



1. Meeting Agenda

Meeting Number: 04/08
Meeting Name: Trade Facilitation Forum
Date: Wednesday 5 November 2008
Time: 11.00am
Location: Customs House
10 Cooks River Drive
Sydney International Airport

2. Invitees/Attendees

Y-in attendance; A-apology

Customs

A Andrew Hosking (Regional Director NSW)
A Catherine Asbridge (National Manager Cargo Operations North)
Y Doug Greaves (Director Compliance NSW)
Y Jim Fleming (Director Risk and Strategy NSW)
Y Pam Radin (Director Air Cargo Operations)
Y John Barber (Director Sea Cargo Operations)
Y Rod Vaughan (Director Customs Information & Support Centre)
A Brian Sheridan (Manager Trade)
Y Ron White (A/g Manager Trade)
Y Stan Pragnell (Manager Exports and National Industry Leads)
Y Noreen Agius (Supervisor National Industry Leads – Service Providers)
Y Debbie Buck (Supervisor Revenue Assessment)

AFIF

Y Brian Lovell (CEO AFIF)
A Paul Angel
Y Stuart McFarlane

CBCFCA

Y John Law (President CBFCA NSW Branch)
Y Michael Hudson
A Andrew Crawford
Y Paul Zalai
Y Tony Fatouros

CAPEC

A Robert Battistel
Y Ben Somerville

3. Agenda

Item No.	Subject	Presenter
1.	Welcome and Apologies	
2.	Minutes from the previous meeting	
3.	Matters arising from the previous meeting	
4.	Compliance Division Update	Customs
5.	NSW Trade Branch Update	Customs
6.	Regional ICS Issues	Customs
7.	CEF Processing Delays	Industry
8.	General Business	
9.	Next Meeting	

4. Minutes

Meeting commenced: 11.10am

ITEM 1 Welcome and Apologies

John Barber formally welcomed everyone to the meeting. He passed on apologies from Andrew Hosking, Catherine Asbridge, Brian Sheridan, Paul Angel, Andrew Crawford and Robert Battistel.

ITEM 2 Minutes from the previous meeting

The Minutes from the previous meeting, held on 27 August 2008, were accepted without change.

ITEM 3 Matters arising from the previous meeting

Action Item 1 – Redline Processing Review

At the last meeting Andrew Crawford asked to be kept informed of the outcomes of the review being conducted into redline processing. Stan provided the forum with an update. The Chair of the working party has indicated that good progress has been made on:

- examining the internal Customs processes for responding to profiles; and,
- reviewing the profiles that are currently operating.

The forum was advised that the Compliance, Trade and Intelligence Divisions are working jointly to ensure consistency of practice in this area. The project team will be meeting later in the week and intend to implement a number of elements before the end of the year.

Action Item 2 – Identifying a GST (Goods and Services Tax) Contact in Customs

Stan reported that he had liaised with the policy area in Central Office (CO) about the feasibility of re-establishing a GST contact in Customs. He revealed that in the past Customs had a GST cell in CO, but this had been dissolved after the 2006 restructure.

Stan said that CO had agreed to look into the matter and would let him know if an appropriate contact could be identified. Stan agreed to provide the forum with an update at the next meeting.

Action: *Stan to await further advice from CO and report back on any developments at the next meeting.*

Action Item 3 – Redline Processing and Bulk Amendment Facilities Review Committee Contacts

In response to a request from Paul Zalai, Stan advised that John Davies from Western Australia is the Customs contact on the red-line processing review panel. Paul asked if “Any thought had been given to consulting with industry?” Both Stan and Jim Fleming reassured the forum that at this stage it was an internal review and “shouldn’t affect industry too much” as no change is expected in Customs’ requirements of industry when a consignment hits a profile.

Doug Greaves added that in the past, each region had devised and implemented its own profiles. In keeping with the change to a national structure and after the review is complete, Customs will have national consistency in profiles, governance and reporting arrangements.

