



## 1. Meeting Agenda

**Meeting Number:** 03/09  
**Meeting Name:** Trade Facilitation Forum  
**Date:** Wednesday 26 August 2009  
**Time:** 11.00am  
**Location:** Customs House  
10 Cooks River Drive  
Sydney International Airport

## 2. Invitees/Attendees

Y-in attendance; A-apology

### *Customs*

Y Andrew Hosking (Chair - Regional Director NSW)  
Y Doug Greaves (Director Compliance Operations NSW)  
Y Peita Joraslafsky (Director Customs Information & Support Centre)  
Y Pam Radin (Director Air Cargo Operations)  
Y Simon Bowering (A/g Manager Trade)  
Y Craig Wilson (Supervisor Post Transaction Verification 2)  
Y Noreen Agius (National Industry Lead – Service Providers)  
A John Barber (Director Sea Cargo Operations)  
A Jim Fleming (Director Compliance Risk and Strategy NSW)  
A Catherine Asbridge (National Manager Cargo Operations North)  
A Brian Sheridan (Manager Trade)

### *AFIF*

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

### *CBFCA*

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

### *CAPEC*

Y Geoff Clarke  
A Ben Somerville  
A Robert Battistel

### 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.	Regional ICS Issues	Customs
6.	NSW Trade Branch Update	Customs
7.	Cargo Exams	Customs
8.	General Business	
9.	Next Meeting - <i>Wednesday 18 November 2009</i>	

### 4. Minutes

Meeting commenced: 11.15am

#### **ITEM 1 Welcome and Apologies**

Andrew Hosking formally welcomed everyone to the meeting. He passed on apologies from John Barber, Jim Fleming, Catherine Asbridge, Brian Sheridan, Brian Lovell, Paul Zalai, John Skevington, Ben Somerville and Robert Battistel.

#### **ITEM 2 Minutes from the previous meeting**

The Minutes from the previous meeting, held on 24 June 2009, were accepted without change.

#### **ITEM 3 Matters arising from the previous meeting**

Geoff Clarke asked if the presentation delivered by Doug Greaves at the recent CBFCA Symposium was distributed. Doug replied that the presentation was available on the CBFCA website.

#### **Action Item 1 - Trade Branch to provide update on review process**

Simon Bowering provided an update of the current process for reviewing Tariff Advices (TAs) and an update on a current review of the TA system.

#### *(1) Reviews of TAs*

Simon advised that some reviews of TAs are currently being done in the regions, as Canberra-based staff have been concentrating on Tariff Concession Order (TCO) applications. NSW has completed four of these TA reviews so far. Tony Fatouros asked how many Tariff Advices are overturned. Simon estimated that about 20 – 25 % are overturned.

Michael Hudson asked if the review process operates separately to the Tariff Advice process. Do the two processes have separate timeframes and, at the completion of the review, is a new Tariff Advice issued? Simon replied that the review process is separate to the TA process and at the completion of a review a new TA is not issued. The applicant is sent a copy of the review.

Simon advised that if a company is applying for a Tariff Concession Order it should not apply for a Tariff Advice at the same time. Andrew Crawford took up this issue, stating that a Tariff Advice is a legal document, while a Tariff Concession Order is not legally binding and it gives no protection against penalty action. John Law disagreed with this view. John said if a decision is made by Customs and Border Protection then that decision should be applied in good faith and this should be sufficient protection against penalty action.

Andrew pointed out that if a Tariff Concession Order is revoked then there is no protection and the duty liability can be pursued, but this is not the case with a revoked Tariff Advice. The problem is that if a Tariff Concession Order is revoked, it is valid only up to the revocation date, not the application date. Tariff Concession Orders can be amended to apply to a new tariff classification.

#### *(2) Review of TA system*

Simon advised that a review is being conducted into the TA system. The review is due to be completed by the end of the financial year. The review will be undertaken in consultation with industry, once the terms of reference are published. The possibility of lodging TA requests by email, which was raised at the last meeting by John Law, will be considered as part of the review. Andrew asked that a policy document on these issues is distributed at the end of the current review.

***ACTION ITEM:*** Andrew Crawford to email Simon Bowering with his concerns. This will be reviewed by Trade Branch.

#### Action Item 2: General Business – Refund Processing

Doug Greaves advised the forum that statistical data about the processing of refund claims has been forwarded to Paul Zalai out of sessions. Paul indicated to the forum that he was happy with the response.

Doug stated that he will circulate this information to everyone in the group. Doug also indicated that he expected the response could be posted on the CBFCA website.

