



Australian
BORDER FORCE

Goods Compliance Update

Edition 2 - December 2015

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Message from Commander, Customs Compliance, Australian Border Force

Welcome to the second edition of the *Goods Compliance Update* which builds on the first *Goods Compliance Update* and provides more detail on compliance results and guidance to assist industry to increase compliance levels. I want to thank everybody who provided feedback on the first edition and welcome continued feedback via goodscompliance@border.gov.au.

As I mentioned in the first edition, I recently attended the CBFCA Regional Continuing Professional Development events, along with the CBFCA National Conference, to provide information on the Australian Border Force's (ABF) approach to trade and goods compliance. In this *Update*, we answer a number of frequently asked questions raised at these forums. Next year we will be looking at how we can better utilise the Continuing Professional Development (CPD) framework to work with industry to improve awareness of border related obligations and to increase voluntary compliance.

I also attended the Industry Summit in Melbourne on 19 and 20 November where Assistant Commissioner Border Management, Stephen Allen, discussed new opportunities for industry members to work with the ABF on goods compliance issues. Specifically, the ABF will be convening a Trade and Goods Compliance Advisory Group to collaborate on goods compliance issues. The ABF will also be developing an approach to trade and goods compliance through a co-design process with industry through a series of workshops starting in 2016. More information is provided below. If you are interested in being a part of these initiatives, please email us at goodscompliance@border.gov.au.

We are also exploring other options to provide you with information such as compliance programme results on a more regular basis to keep you updated on current and emerging issues.

It has been a busy six months for Customs Compliance Branch and the ABF. We are looking forward to a productive 2016, where we will build on the work already commenced this year and further our engagement with industry on compliance matters.

I wish you all a safe and enjoyable festive season.

Erin Dale
Commander
Customs Compliance

Working with industry

The Trade and Goods Compliance Advisory Group

A key focus of our goods compliance function is to work collaboratively with industry to enable and increase voluntary compliance. Accordingly, we see value in establishing a Trade and Goods Compliance Advisory Group made up of members from the Department, the ABF, industry and partner agencies as required to collaborate on designing solutions to existing and emerging compliance issues. It is intended that the Trade and Goods Compliance Advisory Group will make recommendations on improvements and changes to facilitate compliant behaviour.

An example of a topic that could be addressed by the Trade and Goods Compliance Advisory Group is improvements to the current Infringement Notice Scheme (INS) Guide. The Advisory Group could provide an effective avenue to discuss and enable improvements to the Guide to clarify the application of the INS.

If you are interested in being a part of the Trade and Goods Compliance Advisory Group please email goodscompliance@border.gov.au.

The Approach to Trade and Goods Compliance

In the coming months, the ABF will be developing its *Approach to Trade and Goods Compliance*. The development of the *Approach to Trade and Goods Compliance* will be through a co-design process progressed through a series of internal and external workshops. We are looking for workshop participants who are interested in fostering a professional and effective relationship between industry, the Department and the ABF to affect positive compliance outcomes.

We plan to conduct external workshops in early 2016. The outcomes of the workshop will be incorporated into publically available documents to provide guidance and clarity on the ABF's approach to trade and goods compliance.

If you would like to participate in the development of the *Approach to Trade and Goods Compliance*, please email goodscompliance@border.gov.au to register your interest.

Compliance programme results 2015-16 year to date¹

The Infringement Notice Scheme results

Table 1 shows the number of Infringement Notices issued between July and October 2015 (inclusive) for each offence type. Of the 226 Infringement Notices issued, 194 were issued to Body Corporates and 32 were issued to individual entities.

It is apparent that the biggest issues we are seeing is within Offence 33(6) – Moving, altering or interfering with goods subject to Customs control without authority. The greatest concern within this category is the delivery of goods without authority i.e. when the status of the consignment is HELD within the ICS. Consignments cannot be delivered prior to a ‘CLEAR’ status within the ICS.

