to be moved again after deconsolidation
- cargo moved from section 15 wharves to section 77G Container Parks to alleviate congestion on the waterfront

- at the directive of ABF and/or the Department of Agriculture and Water Resources

If a consignment is subject to a hold in the ICS, moving the consignment underbond may reduce wharf storage charges and expenses for your client and may expedite the clearance of goods.

Case studies

Licensed premises are considered to be an extension of the regulatory function performed by the ABF and a significant level of trust is placed on depot and warehouse operators to maintain the integrity of Australia's border controls. Appropriate management of goods held in depots and warehouses under customs control (i.e. with a held status in the ICS) is necessary until all border clearance processes are complete. The following case studies were encountered by our officers.

Improvements put in place to avoid future deliveries without authority (depot) – s33(6)

ABF officers attended a depot licensed under section 77G of the Customs Act in order to assess the status of cargo subject to a hold in the ICS. The officers were assisted by a depot staff member who was unable to locate the targeted line. Subsequent enquiries confirmed that at the time, the depot's full time storeman was absent and the goods had been delivered without authority. This was due to inexperienced staff failing to follow the company processes when dealing with cargo under customs control.

The depot subsequently implemented measures to avoid another incident including:

- mandatory refresher training for staff handling customs controlled cargo
- company procedures regarding handling, storing and reporting held cargo was updated

After considering all relevant details, the prompt action taken by the depot and the depot's prior compliance history, the depot was issued with a warning letter. The depot operator was advised that future non-compliance would likely result in an escalated compliance response.

Delivery without authority and substituted parcel (depot) – s33(6)

While attending a depot licensed under section 77G of the Customs Act, ABF officers were assisted by a depot staff member who was unable to locate or account for cargo subject to a hold in the ICS. Our officers were later notified that the parcel had been located at the depot. Our officers attended and upon inspection discovered the parcel had been tampered with and the content did not match the goods description entered into the ICS. Subsequent enquiries confirmed the parcel had been delivered without authority and the consignment provided to our ABF officers was a substitute.

The seriousness of the breach and attempt to deceive ABF officers resulted in the issuing of an $8,100 infringement notice under subsection 33(6) of the Customs Act.

Compliance programme results 1 July – 30 October 2016[1]

The Infringement Notice Scheme results

Table 1 shows the number of infringement notices issued to date during the 2016/2017 financial year to date. Breaches of section 33 of the Customs Act, moving altering or interfering with goods subject to customs control without authority, continues to account for the majority of infringement notices issued by the ABF.

Table 1 – Infringement Notice Scheme 1 July – 30 October 2016

Offence	Number issued	Value of notices issued
33(2) – Moving altering or interfering with goods subject to customs control without authority.	1	$2,700.00
33(6) – Moving, altering or interfering with goods subject to customs control without authority.	42	$318,600.00
36(6) – Failure to keep goods safely or failure to account for goods	1	$8,100.00
64AB(10) – Failure to meet reporting requirements for the report of cargo	1	$7,650.00
64ABAA(9) – Failure to meet reporting requirements for outturn reports	1	$8,100.00
77R(1) – Breach of conditions of depot licence.	6	$48,600.00
118(1) – Departing without Certificate of Clearance.	2	$5,400.00
233(1)(b) – Prohibited imports	1	$2,700.00
240(6B) – Failure to produce documents/Follow directions.	1	$1,350.00
243T(1) – False or misleading statements resulting in a loss of duty.	12	$202,544.68
243U(1) – False or misleading statements not resulting in a loss of duty.	2	$10,800.00
243V(1) – Unlawfully convey or have in possession any smuggled goods or prohibited imports or prohibited exports.	1	$8,100.00

[1] The Compliance programme statistics were the best available at the time of publishing. Current system parameters may result in variances if published for the same timeframe in the future.

Breakdown of Infringement Notices by entity type – 1 July to 30 October 2016

Table 2 – Breakdown of Infringement Notices by entity type – 1 July to 30 October 2016

	Air		Sea		Post/Other	
	Count	Value	Count	Value	Count	Value
Broker			4	$49,813.17		
Individual			2	$5,400.00		
Operator			2	$5,400.00		
Cargo Reporter			2	$15,750.00		
Importer	1	$16,593.00	5	$33,300.00	5	$114,988.51
Depot/Warehouse License Holder	23	$186,300.00	27	$197,100.00		

Value of revenue understatements

Table 3 provides the value of identified understated revenue from 1 July to 30 October 2016

Table 3 – Understated Revenue for the 1 July – 30 October 2016

Description	July – October 2016
Post Transaction Verification	$3,013,926.81
Pre-clearance Intervention	$3,679,270.23
General Monitoring Programme	$11,960,245.19
Voluntary Disclosures	$5,206,779.20
Refunds refused	$1,289,243.70

Cargo control and accounting

Table 4 provides an overview of the cargo control and accounting results from 1 July to 30 October 2016. The purpose of cargo control and accounting activity is to monitor the level of compliance of cargo terminal operators and licensed depots and warehouses with their respective legislated and licence conditions.