#### **ITEM 4 Compliance Division Update**

##### General

Doug Greaves gave an update on developments in the Compliance Division. Doug advised that Compliance has:

- amalgamated with Trade Division,
- a new name – the Trade & Compliance Division
- a new National Director – Sue Pitman
- initiated another restructure – the third in three years.

Doug stated that Compliance really has become *intelligence led* and *risk based*. In other words, all the activities undertaken by Compliance officers are now directed at addressing specific risks (of non-compliance), which have been identified and prioritised on the basis of intelligence about the operating environment,

Doug advised that industry education about document retention will be a priority in coming months, as recent operational activities have highlighted poor document retention in some sectors. This is particularly true for Self Assessed Clearances (SACs).

### Compliance Monitoring Unit

Doug advised the forum that the Compliance Monitoring Unit (CMU) has been operating successfully in Brisbane since 1 July 2009. The CMU uses profiles that 'hold' a stratified sample of import then requests the commercial documents for those consignments under section 71DA, in order to assess the overall rates of non-compliance and revenue leakage across the entire population of importers. About 6000 to 7000 consignments will be assessed by the CMU in this way each year. Due to this change, these will be no more benchmark audits.

Doug advised that the CMU aims to complete the verification process within 24 hours of the documents being requested. To avoid any unnecessary delay in releasing the cargo, it is important that the requested documents are sent electronically to [natcommonitoring@customs.gov.au](mailto:natcommonitoring@customs.gov.au) as soon as possible.

Doug distributed a diagram showing the process followed by the CMU.

Geoff Clark raised an issue regarding importations of 'documents'. He noted that Customs & Border Protection had held certain document consignments, while asking for the supporting commercial documents relating to those consignments. In these cases, there were no commercial documents, such as Airway Bills, invoices, etc. Geoff undertook to send an email to Doug describing the issue and providing examples.

### Self Assessed Clearances – (SACs)

As in several previous TFF meetings, Doug again discussed problems with misuse of SACs. SACs are used to clear imported goods, excluding tobacco and alcohol products, with a value of less than \$1000.

Doug stated that Compliance had detected significant carelessness in the use of SACs - especially Short Form SACs (SFSACs). Consequently, Compliance will be targeting high-end users, including importers and particular brokers, for further checks. He stressed that SACs should only be used for their intended purpose – not in order to circumvent normal controls, nor in an attempt to speed up the clearance process. He also noted that there is a problem with importers failing to retain documents for shipments that were wrongly cleared using the SAC facility.

Geoff Clark raised concern with the length of time documents need to be retained by a 'Service Provider' (SP). He stated that some SPs believe the requirement to be five years, while others believe it to be just one year. Geoff believes that where an SP is just communicating information to Customs in the INS for a client they must retain their 'record' for a period of one year, whereas an SP who cause goods to be imported or

exported must retain the supporting 'documents' for five years. However, he noted that it would be simplest for industry members just to scan and retain all relevant documents for five years.

Noreen Agius mentioned the previous policy on this issue, as described in a Customs booklet titled 'New Customs requirements for all Service Providers', which was produced on 1 July 2002.

***ACTION ITEM:*** Noreen Agius to research document retention periods and report back at the next TFF meeting on how long 'documents' and 'records' must be retained by service providers.

### Excise Equivalent Goods Review

Doug advised that in 2008, the Productivity Commission recommended that the Australian Taxation Office (ATO) and Customs & Border Protection should develop options for minimising duplication and compliance costs in the administration of Excise Equivalent Goods (EEGs), such as imported tobacco and alcohol products.

In light of that recommendation, a joint project team has been established by the two agencies and it has been consulting with relevant clients. The outcome of the review will be reported to the Assistant Treasurer and the Minister for Home Affairs by the end of September 2009.

If any changes flow from this review, they will of course be announced to industry (and within the two agencies) as soon as possible.

### Profile Effectiveness Review

Doug reported that Compliance has undertaken a national review of the cargo profiles being used within its *Pre-Clearance Intervention* function – which was previously known as 'redline' or 'import intervention' work.

The outcomes from this review will be implemented shortly; however the review has already led to significant improvements in Compliance's record-keeping and reporting capability for this activity, which will help us to understand the risk context. With the forthcoming changes, the work in each region will be aligned with national priorities and will be managed nationally, allowing Compliance to act quickly in increasing or decreasing our effort on a particular risk, in response to changes in the risk context.