Table 1 – Infringement Notice Scheme July to October 2015

Offence	Description	Number of notices issued	Total fines issued
33(6)	Moving, altering or interfering with goods subject to Customs control without authority.	101	\$773,550
243T(1)	False or misleading statements resulting in a loss of duty.	48	\$344,936
77R(1)	Breach of conditions of depot licence.	14	\$107,550
243U(1)	False or misleading statements not resulting in a loss of duty.	4	\$25,500
233(1)(b)	Prohibited imports – natural person who is in a section 234AA place and is embarking or disembarking from a ship or aircraft.	10	\$45,900
64ACD(2)	Failure to report on passengers and crew.	12	\$30,750

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.

Offence	Description	Number of notices issued	Total fines issued
36(6)	Failure to keep goods safely or failure to account for goods.	14	\$108,000
64(13)	Failure to meet reporting requirements for the impending arrival of a ship or aircraft.	6	\$15,750
64ABAA(9)	Failure to meet reporting requirements for outturn reports.	1	\$7,650
243V(1)	False or misleading statements in a cargo report or outturn report.	2	\$15,300
243SB	Failure to produce documents or records.	3	\$8,925
33(3)	Moving altering or interfering with goods subject to Customs control without authority	4	\$30,600
64AB(10)	Failure to meet reporting requirements for the report of cargo.	2	\$15,300
33(2)	Moving altering or interfering with goods subject to Customs control without authority.	1	\$2,550
113(1)	Failure to enter goods for export and loading/exporting without authority to deal.	3	\$22,950
118(1)	Departing without Certificate of Clearance.	1	\$2,550

Value of revenue understatements

Table 2 provides the value of identified understated revenue by activity between July and October 2015.

Table 2 – Understated Revenue 2015-16

Description	July	August	September	October	Total July to October 2015
Post Transaction Verification	\$1,372,380	\$670,385	\$82,024	\$1,226,244	\$3,351,032
Pre-Clearance Intervention	\$1,017,039	\$562,128	\$708,918	\$1,698,104	\$3,986,189.20
General Monitoring Programme	\$21,610	\$6,642	\$9,597	\$3,761	\$41,610
Voluntary Disclosures	\$609,972	\$2,366,279	\$8,549,182	\$1,109,611	\$12,635,045

Cargo control and accounting

Table 3 provides an overview of the cargo control and accounting results from July to October 2015. The purpose of cargo control and compliance activities is to monitor the level of compliance within licensed depots, warehouses and cargo terminal operators.

Table 3 – Results from cargo control and accounting activity 2014-15.

Description	July	August	September	October
Number of customs cargo control and compliance activities*	193	214	102	209
Proportion of customs cargo control activities resulting in the identification of one or more breach	13%	7%	10%	11%

* Customs cargo control and compliance activities involve physical visits to licensed premises as well as desktop activity undertaken off-site.

Administration of the Refund Scheme²

Table 4 provides an outline of the results of the refund scheme from July to October 2015. The most common reasons for rejected refund applications are:

- Incorrect use of Tariff Concession Orders
- The lodgement of refund applications where the duty has already been refunded through a drawback claim
- Refunds lodged outside of the legislated timeframe (over the four year limit)
- Nil documents submitted for refund applications or nil response to a notice to produce documents requesting further information.

No Infringement Notices for rejected refund applications were issued in this timeframe.

Table 4– Administration of the Refund Scheme 2015-16.

Description	July	August	September	October	July to October 2015
Number of assessed refund applications	9,841	9,713	10,088	9,940	39,582
Number of approved refund applications	9,781	9,656	10,067	9,832	39,336
Value of approved refund applications	\$19,197,233	\$26,311,404	\$26,646,264	\$29,052,139	\$101,207,040

² Statistics for the Administration of the Refund Scheme 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.

