



Australian
BORDER FORCE

Cargo terminal security

Guidance for industry on the obligations of cargo terminal operators and cargo handlers under Part VAAA of the *Customs Act 1901*

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1. Introduction

Cargo terminal operators (CTOs) and cargo handlers have obligations to ensure the security of Customs controlled goods. These are statutory obligations under Part VAAA of the *Customs Act 1901* (the Customs Act). The purpose of these obligations is to strengthen the cargo supply chain against organised crime and criminal infiltration. The obligations include ensuring the physical security of the cargo terminal and cargo, mandatory reporting of unlawful activity, and fit and proper person checks on management. The obligations are similar to those required at depots and warehouses licensed under the Customs Act and apply in both the sea and air environment.

The Australian Border Force (ABF) is responsible for assessing and ensuring that CTOs and cargo handlers comply with the obligations.

It is the responsibility of CTOs and cargo handlers to meet these obligations, including to undertake any infrastructure changes and procurement of equipment required (such as CCTV cameras). CTOs and cargo handlers should consult their local ABF office who can advise what the security requirements and standards are for the cargo terminal to inform the CTOs security infrastructure and procedures.

The information in this handbook will help CTOs and cargo handlers understand their obligations under Part VAAA of the Customs Act.

1.1. What is a cargo terminal?

Cargo terminal is defined in section 102B of the Customs Act.

Cargo terminals are a key point in the supply chain where international goods are unloaded and loaded. They are the areas at a wharf or airport where goods under customs control are located either immediately before being loaded for export, or immediately after being unloaded for import.

They are located within wharf and airport areas appointed under section 15 of the Customs Act (see **Appendix A** – Section 15 areas).

An area licensed under the Customs Act as a section 77G depot or section 79 warehouse is not considered a cargo terminal. The depot and warehouse licence conditions set the requirements for the movement, storage and handling of goods subject to customs control within these areas. This situation is most common at international airports. The vast majority of cargo terminals with obligations under Part VAAA will be at sea ports.

1.1.1. Determining the cargo terminal area

Cargo terminal areas should include only those areas associated with the loading and unloading of import or export cargo.

As part of the cargo terminal registration process, CTOs should provide the ABF with a site map of the cargo terminal. While this is not mandatory, it will provide the CTO and ABF clarity on the cargo terminal boundaries.

In the seaport environment, the following are generally not considered part of the cargo terminal:

- areas where bulk cargo is stored for long periods;
- production facilities; and
- suspended conveyer system infrastructure used to transport bulk cargo from stockpiles or storage areas outside a section 15 wharf area for direct loading onto a ship. In this scenario, the cargo terminal is the on-the-ground footprint on the section 15 wharf.

The requirement for the cargo terminal to be protected by adequate fencing will in many cases define the boundary of the cargo terminal.

1.1.2. Low-use cargo terminals

A number of seaports receive a low number of international vessels, and have extended periods where the cargo terminal is non-operational and no cargo under customs control is present. There are also a small number of airports that receive infrequent international cargo and the cargo terminal does not have customs controlled cargo present for extended periods of time.

The CTOs of such low-use cargo terminals can seek agreement from the ABF to be exempt from meeting the obligations of Part VAAA of the Customs Act during the periods the cargo terminal is not operational. This means the CTO can discontinue security measures in place to satisfy Part VAAA obligations if the cargo terminal is non-operational and there is no cargo under customs control present at the cargo terminal.

This arrangement would occur only for a small number of low-use cargo terminals where the ABF considers the security risk of having such an arrangement in place is low. An arrangement would be agreed in writing with the ABF. These CTOs must have risk-mitigation procedures in place to adequately manage a transition to an operational cargo terminal. For example, a CTO would conduct a security sweep of the cargo terminal prior to the arrival of goods for import or export.

CTOs who consider their cargo terminal to be low-use can contact their local ABF office to discuss their situation.

2. Cargo terminal operators

2.1. Who is a cargo terminal operator (CTO)?

Under section 102B of the Customs Act, a CTO is defined as a person who manages a cargo terminal. A 'person' includes a government body, corporate body and/or an individual.

Typically, the CTO is responsible for managing the operations at the cargo terminal such as scheduling the use of a cargo terminal, maintaining the terminal infrastructure and arranging terminal security. A CTO could be an entity that has long-term exclusive access to a designated area of a port or airport.

In the sea environment, a CTO could also be a port authority which allows third parties to use their facilities on a short-term basis (e.g. multi user berths). If a cargo terminal is used by multiple CTOs, each CTO is responsible for meeting their obligations under the Customs Act.