### Cargo Control Review

Doug emphasised that industry's control of 'held' cargo is of fundamental importance in protecting the community, as all the efforts of Customs & Border Protection in targeting and searching for narcotics, weapons and other prohibited imports will be futile, if cargo is being released before it can be examined.

Doug reported that the final report of the review has been sent to the National Manager Compliance Assurance and the National Director Trade & Compliance and almost all the recommendations have been accepted with only some minor changes.

Doug advised that the primary focus of the recommendations will be to achieve national consistency in the cargo control function, so that similar checks are performed in similar ways and in similar situations across the country. There will also be a greater focus on CTO, depot and warehouse premises located outside the capital cities.

### Legislative Amendments

Doug described forthcoming legislative amendments, involving:

- The definition of certain alcoholic beverages (ie; so-called 'alcopops');
- Establishment of new duty rates for these beverages; and
- Creation of eight new tariff sub-headings and the deletion of two others.

Doug advised that an ACN on this issue is expected shortly.

### Infringement Notice Scheme

Doug distributed tables of information showing the number of penalty notices and warning letters issued for each 'penalisable' offence, both nationally and in NSW, during 2008-09.

Geoff Clarke asked how Customs & Border Protection views the overall level of compliance by industry.

Doug replied that there is great variety across industry. Some companies go out of their way in trying to ensure that they are fully compliant all the time and many companies make a reasonable effort to comply, but there are some others that deliberately and flagrantly breach the law, by defrauding Commonwealth revenue or ignoring their legal obligations.

Craig Wilson said that most audits conducted by Compliance reveal minimal major errors, just a lot of basic mistakes. In many instances, these mistakes could have been prevented if more questions had been asked by the broker, rather than just accepting the supporting documents at face value.

### Focused Audit Program

Doug distributed tables of information about the rates of errors detected during focused audits of importers and exporters during 2008-09.

### Cargo Reporting

Doug distributed graphs showing the timeliness of cargo reporting achieved in the air cargo and sea cargo environments during 2008-09.

## **ITEM 5 Regional ICS Issues**

Peita Joraslafsky advised that the only ICS outage since last meeting occurred on 5 August 2009. A meeting has been held with Qantas and they will soon make a visit to the Customs Information and Service Centre (CI&SC). Peita reminded the forum that there is no EFT reminder notification function in ICS. Peita also advised the meeting that the Evidence of Identification review is still on-going.

A Cargo Business Continuity Plan (BCP) test day is scheduled for the 23 September and will involve both industry and AQIS. The focus this time will mainly be on Sea as the previous test day focused on air. If there are interested parties willing to participate please contact John Cullen.

#### **ITEM 6 Trade Branch Update**

Simon Bowering said that apart from the review there is not much to report.

#### **ITEM 7 Cargo Examination**

Pam Radin advised the meeting that it would be her last attendance. John Barber will be taking over the Cargo Exams issues and will be attending future meetings.

#### **ITEM 8 General Business**

Andrew Crawford raised an issue regarding the use of SACs. He said that a client had placed a bulk order for 400 tables, but the first delivery only involved one of the 400 tables. Because this table was valued under \$1000, a SAC was used to clear it. However, Customs & Border Protection later advised that a SAC could not be used. Andrew believes that a SAC can be used in this situation and he felt that Customs & Border Protection was confused between a 'bulk order' and a 'consignment'.

Andrew agreed to send details to Doug Greaves, who will pursue the matter.

Andrew Crawford also raised a concern regarding the Frontline program. He described a Frontline presentation he had attended and how improvements could be made. In particular, he said that these presentations should explain the ramifications of industry staff providing information. He noted that these staff could be required to give statements to the AFP and their names and addresses could be revealed through Freedom Of Information (FOI) requests.

Andrew said that industry staff must be made aware of what can happen if they provide information and give their names. He noted that the presentation could be adapted depending upon the audience.

***ACTION ITEM:*** Paul Unwin from the Frontline Program to inform the next meeting of the TFF about the confidentiality of that program and the ramifications for industry staff of providing information.

Andrew Crawford raised the issue of phasing rates and how will industry manage this issue in relation to such things as software changes.

Noreen Agius said that she was looking into this issue and is currently liaising with tariff and policy.

Andrew Crawford raised a concern that tariff classifications may change. If this occurs it could lead to re-classification of thousands of items. This will also effect tariff concessions. He said that this is a major concern for industry.

Andrew Hosking asked that Doug Greaves follow-up and report back on the question of are classifications being merged, deleted, changed or are just the rates being changed.