Administration of the Drawback Scheme

Table 5 provides an outline of results of the Duty Drawback Scheme from July to October 2015. In this period, approximately four per cent of drawback applications were rejected. The most common reasons for the rejection of drawback applications include the use of revoked Export Declaration Numbers (which cannot be used as proof of export) and concurrent refund/drawback applications.

Table 5 – Results from the Duty Drawback Scheme 2015-16

Description	July to October 2015	Value
Number of drawback lodged	1,178	\$57,487,625
Number of drawbacks paid*	1,196	\$27,987,973
Number of drawbacks rejected	48	\$839,058
Number of drawbacks withdrawn	10	\$403,503
Number of drawback over claims	53	\$79,208

* The number of drawbacks paid includes drawbacks lodged in the previous financial year.

The quickest way to claim a duty drawback is through the Integrated Cargo System. A [guidelines document](#) is available on the website to assist clients to lodge their claims. For information on submitting manual requests, please see the [Facilitation and Concession Schemes web page](#). Please note, the Scheme does not provide for a refund of GST. This must be claimed through the Australian Taxation Office.

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 from July to October of 2015.

Import Declarations - results

Table 6 provides the results of CMP activity directed at Import Declarations from July to October of 2015. The error rate of 13% for July to October of 2015 has decreased from 18per cent since 2014-15.

Table 6 – Compliance Monitoring Programme – import results July to October 2015

Category	July to October 2015
Number of lines checked	2,276
Number of lines detected to have error/s	296
Error rate (by number of lines)	13%
Number of errors detected	349

Table 7 provides a list of the ten most common areas of non-compliance identified during CMP activity directed at Import Declarations between July and October 2015.

Table 7 – Ten most common errors on import lines between July and October 2015.

Category	July to October 2015 (number of errors detected)
Val - Invoice Terms	51
Val - Valuation Date	46
Tariff Classification	40
Gross Weight	31
Val - Related Transaction	30
Loading Port	21
Tariff Concession or Other Concession Other	21
Val - Price (Invoice Total)	20
Origin	13
Val - Overseas Freight	12

Export Declarations - results

Table 8 provides a comparison between the results of CMP activity directed at Export Declarations for July - October of 2015. At approximately 50 per cent, the error rate for export declarations is notably higher than for Import Declarations and Cargo Reports. The error rate of 51 per cent for July to October of 2015 has increased from 49 per cent since 2014-15.

Table 8 – Compliance Monitoring Programme – Export Declaration results July - October of 2015.

Category	July to October 2015
Number of lines checked	272
Number of lines detected to have error/s	138
Error rate (by number of lines)	51%
Number of errors detected	236

Table 9 provides a list of the 10 most common areas of non-compliance identified during CMP activity directed at Export Declarations between July and October 2015.

Table 9 – Top 10 most common errors on Export Declarations between July and October 2015.

Category	July to October 2015 (number of errors detected)
FOB value	57
AHECC - Misclassification	36
Gross Weight	35
Net Quantity	35
Origin	23
Consignee City	15
FOB Currency	13
Consignee Name	11
Declared Owner	6
FOB Terms	5

Cargo Reports - results

Table 10 provides the results of CMP activity directed at cargo reports in July to October 2015. Encouragingly, the error rate has decreased significantly from 8 per cent in 2014-2015 to 2 per cent in the July-October 2015 period.

Table 10 – Compliance Monitoring Programme – cargo report results

Category	July to October 2015
Number of lines checked	2,276
Number of cargo reports detected to have error/s	53
Error rate	2%
Number of errors detected	55

Table 11 – Top 8 errors on cargo reports between July and October 2015

Category	July to October 2015 (number of errors detected)
Gross weight	22
Declared Value	13
Consignee Incorrect	9
Consignor Incorrect	4
Cargo Report Data Inaccuracy (Other)	2
Goods Description	2
Origin Port of Loading	2
Port of Destination	1

CBFCA CPD Events –Frequently Asked Questions

As mentioned earlier, Erin Dale Commander, Customs Compliance recently attended the CBFCA CPD events in each state. Below are answers to some of the frequently asked questions raised at these forums.