Stan pointed out that the Bulk Amendment Facilities Review is currently being conducted by the User Services Section in the Industry Engagement and User Services (IE&US) Branch. Doug noted that in relation to the bulk amendments facility proposal (where companies need to amend bulk declarations), it would be premature to consult industry at this point, as the proposal has not advanced far enough to justify such consultation. When asked about refunds, Doug said that at this stage, it has not been decided whether bulk *refunds* will be part of the project, or if it will only enable bulk *payments*.

Action Item 4 – Racing Cars and Luxury Car Tax (LCT)

Stan Pragnell had agreed to follow up a question posed by Tony Fatouros at the previous meeting, asking whether there has been an Australian Taxation Office (ATO) determination or ruling relating to racing cars and LCT. Stan advised that racing cars are exempt from LCT, but the key question is “what qualifies a car as a racing car?” He advised that to qualify as a racing car, the vehicle cannot be able to be registered anywhere in the world. In some cases this is clear cut, in others it is not.

This led onto a further question. Tony asked if there is any uncertainty about whether a car qualifies as a ‘racing car’, could a declaration be sent Amber line? Jim Fleming replied by saying that where it is a more complex questions about LCT or GST on cars, these should be directed to the ATO in the first instance, as they make rulings on the correct interpretation of indirect taxation legislation. He added that where an ATO ruling has been made, Customs will honour that ruling.

Stan advised that for any inquiries of this nature, it was best to contact the motor vehicles section of the ATO.

Action Item 5 – GST Exemption Import Declarations

There was a question at the last meeting about the percentage of import declarations that go redline because GST exemptions are being claimed. In reply, Stan indicated that it was hard to give a definitive answer, as Customs statistics don't currently capture that information, but the redline team has advised that the answer was probably less than 1%. Moreover, Stan noted that this figure reflected the number of declarations that are assessed electronically, not the number held for documentary review or physical examination.

Action Item 6 – Redline Processing – Import Documentation

At the last meeting Michael Hudson asked if there was any way around having to “constantly respond to the same low risk Notice to Produce Document (NPD) advices”. Stan advised that there was no simple way to reduce the amount of import documentation required when import declarations go redline, as Customs only asks for the documents that are needed in order to resolve the questions at hand. Jim Fleming added that it was a mistake to assume that such consignments are “low risk”, as Customs profiles area intended to capture high risk consignments.

Doug Greaves mentioned that he would elaborate on this issue later in the meeting.

Action Item 7 – Cargo Reporting Data

During a discussion about the cargo reporting statistical graphs presented at the last meeting, Paul Zalai had asked if the graphs of the air cargo reporting timeliness could be modified by excluding the results for CAPEC members, as they would distort the overall results. In response, Stan said that he had been in touch with the officer responsible for statistical reporting on cargo reporting accuracy and timeliness. He said that they are exploring the feasibility of providing “split statistics”, but it may not be possible to share the information for privacy reasons. Paul questioned why there was some hesitancy in doing this and asked “What is so sensitive about these figures”?

Doug acknowledged Paul's point and promised to raise this matter with the Compliance Executive Group. Ben Sommerville added that the CAPEC members would have no objection to Customs providing data about cargo reporting timeliness in the format requested by Paul. CAPEC has asked that Customs remove the express carriers' data from these reports as they believe that their performance is better than that of general freight forwarding.

Action: *Doug to report back to the next meeting on whether cargo reporting timeliness information can be provided in a format that separated CAPEC data from other reporters.*

Action Item 8- Tourist Refund Scheme Contact

Paul Zalai reported that this action item had been addressed.

ITEM 4 Compliance Division Update

Prior to delivering his Compliance division update, Doug Greaves distributed a copy of the latest version of his “Recently Identified Areas of Non-Compliance” report.