Andrew Hosking advised the meeting of a question asked by Deloitte relating to the activities at the TFF meetings and what is discussed. Andrew asked the TFF if other relevant organisations should be invited to attend such as KPMG, PWC and Qantas.

John Law said that he considered most of these groups were involved post importation and not really involved in TFF. He also said that they can access the minutes via the CBFA website. He said however that maybe Qantas and Shipping Australia could be invited to attend.

Andrew Hosking asked for the issue to be considered and be included as topic for discussion at the next meeting.

***ACTION ITEM:*** Doug Greaves to raise with the relevant policy area in Canberra the need for early advice about any forthcoming changes to tariff classifications.

#### **ITEM 8 Next Meeting**

Andrew Hosking concluded the meeting by thanking all for their attendance and advised that the next meeting will be held on **Wednesday 18 November 2009**.

The meeting concluded at 12.50pm.

## Monthly Tariff Classification & Review work place statistics

Tariff Classification Reviews	May	June	July
Incomplete Reviews as at 1st of month	39	31	28
Received during month	5	9	14
Completed during month	13	12	7 <sup>1</sup>
On hand at end of month	31	28	35
Review decisions that are different from the original TA (overturned or varied) <sup>2</sup>	8	8	1
Review decisions that overturn the original TA <sup>3</sup>	4	4	0
Review decisions maintaining the regional decision	5	4	5
Average number of days from Receipt of Review to completion <sup>4</sup>	118	167	97
Percentage (%) of completed reviews that meet the review standard of 60 days	15%	0%	17%

TCO application tariff classification decisions	May	June	July
TCO – numbers	130	108	131
TCO - % insufficient IDM requiring email clarification	23%	26%	21%
TCO - % incorrectly classified in application	20%	15%	15%

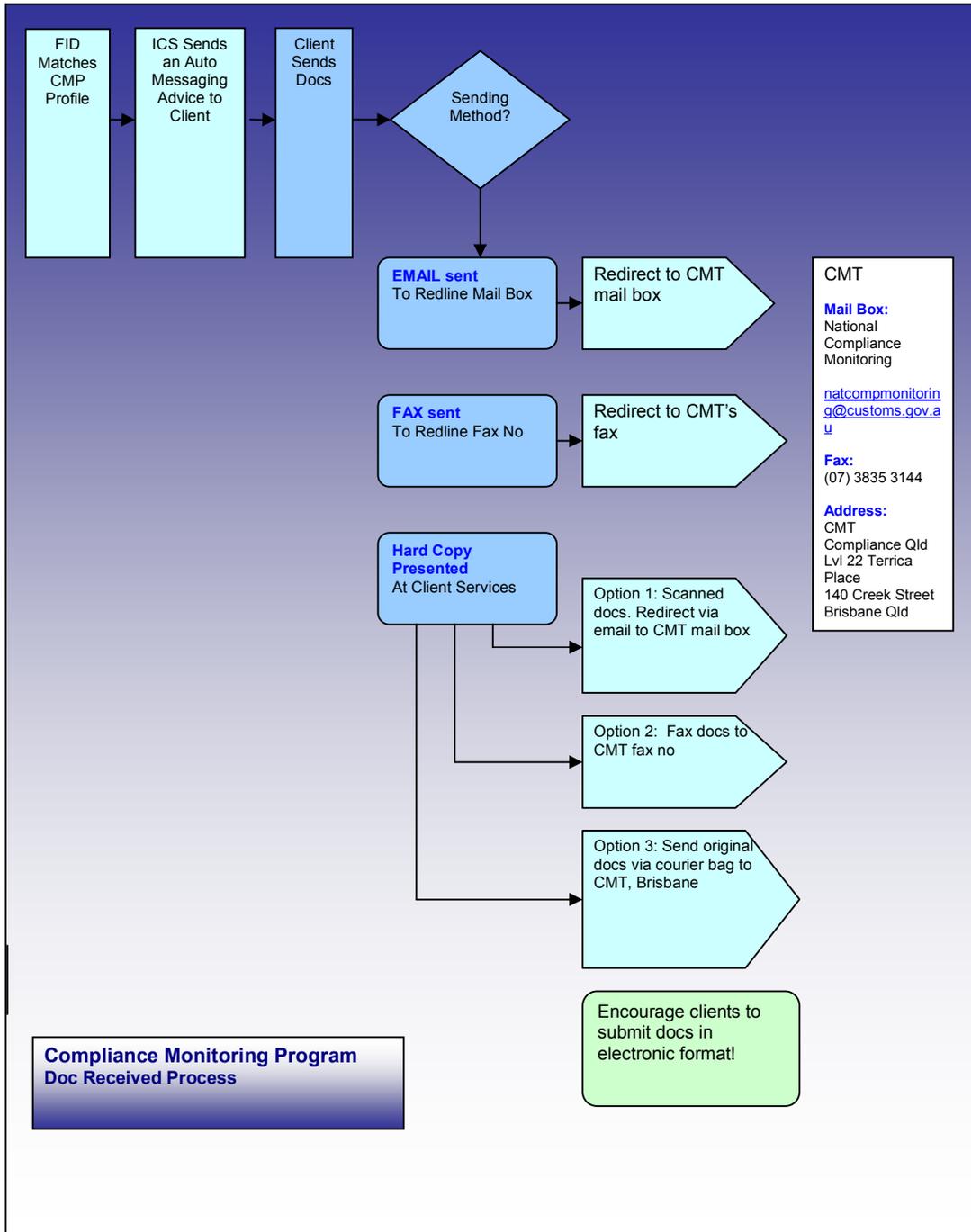
<sup>1</sup> Reviews were farmed out to regional Customs and Border Protection L3 staff in VIC, NSW and QLD.