1. What is the correct date to use for valuation date?

Valuation date is determined by the place and day of exportation. The place of export decides the day of exportation which is acceptable as the valuation date. The place of export establishes the dividing line between overseas freight and overseas insurance (which are deductions from price) and foreign inland freight and foreign inland insurance (which are additions to price). The place of export can include:

- where the goods are posted from;
- where the goods are packed in a container (as defined in the Customs Convention on Containers);
- the place, or last place, from which self-transported goods departed for Australia;
- the place, or first place, the goods were placed on board a ship or aircraft for export; and
- where the goods crossed the border of the exporting country.

Page 87 of the [Customs Valuation Instructions and Guidelines](#) notes that where the owner has no reliable or reasonably available information at the time the goods are entered for home consumption, to establish the actual day of departure or transportation from the place of export, ABF will accept the day of departure of the vessel or aircraft from the loading port/airport, as shown on the bill of lading or sea/air waybill. The date of departure can be obtained from the 'on board' date endorsed on the bill. This means that if an Ocean Bill of Lading or Airway Bill of lading has a 'shipped on board', 'laden on board' date or a 'flight date' and that date matches the valuation date on the Full Import Declaration, then this date would be accepted as accurate. However, if you have documentation that provides you with a more accurate date of export as per section 161J(4) of the Customs Act 1901, then that date should be used.

2. (a) What is the ABF doing to improve the timeliness of Tariff Advice Applications?

Response times for Tariff Advice Applications have been impacted by a marked increase in applications throughout 2015. Strategies have been implemented to reduce response times and improvements are starting to be seen. However, in the interim, there are a few steps that you can take to ensure delays are minimised:

- Follow the published guidelines on preparation of tariff advices
- Identify the goods as imported
- Provide a full description of the goods
- Give claimed reasons
- Classify correctly in Schedule 3 first, then assess for TCOs

- Articulate why the goods meet the terms of the claimed TCO
- Do not use the Interpretation Rules (IRs) to assess TCO eligibility in Schedule 4.

(b) Do I have to obtain pre-importation approval by DIBP to check eligibility of Schedule 4 items?

No. Use of Schedule 4 items can be decided by the importer on a self-assessed basis, as is the case with tariff classification in Schedule 3.

- A Guidelines document with information for each item is provided as a Public Advice Product on the [DIBP website](#).
- If doubt still exists for specific shipment eligibility, a request for advice can be submitted by emailing tariffclassification@border.gov.au
- It is current DIBP policy that requests for Schedule 4 advice (other than item 50 goods) are not tariff advices.
- All formal requests must include the following information:
 - i. Confirmation that the Guidelines have been read.
 - ii. The Schedule 4 item in consideration.
 - iii. The origin of the goods.
 - iv. The Schedule 3 tariff classification of the goods.
 - v. A detailed narrative explaining the facts about the goods and the importation, why the item applies and what the reason is for uncertainty.

3. What are the obligations on brokers when goods are undervalued?

For brokers, we ask that if the value of goods seems unrealistic to you, you liaise with your clients to ensure that the correct Customs Value is used. This may require asking for invoices and proof of value. Ensuring the correct value will minimise the chances of the goods being delayed at the border for assessment. If you are unsure that the information you are providing is correct, it is recommended that you use the 'amber line' function to indicate that you are uncertain about information included. You must attach a statement outlining the reasons for making an amber claim.

4. How does the ABF apply tolerances to Tariff Concession Orders?

Tolerance is the minimum and maximum limit of acceptable deviation from a specified dimension or value in a manufacturing process. For a TCO to apply, the goods must precisely meet the TCO description including any specified tolerances. For more information on the application of tolerances to TCOs, please view the [guidelines](#).