Valuation implications of the falling Australian dollar

Doug opened his presentation by saying that Customs valuation officers have received some interesting questions lately due to the falling value of the Australian dollar.

He explained that in one case, an importer purchased camera equipment in July, but the goods were not shipped to Australia for six weeks. The initial purchase price in foreign currency was under the \$1000 threshold that would have allowed lodgement of a SAC and duty/tax-free entry. However, on the date of export, the value had risen to well over \$1000. Section 161J of the Customs Act is clear – the correct rate of exchange is that applying on the date of export from the place of export, not the date on which the payment was made. Therefore, the importer had to lodge a FID and pay the applicable duty and GST.

In another case, Doug described how a car was bought on 12 September with an invoice in Japanese yen and payment through telegraphic transfers in Japanese yen. The car was exported from Japan on 14 October 2008. Between those dates, the Australian dollar dropped in value, greatly increasing the valuation of the car. The importer then asked the supplier to provide invoices showing a price in Australian currency, reflecting the exchange rate at the time of purchase. Doug emphasised that this was wrong. In this situation, the importer was required to complete the FID by reference to what was contained in the original contract of sale.

Doug repeated a point made at the last meeting - that Customs strongly encourages importers and their representatives to be very careful in using the correct valuation dates for the importations, especially for goods from Japan and the USA that were imported during the past couple of months. He emphasised that if mistakes have been made, then voluntary disclosure and voluntary revenue payment would be prudent.

Documents required by Import Intervention

Doug reminded the forum that Import Intervention staff in each State use profiles in the ICS to target imported goods, for a range of reasons. He said that there are two main reasons for this:-

- To identify restricted or prohibited goods that have not been declared and for which no import permits exist; and to
- Check the classification and valuation of imported goods, to ensure that the correct amount of Government revenue will be paid.

When an import declaration hits one of these profiles, he said that Import Intervention staff will usually ask for certain commercial documents. However, some consignments will be assessed purely on the basis of what is contained in the initial declaration.

Doug reported that some sectors of industry have been sending copies of commercial documents to Customs whenever a consignment is held, without waiting to be asked to

do so. If the cargo doesn't clear immediately, some have sent the same documents repeatedly. Doug said that when this happens, it tends to cause problems within Customs, especially on Monday mornings, when the receiving areas try to distribute the backlog of email and fax messages to the appropriate people.

Doug advised that another problem is that some sectors of industry don't always provide the documents that have been requested. For example, when Customs asks for the "**invoice**" for the importation, he said that we need the original supplier's invoice, not the shipper's invoice. Similarly, when we ask for "**evidence of money price paid**", we need a copy of the relevant telegraphic transfer, or a bank account statement, or other proof of the actual movement of the payment to the supplier, not an unsigned letter from the supplier saying "That's what was paid."

Doug advised that some importers complain strongly when asked for such documents and indicate that they are offended that Customs would question their honesty. Unfortunately, not all importers are honest and Customs needs to maintain an appropriate control regime. Doug said that Customs is always keen to work with industry to ensure we minimise needless profile hits, but emphasised that Customs is entitled to withhold release until satisfied that declarations are accurate and we will continue to do so.

Doug emphasised that the prompt provision of the relevant documents when requested will minimise delays to legitimate cargo.

30-day payment plans

Doug reported that in recent months, Import Intervention staff have noted an increase in the number of importers who claim they cannot provide evidence of money price paid, because they are on a 30-day payment plan, or a similar arrangement. However, in one recent case, an importer told Customs that the freight forwarder had told him to say this to Customs, so he could avoid providing that evidence.

Doug noted that Import Intervention is now compiling a register of all importers who provide this explanation, so we can assess which should later be subject to desktop checks, to determine how much was in fact paid and when it was paid. Doug declared that if these importers have had bad advice from their industry representatives and are held to account for "false or misleading statements", they may not be happy with their representatives.