<sup>2</sup> This statistic includes reviews which substituted the regional decision with *either* the review applicant's classification or TCO concession eligibility claim *or* with a different decision from both the original TA and the applicant's classification.

<sup>3</sup> This statistic covers only those reviews where the **applicant's** classification / TCO concession eligibility was upheld

<sup>4</sup> A number of older reviews had accumulated with staffing changes, workload shift and other issues. These will impact for some months on the average as these reviews are completed.

# COMPLIANCE MONITORING PROGRAM – PROCESS



## Infringement Notice Scheme – NSW only

July 2008 to June 2009

### Import related offences

Offence	INs served	DWL	NDWLs
71AAQ(1)- Making more than one self assessed clearance declaration	0	0	0
71G(1)- Entering goods that have already been entered for home consumption	0	0	0

### Export related offences

Offence	INs served	DWL	NDWLs
99(3)-Delivery of goods for export without authority	0	0	0
102A(4)-Failure of holder of warehouse licence to notify Customs of prescribed goods for export	1	1	0
113(1)-Failure to enter goods for export and loading/exporting without authority to deal	0	1	1
114B(7)-Failure to comply with confirming exporter conditions	0	0	0
114E(1)-Delivering goods to a wharf or airport for export without authority	0	0	0
114F(2)-Failure to notify of delivery to or release from a wharf or airport	0	0	0
115(1)-Permitting goods to be taken on board a ship or aircraft without authority	0	0	0
116(2)-Failure to withdraw or amend an export declaration	0	0	0
117AA(1)-Consolidation of prescribed goods other than at a prescribed place	0	0	0
117AA(2)-Failure to notify of receipt of prescribed goods	0	0	0
117AA(3)-Release of prescribed goods without ascertaining status	0	0	0
117AA(4)-Failure to notify Customs of release of prescribed goods	0	0	0
117A(1)-Failure to provide submanifests	0	0	0
118(1)-Departing without Certificate of Clearance	0	0	0
119(3)-Failure to communicate outward manifest	0	0	0

### False and misleading statement related offences

Offence	INs served	DWL	NDWLs
S243T(1)- false or misleading statement – loss of duty	1	6	11
243U(1)- false or misleading statement- no loss of duty	1	5	4
243V(1)- False or misleading statements in a cargo report or outturn report	0	0	3

**Movement of goods related offences**

Offence	INs served	DWL	NDWLs
33(2, 3 & 6)- Moving, altering or interfering with goods subject to Customs control without authority	6	16	2

**Arrival and cargo reporting related offences**

Offence	INs served	DWL	NDWLs
64(13)- Failure to meet reporting requirements for the impending arrival of a ship or aircraft	0	0	0
64AA(10)- Failure to meet reporting requirements for the arrival of a ship or aircraft	0	0	0
64AAB(7)- Failure to meet reporting requirements for particulars of other cargo reporters	0	0	0
64AAC(6)- Failure to meet reporting requirements for persons engaged to unload cargo	0	0	0
64AB(10)- Failure to meet reporting requirements for the report of cargo	0	0	0
64ABAA(9)- Failure to meet reporting requirements for outturn reports	0	0	0
74(6)- Failure to comply with directions	0	0	0