5. What is the correct way to report addresses on a cargo report?

The cargo report should be based on the bill of lading. However if the bill of lading identifies a third party logistics service provider, then another document that correctly identifies the correct consignor (overseas supplier) and the correct consignee (ultimate recipient) should be used to lodge the cargo report. Due to commercial contracts and agreements, care should be taken to identify the entities that best meet the definitions of both the consignor and the consignee.

In regards to addresses, the address of the consignee on the cargo report and the delivery address of the owner on the import declaration can be different. For example:

An entity orders goods which are packed into a FCL shipping container. The main office of the consignee is located in a city office block, whilst their warehouse is located in the suburbs. The FCL shipping container obviously cannot be delivered to the consignee in a city block, so the suburban warehouse address can be quoted as the delivery address. In this example, the cargo report would show the city office block as the consignee's address whilst the import declaration would show the suburban warehouse address.

For more information, please see the [cargo reporting webpage](#).

The Introduction of the China and Australia Free Trade Agreement

On 9 November 2015, The *Customs Amendment (China-Australia Free Trade Agreement) Bill 2015* and the complementary *Customs Tariff Amendment (China-Australia Free Trade Agreement) Bill 2015* passed the Senate after being approved by the House of Representatives on 22 October 2015. The agreement will provide for preferential rates of duty for goods traded between Australia and China, and is expected to come into force in mid to late December 2015.

The Department, in conjunction with the ABF, has taken a number of steps in preparing for the China-Australia Free Trade Agreement (ChAFTA). A [ChAFTA page](#) has been developed on the Department's website which contains links to the Department of Foreign Affairs and Trade's (DFAT) ChAFTA page, information relating to the legislation, and a number of Frequently Asked Questions (FAQs) for traders.

Between 16 and 20 November 2015, road shows were held in major Australian cities to provide information about the agreement to industry. It was great to see so many members of industry attend these sessions to engage with the Department and raise questions relevant to ChAFTA. The Department is currently working with DFAT and our international counterparts to develop answers to these questions and, once finalised, they will be added to the FAQs on the website. A ChAFTA enquiries phone line has also been established for industry which can be contacted by dialling 1300 805 876.



The ABF will have a dedicated ChAFTA Origin and Verification Team which will provide origin verification services, decisions on advanced rulings and manage industry enquiries related to ChAFTA.

It is expected that a suite of supporting documents (inclusive of a ChAFTA Practice Statement, Instruction and Guideline and an official Department of Immigration and Border Protection Notice), will be finalised and published on the Department's website shortly.

Changes to the Infringement Notice Scheme

In response to industry concerns around the administration of the Infringement Notice Scheme (INS), the ABF has recently undertaken a review into the process for reviewing applications for the withdrawal of Infringement Notices. The review, which was completed in November, resulted in the amendment of policy settings to ensure that a separate officer (to the officer who issued the Infringement Notice) is responsible for reviewing withdrawal applications. The amended policy came into effect on the 18 November 2015. The change addresses industry concerns and ensures the application of natural justice principles, while maintaining the integrity of INS administrative procedures.

Within the coming months, the INS Guide will be updated to reflect the changes to the Scheme.

Useful points of contact

With the integration of the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service, some points of contact have changed.

Table 12 includes the current points of contact for the Department. General enquiries can be made through online forms available at [Contact us](#) page of our website. For referrals, please contact Border Watch. Email addresses and phone numbers are available for more urgent enquiries relating to cargo support or for reporting suspicious behaviour.

Table 12 – Useful points of contact

Purpose	Phone	Email	Online
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
General enquiries	NA (online form available)	NA (online form available)	http://www.border.gov.au/about/contact/make-enquiry/general

We welcome your feedback

We welcome any feedback you may have on this update.

If you have suggestions on additional information for inclusion in future editions, please let us know by emailing goodscompliance@border.gov.au.