In the aviation environment, the CTO could be the entity with responsibility for the airport as a whole or an entity which has exclusive long term access to a designated area of an airport and which manages the operations and security of that area. It will depend on where the goods are located immediately before being loaded or immediately after being unloaded.

The roles of CTO and cargo handler are distinct. However in some cases a single entity may fulfil both roles.

2.2. What are the obligations of a cargo terminal operator?

2.2.1. Register the cargo terminal

The CTO must register their cargo terminal with the ABF using the [CTO Notification Form \(B1239\)](#). A registered CTO can use this form to update their existing registration details with the ABF. This will ensure that their information with the ABF is current. As part of the registration process, CTOs are strongly encouraged to provide a site map of the cargo terminal.

Registration is not a licensing process. The ABF uses the information provided during the registration process to record all CTOs dealing with international cargo. Registration also notifies the ABF of the people in positions of management at the CTO.

2.2.2. Ensure the physical security of the cargo terminal

Protect the cargo terminal with adequate fencing

A cargo terminal needs adequate fencing. CTOs are encouraged to consult the ABF ahead of installing any new fencing, as there is no single national standard of fencing for cargo terminals. The ABF will use a risk-based approach to determine what is adequate fencing.

For example, the fencing around a major city container terminal should reflect the higher level of security risk. Whereas some sea cargo terminals, such as remote bulk cargo terminals, where a heavy-duty perimeter fencing is not proportionate to the lower level of security risk.

It is not mandatory for the entire perimeter of a cargo terminal to be fenced. For example, there may be geographical barriers to entry, or the cargo terminal may sit within a larger secure airport or seaport boundary fence that provides adequate restrictions.

Protect the cargo terminal with a monitored security alarm

A CTO must have a monitored security alarm in place to protect a cargo terminal. The purpose of a monitored security alarm is to alert the CTO of any unauthorised access to the cargo terminal when it is either unattended or in limited use.

It may not be practical or necessary for the entire perimeter of the cargo terminal to be covered by a monitored security alarm. Instead an alarm could focus on a smaller or critical area within the cargo terminal boundary such as the terminal building.

The requirement to have a monitored security alarm may be met by a range of security measures. This includes security patrols, monitored CCTV and gates that provide an alert on forced entry. CTOs are recommended to consult the ABF if they are planning to meet the monitored security alarm requirement with a range of measures.

In determining whether a monitored security alarm is in place, you should seek advice from the ABF to ascertain the adequacy of the implemented measures that alert a CTO of unauthorised access to the cargo terminal. There should also be appropriate and timely response processes in place in cargo terminals. These could be part of a CTO's broader security and incident response plan.

Control the cargo terminal entry and exit points

The CTO or any third party employed by the CTO must control the entry and exit points of a cargo terminal. This is to restrict who can access the goods at the terminal. This restriction can be achieved through a range of procedures and processes. For example, entry points could utilise electronic swipe card access to control entry, which records entry against the cardholder's personal profile. Alternatively, access points can be physically manned. In many cases, fencing and gates will assist with managing access.

2.2.3. Processes and methods to ensure the security of goods

CTOs must have procedures and methods in place for ensuring the security of goods at the cargo terminal. The physical security obligations (adequate fencing, monitored security alarm and controlled entry and exit points) are part of these methods. The ABF may request a CTO to provide information on security procedures and methods in place at the cargo terminal.

Additional processes might include hardware systems like CCTV and standard operating procedures like retrieving an electronic access card when an employee ceases employment.

A CTO may already have arrangements in place to meet their obligations under other Commonwealth or state legislation that contribute to ensuring the security of goods. For example, the use of maritime or airside security zones under the *Maritime Transport and Offshore Facilities Security Act 2003* or the *Aviation Transport Security Act 2004*. These arrangements build the layers of security at the cargo terminal.

2.2.4. Record who enters and exits the cargo terminal

A CTO must record everyone who enters and exits its cargo terminal. The only exceptions are:

- a CTO employee; and
- an employee or officer of the Commonwealth, or state or territory government i.e. police officer, ABF officer, biosecurity official

Workers contracted by the CTO are not exempt. Their entry and exit movements need to be recorded. Entry/exit records can be electronic or paper based and must be kept by the CTO at least for five years.

The details to be recorded is summarised in Table 1. The details differ depending on whether an electronic access card is used to access the cargo terminal.