Table 4 – Results from cargo control and accounting activity from 1 July to 30 October 2016.

Description	July – October 2016
Number of customs cargo control and compliance activities	7,279
Proportion of breaches identified as against lines checked	3%

Administration of the Refund Scheme

Table 5 provides an outline of the results of the refund scheme from 1 July to 30 October 2016.

Table 5 – Administration of the Refund Scheme from 1 July to 30 October 2016.

Description	July – October 2016
Number of assessed refund applications	40,496
Number of approved refund applications	43,041
Value of approved refund applications	$92,549,458.18
Value of refunds claimed	$81,228,941.31
Number of refunds rejected/adjusted	140
Value of refunds rejected/adjusted	$1,289,243.70

Administration of the Duty Drawback Scheme

Table 6 provides an outline of results of the Duty Drawback Scheme from 1 July to 30 October 2016.

In this period, approximately eight per cent of drawback applications have been rejected. The most common reasons for the rejection of drawback applications include the use of revoked Export Declaration Numbers (that cannot be used as proof of export) and concurrent refund/drawback applications.

Table 6 – Results from the Duty Drawback Scheme from 1 July to 30 October 2016.

Description	July – October 2016	July – October 2016 Value
Number of drawback lodged	1,061	$54,770,282.00
Number of drawbacks paid	968	$48,678,976.00
Number of drawbacks rejected	90	$4,980,731.00
Number of drawbacks withdrawn	10	$129,057.00
Number of drawback over claims	105	$215,113.00

Compliance Monitoring Programme results

The Compliance Monitoring Programme (CMP) monitors the accuracy and quality of import and export declarations and cargo reports to provide a level of assurance about overall levels of industry compliance. As a statistically valid sampling program, results from the CMP can be used to represent compliance behaviours across the cargo environments. Tables 6 to 11 show results for the 2016/2017 financial year to date.

Import declarations – results

Table 7 provides the results of CMP activity directed at Import Declarations from 1 July to 30 October 2016.

Table 7 – Compliance Monitoring Programme – import results from 1 July to 30 October 2016.

Category	July – October 2016
Number of lines checked	1,044
Number of lines detected to have error/s	350
Error rate (by number of lines)	33.6%
Number of errors detected	442

Table 8 provides a list of the ten most common areas of non-compliance identified during CMP activity directed at import declarations for the 2016/2017 financial year to date.

Table 8 – Ten most common errors on import lines from 1 July to 30 October 2016.

Category	July – October 2016
Val - Valuation Date	82
Tariff Classification	63
Incorrect Delivery Address	45
Gross Weight	36
Val - Invoice terms	27
Other	24
Val - Related Transaction	22
Val - Price (Invoice Total)	20
Tariff Concession or Other Concession	16
Origin	15

Export Declarations – results

Table 9 provides a comparison between the results of CMP activity directed at export declarations from 1 July to 30 October 2016.

Table 9 – Compliance Monitoring Programme – Export Declaration results from 1 July to 30 October 2016.

Category	July – October 2016
Number of lines checked	273
Number of lines detected to have error/s	122
Error rate (by number of lines)	45%
Number of errors detected	202

Table 10 provides a list of the 10 most common areas of non-compliance identified during CMP activity directed at export declarations from 1 July to 30 October 2016.

Table 10 – Top 10 most common errors on Export Declarations from 1 July to 30 October 2016.

Category	July – October 2016
FOB Value	58
Gross Weight	45
Net Quantity	32
AHECC - Misclassification	16
Origin	14
Other Export Data Inaccuracy	14
Consignee City	8
Declared owner	8
AHECC - Multi-Lines	5
Consignee Name	5

Cargo report - results

Table 11 provides the results of CMP activity directed at cargo reporting accuracy from 1 July to 30 October 2016.

Table 11 – Compliance Monitoring Programme – cargo report results from 1 July to 30 October 2016.