INs = Infringement Notices served

DWL = Delegate Warning Letter

NDWL = Non-Delegate Warning Letter

## Infringement Notice Scheme – National figures

July 2008 to June 2009

### Export related offences

Offence	INs served	DWL	NDWLs
102A(4)-Failure of holder of warehouse licence to notify Customs of prescribed goods for export	1	1	0
113(1)-Failure to enter goods for export and loading/exporting without authority to deal	0	1	1
115(1)-Permitting goods to be taken on board a ship or aircraft without authority	0	0	1
118(1)-Departing without Certificate of Clearance	0	0	1
119(3)-Failure to communicate outward manifest	0	1	3

### False and misleading statement related offences

S243T(1)- false or misleading statement – loss of duty	49	29	32
243U(1)- false or misleading statement- no loss of duty	1	8	12
243V(1)- False or misleading statements in a cargo report or outturn report	1	1	3

### Movement of goods related offences

33(2, 3 & 6)- Moving, altering or interfering with goods subject to Customs control without authority	26	36	66
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### Arrival and cargo reporting related offences

64(13)- Failure to meet reporting requirements for the impending arrival of a ship or aircraft	0	0	5
64AA(10)- Failure to meet reporting requirements for the arrival of a ship or aircraft	0	0	7
64AB(10)- Failure to meet reporting requirements for the report of cargo	0	0	2
64ABAA(9)- Failure to meet reporting requirements for outturn reports	0	0	37

INs = Infringement Notices served  
 DWL = Delegate Warning Letter  
 NDWL = Non-Delegate Warning Letter

## Importing Goods

### NSW Focussed Audit Program

1 July 2008 to 30 June 2009

#### Import audit statistics

Total Number of Audits	87
Total Number of Lines Checked	12,829
Total Number of Revenue Errors	12,574
Total Number of Non-Revenue Errors	379

Error type (Revenue)	Number	Percentage
Assists	1559	12.40%
Classification	7125	56.66%
Invoice terms	594	4.72%
Overseas Freight	469	3.73%
Overseas Insurance	289	2.30%
Price	911	7.25%
Relationship affecting price	386	3.07%

The error types indicated above are the top seven revenue error types identified as a result of 2008/2009 Audit program.

Error type (Non-Revenue)	Number	Percentage
Cos codes	327	86.28%
Prohibited Imports	29	7.65%
Trade Description	2	0.53%
Unauthorised delivery	20	5.28%
Wildlife	1	0.26%

## Exporting goods

### NSW Focussed Audit Program

1 July 2008 to 30 June 2009

#### Export audit statistics

Total Number of audits	10
Number of lines checked	334
Number of lines checked with at least 1 error	233 or 70%
Total Critical Errors	368
Total Non-Critical Errors	380

Critical Error type	No	%
AHECC	6	2.05%
FOB	155	53.08%
Permits	1	0.34%
Quantity	44	15.07%
Destination	11	3.77%
Origin	13	4.45%
Owner Name	39	13.36%
Consignee Name	23	7.88%

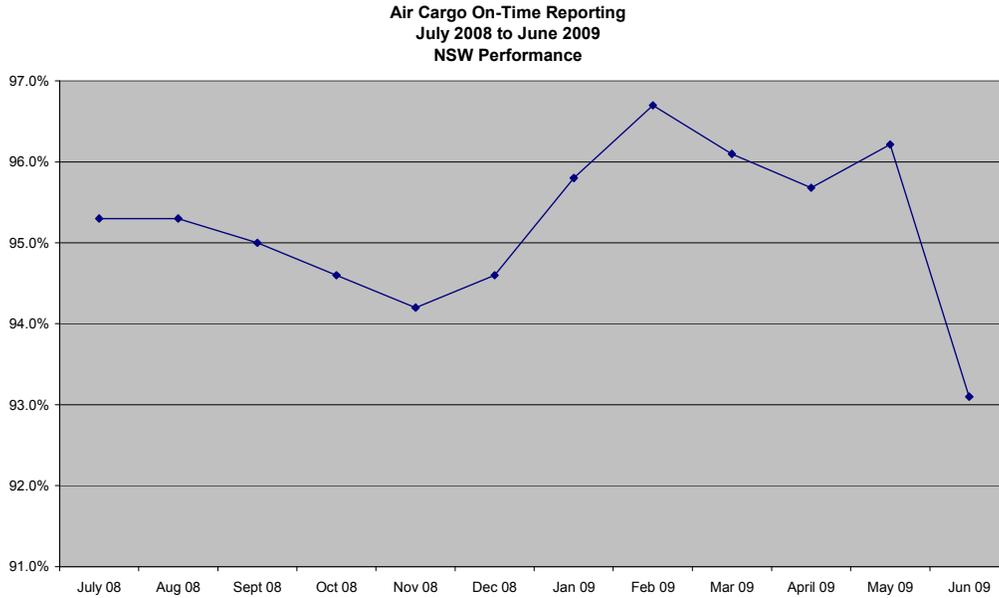
These are considered *critical errors*. The *non-critical errors* are all other export declaration fields.