Table 1: Record keeping requirements by access type

Access by:	Information to be recorded:
Electronic Access Card	<ul style="list-style-type: none"> • entry time and exit times • type of card used e.g. Maritime or Aviation Security Identification Card, company issued access card • unique identification number of card.
Other	<ul style="list-style-type: none"> • entry and exit times • type of identification sighted e.g. driver's licence (including state issued digital driver licences where applicable), passport • unique number on identification • name of the person who sighted the identification • who the person is visiting at the cargo terminal (if applicable).

What type of identification is acceptable?

The CTO determines what identification it will accept to meet its record keeping obligation. This is because the CTO is responsible for ensuring the security of the cargo terminal. The CTO should have processes in place to verify the identity of people accessing the cargo terminal. This can include requiring a certain standard of identification to access the terminal.

A passport, driver's licence (including state issued digital driver licences) and transport security identification card are examples of acceptable identification. However, the type of identification a CTO can accept to meet their record keeping obligations is not limited to these three types. Other types of identification could include an employer issued work pass or a document issued by a Commonwealth, state or territory government.

Can a CTO prevent a person from entering the cargo terminal if they do not show photo identification?

Yes. While there is no legislative requirement, the CTO needs to be satisfied of a person's identity when recording their details. A CTO can require a person to show photo identification before entering the cargo terminal. If the CTO is not satisfied the person providing the identification is the person they claim to be, then the CTO cannot be sure they are recording the correct details for that person. On this basis, the CTO can refuse entry to a person who does not provide photo identification when requested.

Can a CTO not accept a form of identification, including photo identification?

Yes. The CTO can refuse entry to anyone it considers has not produced appropriate identification. This includes a person with photo identification that the CTO is not satisfied that the identity is of that person, or is concerned that the identification may be forged.

2.2.5. Ensure employees in positions of management are fit and proper to do so

The CTO must take all reasonable steps to ensure that people who work in positions of management for the CTO are fit and proper persons to do so. This applies to both permanent and contracted employees. The CTO is not required to assess all of its employees, or workers employed by a cargo handler.

The range of competence and character aspects the CTO must consider in assessing fit and proper is at **Appendix B**. A critical consideration is a person's criminal conviction history in the past 10 years. An Aviation Security Identification Card (ASIC) or Maritime Security Identification Card (MSIC) can be factored in an assessment. However it is not sufficient on its own to determine whether a person is fit and proper.

Fit and proper assessment responsibility sits with the CTO. Ensuring the person continues to be a fit and proper person is also the responsibility of the CTO. The ABF does not assess fit and proper on behalf of CTOs.

An ABF officer can ask the CTO to provide information that supports a fit and proper assessment.

2.2.6. Event reporting

The CTO must notify the ABF of certain events happening to goods under Customs control. Notifications are to be made to the local ABF office in writing as soon as practicable, and no later than five days after the CTO becomes aware of the event. Reportable events are:

- unauthorised access to, or movement of, goods under Customs control
- unauthorised access to an information system relating to goods under Customs control
- an enquiry relating to goods under Customs control from a person with no commercial connection to the goods
- theft, loss or damage of goods subject to Customs control
- break in and entry, or attempted break in, of the cargo terminal
- a change that may adversely affect the physical security of the cargo terminal
- a suspected breach of a Customs-related law in the cargo terminal
- unclaimed goods left in the cargo terminal for over 30 days.

Cargo handlers also have reporting obligations that complement those of the CTO (see section 3.2.1). CTOs that do not handle cargo will not have visibility of goods left unclaimed in the cargo terminal. In this circumstance, the CTO should establish a process for the cargo handler to advise them of goods left unclaimed for over 30 days. Both the CTO and cargo handler have the same obligation to report unclaimed goods to the ABF.

2.2.7. Notify the ABF of changes affecting security

The CTO must tell the ABF of any substantial change that would adversely affect the physical security of the cargo terminal or the security of goods at the cargo terminal. This includes significant changes to security infrastructure, including a change in the area of the cargo terminal, and security processes. Unless the change is in response to an emergency or disaster, the notice must be in writing to the local ABF office at least 30 days before the change occurs.

2.2.8. Train staff on CTO obligations

CTO employees and those involved in the CTO's business need to be aware of the CTO's responsibilities in relation to goods subject to Customs control. The CTO must educate and train these people on CTO obligations. Such training could be included in the CTO's induction process. The ABF may request detailed information on the training, for example the frequency of training, copies of the training material, the list of attendees, together with the names and experience of the instructors.

2.2.9. Keep Customs-placed signs in place

A CTO must not move, conceal or remove a sign placed at or near a cargo terminal by an ABF officer unless written approval is provided by the ABF. The sign can be temporarily moved while maintenance or construction work is carried out and the sign is moved for no more than 5 days.