In passing, Doug mentioned an importer of jewellery from India recently advised Customs that he couldn't provide evidence of payment, both because he was on a 30-day payment plan *and* because the goods were "free trade samples" for which no payment was required.

US preference and INCOTERMS

Doug advised the forum that in some recent audits in Queensland, importers of goods from the USA have had very little idea of what was required in order to claim US preference. He said that it appeared that these clients were not told what proof was required to establish eligibility. Industry representatives are encouraged to ensure that

their clients fully understand eligibility for US preference and have met the relevant tests, before lodging such claims.

Doug said that Compliance officers in Queensland have noticed a growing trend for incorrect INCOTERMS to be used on declarations. He told how one broker had indicated that he could not use the correct INCOTERMS because his IT system would only allow him to enter FOB values. He added that another broker appears to have ignored the INCOTERMS shown on the relevant invoices.

Sea cargo reporting timeliness

Doug described how some companies have achieved major improvements in the timeliness of their air and sea cargo reporting, but others have not. He said that four companies in Sydney were recently issued with warning letters, as they have failed to demonstrate significant improvement despite two previous visits and correspondence from Cargo Control staff, over periods of six months or more. Doug warned that if there is still no improvement from these companies, penalty action may follow. He mentioned that two of these four companies are late with more than half of their cargo reports.

Accuracy of Export Declarations

Doug stated that the Customs audit program also includes exporting companies, not just importers. He reported how an analysis of the results of recent export audits revealed that about 61% of all export lines contain errors. The following table illustrates the results for the 2007-08 financial year.

	Total
Audits completed	60
Lines examined	2723
Lines in error	1673
Line error rate	61.4%
Critical errors	2219 (71%)
Non-critical errors	924 (29%)
Total errors	3143 (100%)
Ave errors per audit	52.4
FOB checked \$	608,138,349
FOB variance \$	29,918,321
FOB understated \$	6,829,559
FOB overstated \$	23,088,762
Ave total variance per audit \$	498,638

The *critical errors* are FOB, AHECC, Permits, Quantity, Destination, Owner, Consignee and Origin. The *non-critical errors* are all other export declaration fields.

Doug acknowledged that the error rate has improved gradually over the past decade, but further improvement is required, especially in relation to the critical fields. He noted that the *Exports Reporting DVD* was introduced in an attempt to ensure that exporters and their representatives understand what is required of them. Although it has led to major changes in some companies, it has not yet produced dramatic change overall.

Doug noted that some companies only seem to use junior staff in their exports departments and do not provide much prior training or clear SOPs, with consequential effects on accuracy.

This point generated a lot of discussion and input from industry members. John Law said that he will try and get the message out, even though there is an economic reason for the way exports are managed. Paul Zalai confirmed that many companies had difficulty recruiting talented staff for imports clearance, let alone putting good people into exports clearance. He suggested that given the low profitability of exports processing, it was unlikely that much effort or resources would be put into improving export data quality. He also suggested that some sort of “five year plan” plan could be devised by a joint Customs/ Industry working party.

Doug noted that Customs could influence the economics of the situation, by adopting a tougher stance and issuing penalties, which would compel industry to put more effort into this area. On the other hand, he noted that this approach may drive up the cost of export processing. He observed that in the end, the appropriate balancing-point between keeping costs low and obtaining accurate export data may need to be decided by the Government.

Stan Pragnell said he believed that it was education that was required rather than getting more senior staff to do the work. He added that there was still a lot of value in using the Exports Reporting DVD to help educate staff. Brian Lovell asked if the DVD was readily available. Stan invited all who would like copies of the DVD to contact him directly.

Infringement Notice Scheme

Doug notified the forum that in the 2007-08 financial year, the following actions were taken under the Infringement Notice Scheme (INS).