**Inaccurate export values**

Common errors include the incorrect placement of decimal points, the use of incorrect currency when declaring the FOB value and the placement of the AHECC codes in the valuation field.

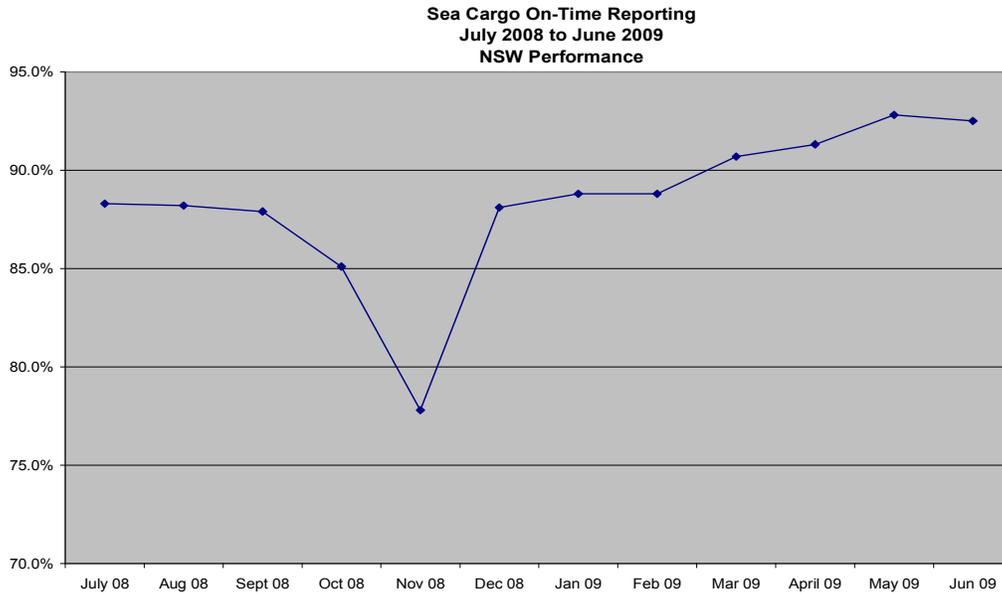
# Air and Sea Cargo Reporting – NSW only

## AIR CARGO



Statistics are calculated on performance against legislative timeframe (2hrs prior to aircraft's eta 1<sup>st</sup> port).

## SEA CARGO



Timeliness is based on latest ETA 1st port on any version of the IAR.

Australian Customs and Border Protections approach to the management of Cargo Reporting Compliance is published in ACN 2007/03.

## Importing Goods – National figures

### Focussed Audit Program Import audit statistics

1 July 2008 to 30 June 2009

Total Number of Audits	201
Total Number of Lines Checked	19,860
Total Number of Revenue Errors	17,007
Total Number of Non-Revenue Errors	559

### Import: areas of non-compliance

Error type (Revenue)	Number	Percentage
Assists	1588	9.34%
Classification	7931	46.63%
Invoice terms	1136	6.68%
Overseas Freight	1093	6.43%
Overseas Insurance	578	3.40%
Price	1224	7.20%
Relationship affecting price	799	4.70%

The error types indicated above are the top seven error types identified as a result of 2008/2009 Audit program.

Error type (Non-Revenue)	Number	Percentage
Cos codes	466	83.36%
Prohibited Imports	63	11.27%
Trade Description	4	0.72%
Unauthorised delivery	25	4.47%
Wildlife	1	0.18%

## Exporting Goods

### Focussed Audit Program Export audit statistics

1 July 2008 to 30 June 2009

Total Number of audits	34
Number of lines checked:	1,283
Number of lines checked with at least 1 error:	937 or 73%
Total Critical Errors	1,096
Total Non-Critical Errors	441

Critical Error type	No	%
AHECC	44	4.01%
FOB	736	67.15%
Permits	36	3.28%
Quantity	135	12.32%
Destination	13	1.19%
Origin	26	2.37%
Owner Name	51	4.65%
Consignee Name	55	5.02%

These are considered critical errors. The non-critical errors are all other export declaration fields.