2.2.10. Comply with the ABF CCTV system related obligations

The Customs (Obligations on Cargo Terminal Operators) Instrument 2023 in summary requires CTOs to:

- provide relevant persons (ABF officers and contractors acting on behalf of the ABF) with access to cargo terminals for installation preparatory works, the installation, operation, maintenance or removal of the Departmental CCTV systems on request; and
- provide all reasonable facilities and assistance to relevant persons to perform these functions.

Full details of these obligations are set out in the Instrument.

Failure to comply with these obligations is a strict liability offence under section 102CK of the Customs Act, and punishable by a maximum of 60 penalty units.

3. Cargo Handlers

3.1. Who are cargo handlers?

Under section 102B of the Customs Act, a cargo handler is a person at a cargo terminal who is involved in the movement of customs controlled goods. This includes moving the goods in, out or within the cargo terminal; the loading, unloading, handling or storing of goods; and packing or unpacking of goods. A 'person' includes a government body, corporate body and/or an individual. In the sea environment, cargo handlers are typically a stevedoring company.

3.2. What are the obligations of cargo handlers?

3.2.1. Event reporting

If a cargo handler knows of certain events happening to goods under Customs control it must notify the ABF. Notification must be made in writing as soon as practicable, and no later than five days after the event.

Reportable events are:

- unauthorised access to, or movement of, goods under Customs control
- unauthorised access to an information system relating to goods under Customs control
- an enquiry relating to goods under Customs control from a person with no commercial connection to the goods
- theft, loss or damage of goods subject to Customs control
- break in and entry, or attempted break in, of the cargo terminal
- a change that may affect the physical security of the terminal
- a suspected breach of a Customs-related law
- unclaimed goods in the cargo terminal for over 30 days.

CTO's have the same obligation as cargo handlers to report these events to the ABF (see section 2.2.6).

3.2.2. Ensure employees in positions of management are fit and proper to do so

The cargo handler must take all reasonable steps to ensure people who work in positions of management are fit and proper to do so. This applies to both permanent and contracted employees who work in executive officer positions. The cargo handler is not required to assess all of its employees, or workers employed by the CTO.

The range of competence and character aspects the cargo handler must consider in assessing fit and proper is at **Appendix B**. A critical consideration is a person's criminal conviction history in the past 10 years. Whether the person has been refused an Aviation Security Identification Card or Maritime Security Identification Card, or has had such a card suspended or cancelled, within the previous 10 years must also be considered. If a person currently holds an MSIC or ASIC, that can be factored into an assessment. However, it is not sufficient on its own to determine whether a person is fit and proper.

Fit and proper assessment responsibility sits with the cargo handler. Ensuring the person continues to be a fit and proper person is also the responsibility of the cargo handler. The ABF does not assess fit and proper on behalf of cargo handlers.

An ABF officer can ask the cargo handler to provide information that supports a fit and proper assessment.

3.2.3. Train staff on cargo handler obligations

Cargo handler employees and people involved in the business of the cargo handler need to know the cargo handler's responsibilities in relation to goods subject to Customs control. The cargo handler must take all reasonable steps to educate and train these people on the obligations. The ABF may request detailed information on the training, for example, the frequency of training, copies of training material, the list of attendees, together with the names and experience of the instructors.

3.2.4. Request approval to unpack goods in containers at a cargo terminal

Goods in a container at a cargo terminal must not be unpacked unless the cargo handler has written approval from an ABF officer. A cargo handler can request the local ABF office for approval to unpack the container. This approval is intended for exceptional circumstances. For example, where cargo has been damaged in transit and requires repacking. Approvals to unpack are granted for a specified time, location and container.

3.2.5. Request approval to facilitate the transshipment or export of goods

If goods are imported into Australia and are subject to customs control, a cargo handler must not facilitate the transshipment or export of the goods without the written approval of an ABF officer. A cargo handler can request this from the local ABF office.

3.2.6. Using an establishment identification when communicating with the ABF

A cargo handler must use their correct establishment identification when communicating electronically with the ABF, for example when reporting the receipt and movement of goods through the Integrated Cargo System.

4. Compliance with obligations

The CTO and cargo handler obligations are statutory obligations. Non-compliance with these statutory obligations is a strict liability offence under sections 102CK and 102DE of the Customs Act. Alleged offences may result in the ABF prosecuting those offences, or issuing an infringement notice under the Infringement Notice Scheme (INS). There will be no prosecution of the alleged offence if an infringement notice is paid.