Category	July – October 2016
Number of lines checked	1,044
Number of cargo reports detected to have error/s	37
Error rate	4%
Number of errors detected	37

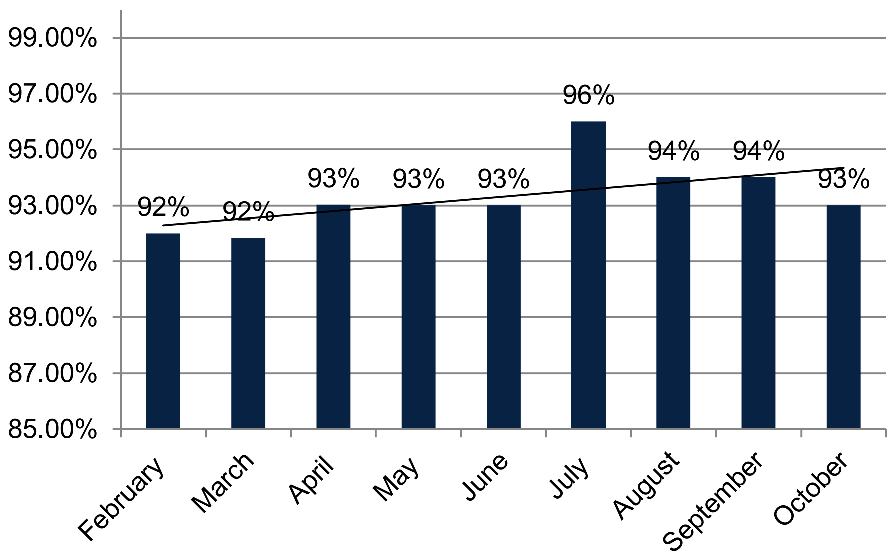
Table 12 – The most common errors on cargo from 1 July to 30 October 2016.

Category	July – October 2016
Gross Weight	14
Consignor Incorrect	9
Consignee Incorrect	6
Cargo Report Data Inaccuracy (Other)	5
Currency Code	1
Origin Port of Loading	1

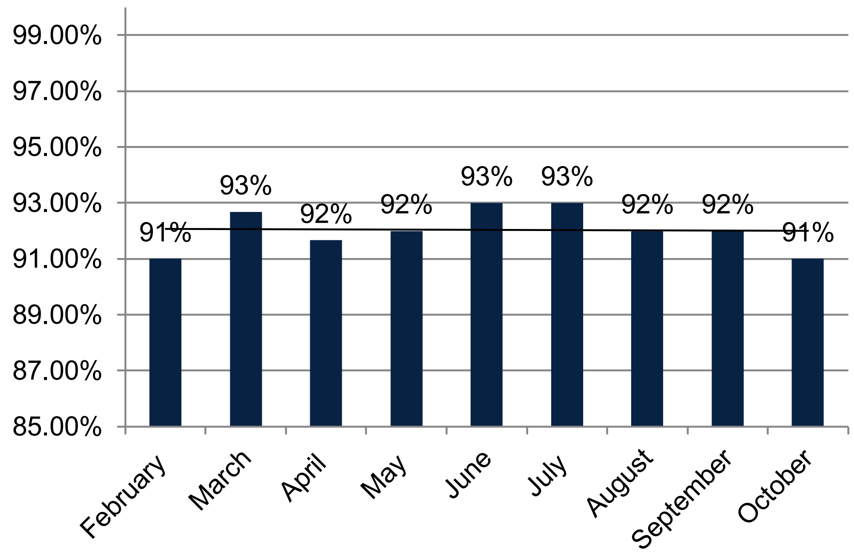
Cargo reporting

Cargo reporting timeliness

Since the commencement of our engagement initiative, we have seen modest improvements in the timely lodgement of cargo reports in both the air and sea cargo environments.



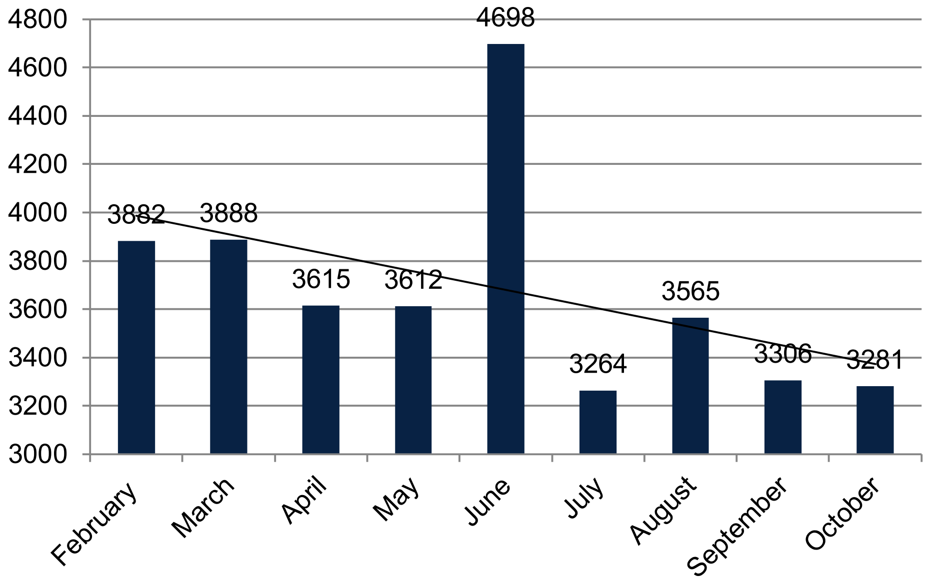
Air cargo timeliness - industry average (%)