Action	National	NSW	NSW% Share
<i>Infringement Notices (Ins)</i>	62	27	44%
<i>Delegate Warning Letters (DWLs)</i>	59	31	53%
<i>Non Delegate Warning Letter (NDWLs)</i>	220	13	6%

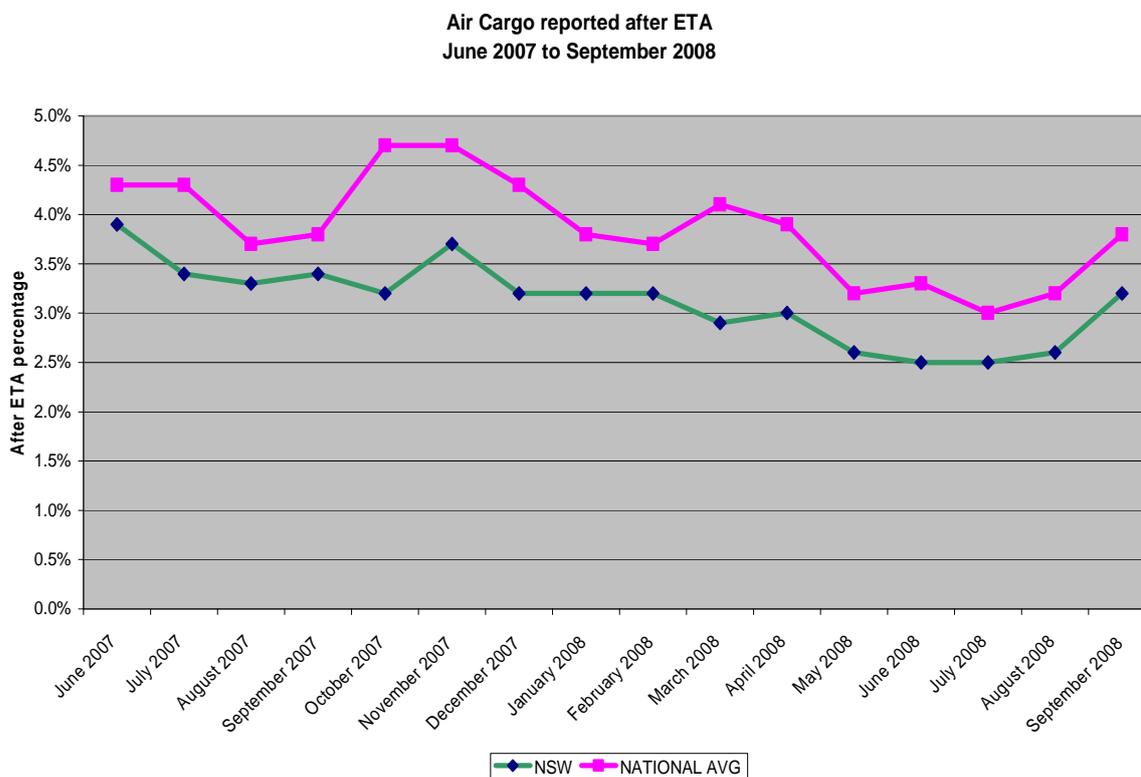
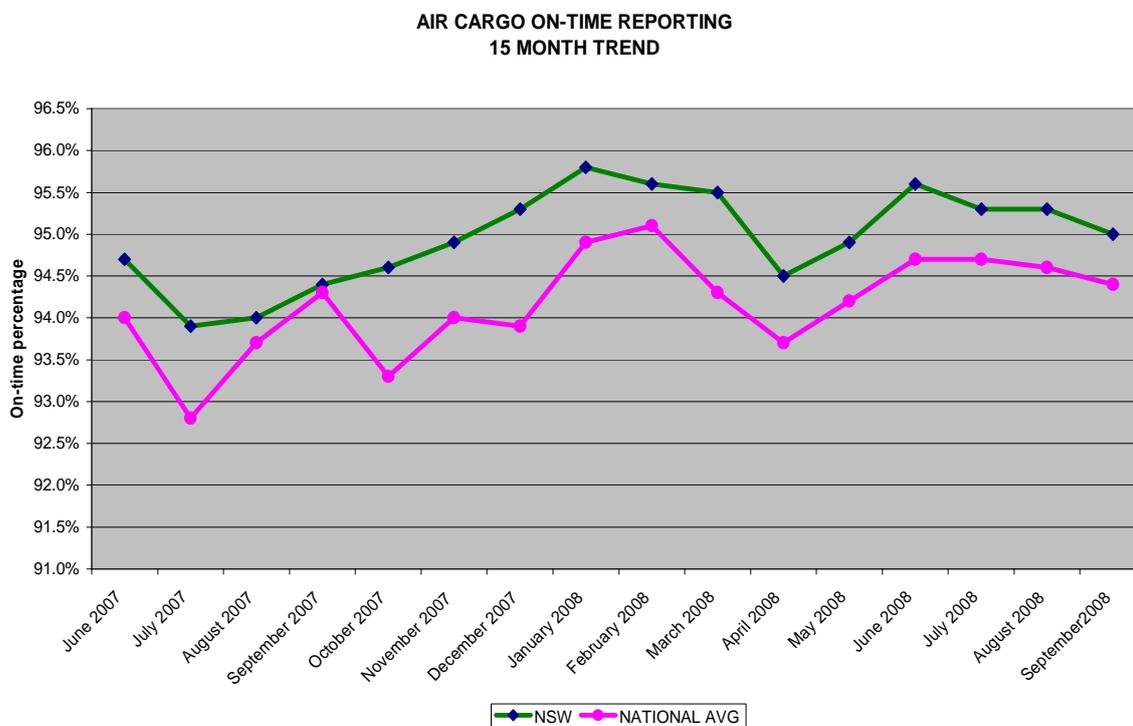
The actions taken in NSW can be broken down by offence type in this way:

Offence	INs served	DWLs	NDWLs
33(6) – Permit or direct to move, alter or interfere with goods	4	4	1
113(1) – Failure to enter for export or export without ATD	0	0	2
243T(1) – False or misleading statement – loss of duty	13	19	7
243U(1) – False or misleading statement – no loss of duty	9	7	3
243V(1) – False or misleading statement – cargo/outturn report	1	0	0

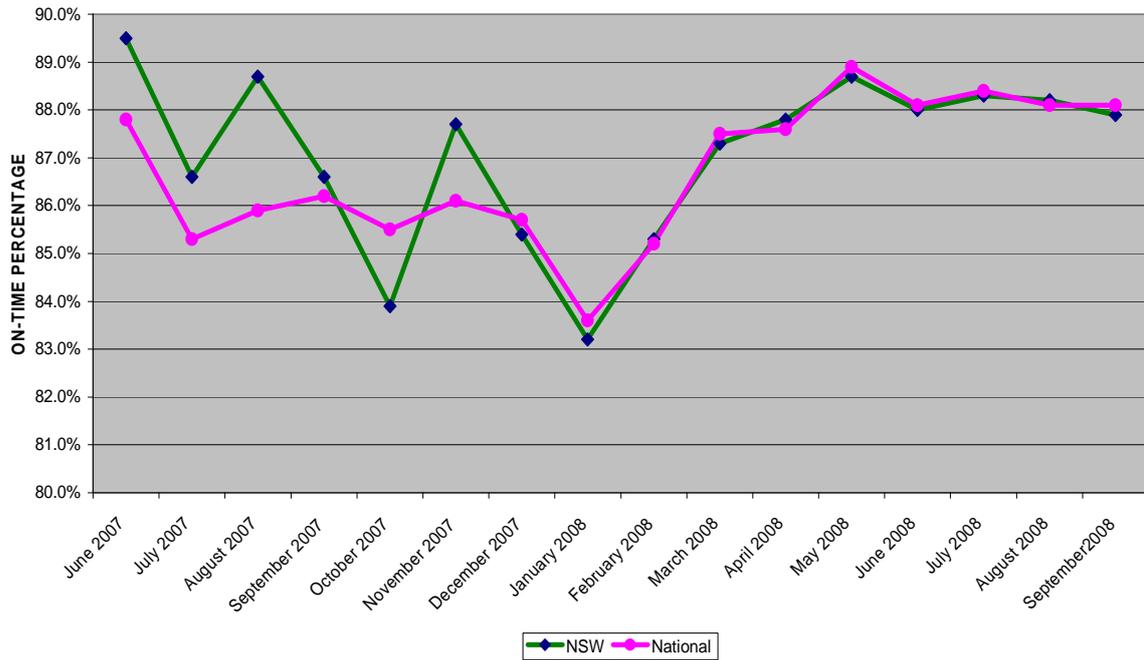
Cargo reporting timeliness

Doug referred to the following cargo reporting graphs and discussed their relevance for air and sea cargo, they cover:

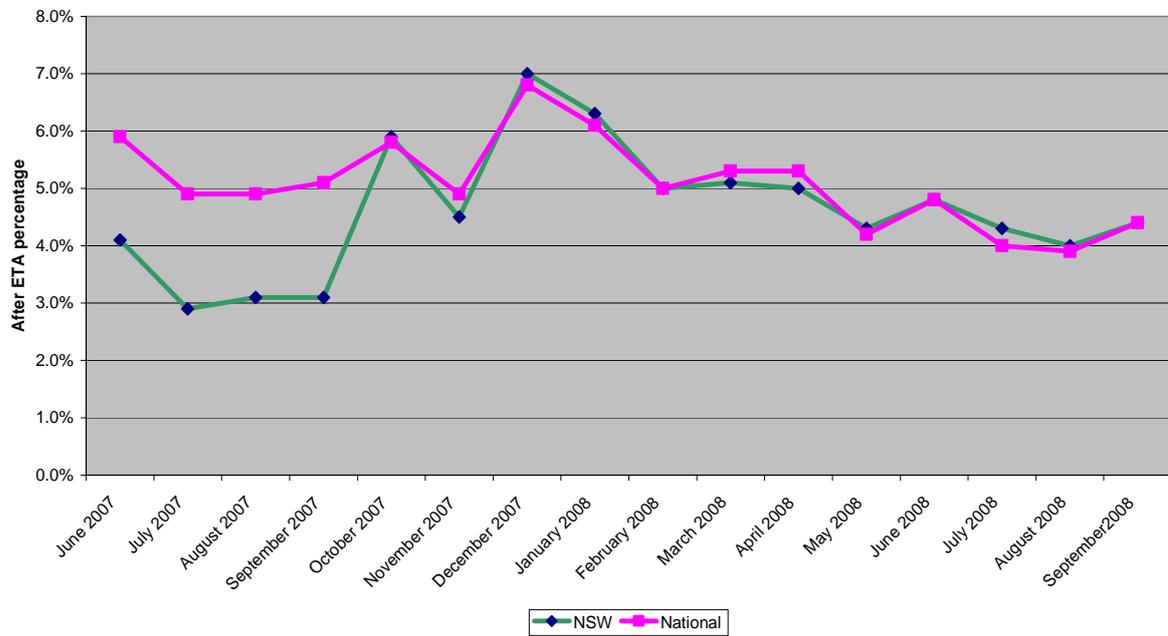
- Overall on-time rate; and
- Cargo reported after ETA.



**SEA CARGO REPORTING
15 MONTH TREND**



**Sea Cargo reported after ETA
June 2007 to September 2008**



Before concluding the Compliance Division report, Jim Fleming addressed the forum and offered a brief overview of the current focus of the Risk and Strategy Unit. He reported that there were three matters of primary interest and concern:

- 1) Deliveries Without Authority (DWA);
- 2) The extent of Customs control over transshipment cargo (how well is the cargo control system working); and,
- 3) Misuse of Self Assessed Clearances (SACs).