The ABF takes a risk-management approach when assessing CTOs and cargo handlers' implementation of their obligations. This allows the diversity of seaport and airport operations to be reflected in the implementation of the obligations.

Further information on the INS and the ABF's approach to trade and goods compliance can be found on the ABF website.

4.1. Powers of ABF officers in cargo terminals

ABF officers have additional powers with a cargo terminal. These powers can be used to determine whether a provision of any Customs-related law has been, or is being, complied with. These powers are in addition to the powers ABF officers can already use within section 15 areas (Appendix A).

An ABF officer may enter a cargo terminal, without a warrant, to search and access information and exercise functions. ABF officers can access electronic equipment and storage devices at the cargo terminal (without a warrant) if they suspect it contains information relating to any of the following:

- the security of goods subject to Customs control in the cargo terminal
- access to goods subject to Customs control in the cargo terminal or on a ship or aircraft within, or adjacent to, the cargo terminal
- the rostering and attendance of staff
- ship bay plans relating to the cargo terminal
- the unloading, receipt, movement and stacking of Customs controlled goods at the cargo terminal.

An ABF officer can request certain information from a CTO or cargo handler. This includes documentation on the procedures and methods used by the CTO to secure goods at the terminal, and records relating to each person who enters the terminal. Authorised officers may also request CTOs and cargo handlers to provide information to support a fit and proper assessment.

An ABF officer can direct a CTO to carry out work to address security concerns at the terminal. This includes a direction to carry out remedial work at or near the terminal, and to install CCTV. An authorised officer can also give a direction to a CTO or cargo handler in relation to the movement, storage, packing or unpacking of goods subject to customs control.

Any request or direction issued by an ABF officer will be made in writing.

5. Appendix A - Section 15 areas

Under section 15 of the Customs Act the Comptroller-General of Customs (Comptroller-General) or a delegate, may appoint ports, airports, and wharves, define their boundaries and, if required, limit the purpose of those ports, airports, and wharves. For example, a port or wharf may be appointed for a specific purpose such as the loading / unloading of one class of goods only, e.g. crude oil.

The Comptroller-General, or a delegate, may also appoint boarding stations for the boarding of ships and aircraft by ABF officers and may limit the purpose of boarding stations. There is no provision in the Customs Act to limit the boundary of a boarding station.

These appointments are made legal by their publication in the Commonwealth of Australia Gazette.

Section 4 of the Customs Act defines 'port', 'airport' and 'wharf' as meaning a port, airport or wharf appointed under section 15 of the Customs Act. There is no further legislative definition of 'port', 'airport' or 'wharf'. 'Boarding station' is not expressly defined under the Customs Act, however, all references to a boarding station within the Act mean a boarding station appointed under section 15 of the Customs Act.

These appointments enable ABF officers to undertake various border clearance functions and facilitate the legitimate and efficient movement of people and goods across the Australian border.

Within the boundary of a section 15 appointed area, ABF officers are able to exercise a number of powers under the Customs Act, provided the relevant preconditions are met, including, but not limited to:

- seizure of special forfeited goods without warrant (section 203B);
- control over goods brought there for export (paragraph 30(1)(d) of the Act);
- Customs waterfront area control (section 20);
- stop a conveyance about to leave a Customs place (section 197);
- detention and searches powers of persons if an ABF officer suspects on reasonable grounds that a person is unlawfully carrying any prohibited goods on his or her body (sections 219L, 219M, 219Q, 219R); and
- other general detention powers in designated places (sections 219ZJB, 219ZJC, 219ZJCA).

A section 15 appointment can be revoked, and reappointed if necessary. This would occur when the boundaries of a section 15 area, most likely a wharf, need to be redrawn to account for operational or geographical changes. The boundaries of section 15 wharves should be reviewed regularly to ensure they include, and exclude, the appropriate areas.

6. Appendix B – Fit and Proper

Meaning of *fit and proper person*:

In deciding whether a natural person is a ***fit and proper person*** for the purposes of Part VAAA, the decision-maker must have regard to:

- a) any conviction of the person of an offence against the Customs Act committed within the 10 years immediately before the decision; and
- b) any conviction of the person of an offence punishable by imprisonment for 1 year or longer:
 - i. against another law of the Commonwealth; or
 - ii. against a law of a State or Territory;
 - ii. if that offence was committed within the 10 years immediately before the decision; and
- c) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled, within the 10 years immediately before the decision.
- d) if a request has been made of the person under subsection 102CF(2) and the Comptroller-General of Customs is considering giving a direction to the person under Division 5—any misleading statement given by the person in response to the request.