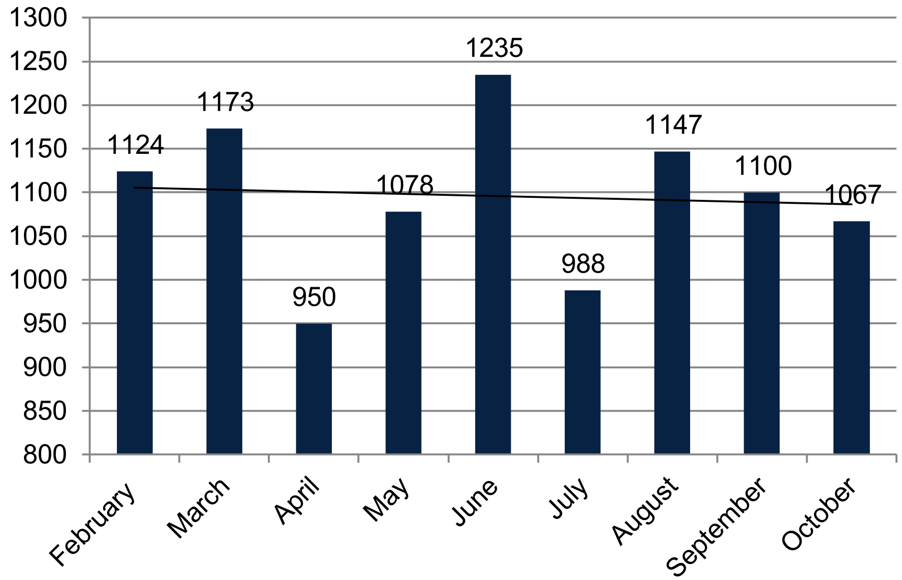
Sea cargo timeliness - industry average (%)

Provision of deficient information in cargo reports

Positive compliance trends have also been seen regarding the use of deficient terms in cargo reports. Compared to the beginning of the year, the data has shown the monthly average regarding the use of deficient terms in cargo reports has decreased. The following graphs highlight the positive trend in both the air and sea cargo environments.



Air cargo - Number of deficient terms



Sea cargo - Number of deficient terms

Useful points of contact

General enquiries can be made through online forms available at the contact us page of our website. For referrals, including suspected revenue evasion, please contact Border Watch.

Purpose	Phone	Email	Online
General enquiries	NA (online form available)	NA (online form available)	http://www.border.gov.au/about/contact/make-enquiry/general
Referrals (Border Watch)	Inside Australia: 1800 06 1800 Outside Australia or satellite phone : +61 2 6246 1325	NA (online form available)	http://www.border.gov.au/about/contact/report-suspicious-activities-behaviour
Cargo Support	1300 558 099	cargosupport@border.gov.au	http://www.border.gov.au/Busi/Carg/contact-cargo-support
Tariff Concession Orders	General Enquiries: 02 6198 7289 TAPIN help desk: 02 6275 6534	tarcon@border.gov.au	http://www.border.gov.au/Busi/Tari/Tari-3
Tariff Advice	1800 053 016	tariffclassification@border.gov.au	http://www.border.gov.au/Busi/Tari/Tari-1
Duty Drawback Scheme	1300 304 322	drawbacks@border.gov.au	http://www.border.gov.au/Busi/Expo/Faci
Voluntary Disclosures	NA (email address only)	vdi@border.gov.au	N/A
ChAFTA enquiries	1300 805 876	CHAFTA@border.gov.au	https://www.border.gov.au/Busi/Free/China
Origin enquiries	1300 805 876	origin@border.gov.au	https://www.border.gov.au/Busi/Free
Australian Trusted Trader	1300 319 024	trustedtrader@border.gov.au	https://www.border.gov.au/trustedtrader

Feedback

We welcome any feedback you might have on this update. If you have suggestions on additional information for inclusion in future editions, please email goodscompliance@border.gov.au.