Tony Fatouros asked if the interest in transshipment cargo is related to loss or pillage of excisable or high value goods. Jim said ‘not necessarily’, as Customs interest is in any loss of control of transshipment cargo, which could involve any kind of goods.

ITEM 5 NSW Trade Branch Update

Ron White updated the forum on some of the Trade Branch’s recent activities. He reminded the forum that the Manager Trade Services looks after Tariff, Valuation, Securities and Refunds and added that the area has a new National Manager, Sarah Major.

Ron reported that Valuation staff have been receiving enquiries about the increase in "Customs Value" for imported goods, due to the drop in the exchange rate because of the current global economy. Consequently, some importers are now finding that they are required to lodge a Full Import Declaration (FID) instead of a SAC. Ron reiterated what Doug Greaves had discussed in his presentation about how the exchange rate is calculated on the "Date of Export" (as per s161J C.A) rather than on the date of purchase.

In regards to Tariff Advices (TAs), Ron advised that the Tariff Section is processing around 140/150 TAs per month. He noted that the Securities section has been very busy, and have recently received the following undertakings for temporary importations:

- | | |
|-----------------------------|--------------|
| - Biennale of Sydney | \$51 million |
| - Monet Painting Collection | \$60 million |
| - Star Wars | \$15 million |

Ron confirmed that the Refunds Section will cease being part of the Trade Branch from 31 December 2008. He said that the post-transaction auditing of refund claims function will transfer to the Compliance Division in all regions. A centralised Refunds Compliance Cell will be formed to conduct redline capability and post transaction exercises. Doug confirmed this and revealed that the changes were a result of an internal restructure. He also advised that it was likely that the focus and balance may change when Refunds moves to Compliance.

Tony Fatouros asked is it was necessary to complete all refunds applications before 31 December. Ron replied by saying that there are no special requirements for the completion of refunds by December 2008 and believed that there was no need to do so because, from an industry perspective, it should be “pretty much business as usual”.

ITEM 6 Regional ICS Issues

Rod Vaughan provided the forum with a brief update on the issues relating to the ICS. He advised that a Cargo Business Continuity Plan (BCP) test day is scheduled for the 2 December and will involve both industry and AQIS.

Rod reported that the implementation of the Avaya technology into the Customs Information and Support Centre (CI&SC) has allowed for skills based call routing of phone calls which has resulted in a reduction in the average call wait time.

Paul Zalai took the opportunity to provide comment on the ICS information sessions conducted by Steve Moore from Customs. Paul said that although he did not agree with some points, overall the sessions were very good and that he will be sending Steve a formal thank-you shortly.

ITEM 7 Container Examination Facility (CEF) Delays

Paul Zalai raised this agenda item for discussion after he had received “a flurry of calls” about delays being experienced at the CEF. He said that he had contacted John Barber recently and discussed this issue.

John acknowledged that the delays had also been raised as an agenda item at the last CEP meeting in Melbourne and admitted that there were “some sensitivities” around the issue. John said that one of the main reasons for the delays was due to congestion issues at the container terminals. In discussions with the stevedores about publishing the reasons for delays, they were not keen for Customs to attribute the blame being placed on them.

Paul Zalai concluded by making the point that brokers frequently plan for “3rd day availability” when there is a CEF hold. He emphasised that brokers do not need to be told the precise reasons for the delays, but just need to know when there will be delays.

ITEM 8 General Business

No general business items were raised.

ITEM 9 Next Meeting

A schedule outlining the proposed dates for the 2009 meetings was distributed for consideration. The dates for the TFF meeting are as follows:

- Wednesday 25 March
- Wednesday 24 June
- Wednesday 26 August
- Wednesday 25 November

The next TFF meeting is therefore scheduled for **Wednesday 25 March 2009**.

Meeting concluded: 12:30pm.