**Inaccurate export values**

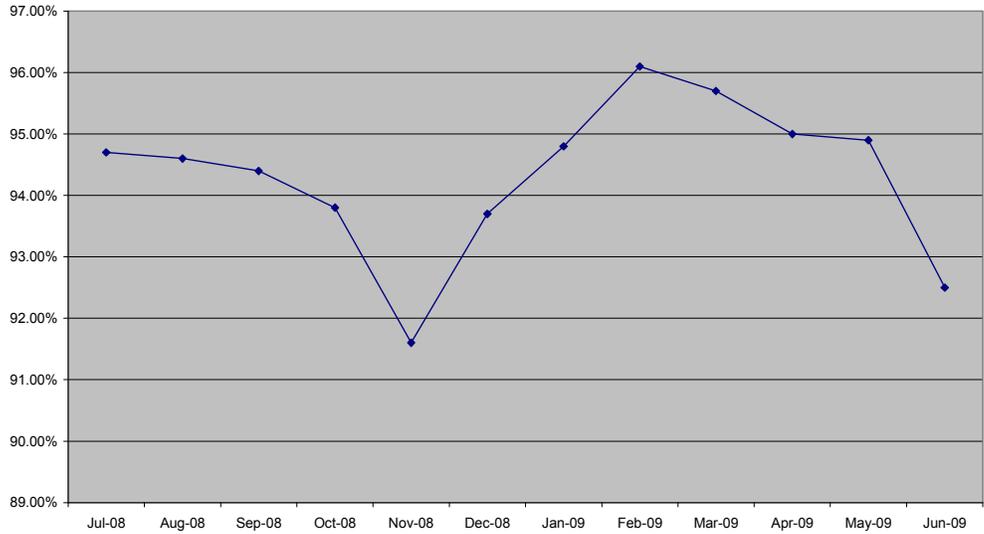
Compliance (audit and non-audit) identified more than \$14.1 billion in overstated export valuations and about \$90.2 million in understated export valuations.

Common errors include the incorrect placement of decimal points, the use of incorrect currency when declaring the FOB value and the placement of the AHECC codes in the valuation field.

# Air and Sea Cargo Reporting

## AIR CARGO

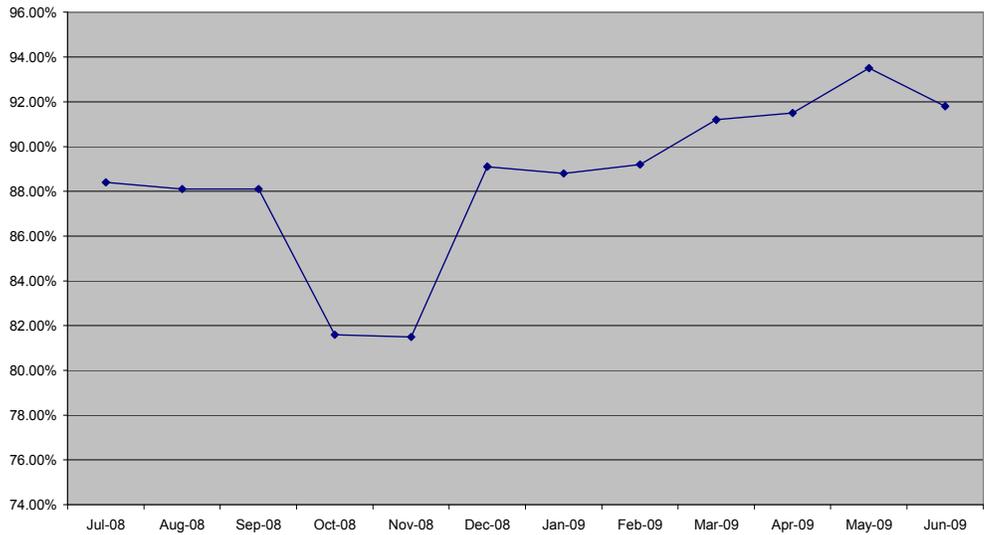
Air Cargo On-Time Reporting  
July 2008 - June 2009



*Statistics are calculated on performance against legislative timeframe (2hrs prior to aircraft's eta 1<sup>st</sup> port).*

## SEA CARGO

Sea Cargo On-Time Reporting  
July 2008 - June 2009



*Timeliness is based on latest ETA 1st port on any version of the IAR.*

Reduced timeliness in October and November can be attributed to process issues with a single client.