



Australian
BORDER FORCE

Minutes

Trade and Goods Compliance Advisory Group (CAG)

Meeting One – Friday 17 March 2017

Canberra, Australian Capital Territory

List of organisations represented is located at [Attachment A](#).

Meeting commenced at 1.30pm.

Agenda Item 1 - Welcome and introduction

Led by Commander, Customs Compliance Branch (CCB) - Australian Border Force (ABF)

- The Chair welcomed members to the first meeting of the year for the CAG.
- The members were thanked for taking time out of their busy schedules and that the ABF appreciated the efforts of industry members.
- The Chair provided an overview of the key achievements from the 2016 CAG which addressed a number of topics including Tariff Concession Orders, the China – Australia Free Trade Agreement (ChAFTA) and asbestos.
- The members were advised that this meeting would provide an opportunity for them to shape the discussion for 2017.
- All outstanding actions items from the previous CAG meeting were addressed.
- Updated Action Item table available at [Attachment B](#).
 - Action Item 16 – **Closed** – CAG members were provided with adraft guidance on Free Trade Agreement (FTA) refund periods.
 - Action Item 17 – **Closed** – CAG members were advised that misclassification is an area of focus for 2016/17 and that this applies across a range of commodities, including cider. If the ABF identifies a specific trend in non-compliance additional guidance material for industry will be considered if appropriate.
 - Action Item 18 – Open – Further investigations is required to determine if the ABF can release this information.

- Action Item 19 – **Closed** – CAG members were provided with information on where to find and extract the required information.
- Action Item 21 – **Closed** – CAG members were provided with information ahead of the 1 January 2017 commencement of HS2017.
- Action Item 22 – **Closed** – As above.
- Action Item 23 – **Closed** – CAG members were advised that the *Customs and Other Legislation Amendment Bill 2016* does not seek to amend the definition of 'substantial'. While there is no definition of 'substantial' in the current legislation, section 269D(3) of the *Customs Act 1901* provides assistance as to how to interpret 'substantial process in the manufacture of the goods'. This provision will not be changed as a result of the current Bill.
- Action Item 24 – **Closed** – CAG members were advised that this item will be addressed at the next National Committee on Trade Facilitation (NCTF) meeting.
- Action Item 26 – **Closed** – CAG members were advised that CAG was the appropriate forum for discussions and feedback. Comments received through the CAG forum will be assessed and considered by the ABF.
- Action Item 27 – **Closed** – CAG members were advised that the item will be addressed at the next NCTF meeting. An update will be provided to CAG members when available.
- Action Item 28 – **Closed** – The Department cannot comment on this case beyond stating that its compliance practices have not changed, line areas are aware of processes to follow in verifying certificates of origin, and that the Department regularly discusses matters arising under FTAs with DFAT and international trading partners. Director Trade Policy agreed to take this item offline for discussion between Legal Division and Mr Hudson.
- Action Item 29 - **Closed** – The member for the Food and Beverage Council of Australia will coordinate a paper outlining questions and concerns relating to minor discrepancies to progress discussion at a subsequent CAG meeting. The Chair requested that this paper be provided to her by 30 April 2017.
- Action Item 30 – **Closed** – Voluntary disclosures was identified by CAG members as a future focus area for CAG in 2017. This will be discussed at a subsequent CAG meeting.

Agenda Item 2 – Review and update of the Terms of Reference

Led by Commander, Customs Compliance Branch (CCB) - Australian Border Force (ABF)

Changes were proposed to the CAG Terms of Reference as some previous members had raised concerns that a twelve month member tenure was not long enough to see issues through to resolution.

- The Chair proposed to increase the tenure to two years.
- Due to an increase in nominations for 2017 CAG membership the Chair extended an invitation to an additional four members.
- All CAG members supported the proposed amendments to the Terms of Reference.

Action: ABF to update the Terms of Reference to reflect the agreed changes to membership and tenure.

Agenda Item 3 – Trade and Goods Compliance Update

Led by Commander, Customs Compliance Branch (CCB) - Australian Border Force (ABF)

- CAG members were advised that the Goods Compliance Update will be published shortly. The focus of the edition will include:
 - Asbestos;
 - Trade and Goods Compliance Advisory Group;
 - Approach to Trade and Goods Compliance;
 - Secrecy and disclosure provisions;
 - Refunds; and
 - Free Trade Agreements.
- Members were advised that compliance areas of focus for the next three months will be:
 - Asbestos;
 - Evasion of duty through misclassification and undervaluation;
 - The misuse of trade concessions; and
 - Evasion of dumping and countervailing measures.
- Members were advised that since the last CAG meeting in December 2016, the ABF has continued its operational focus on asbestos.
- The ABF have had a number of positives in a range of products including:
 - Crayons;
 - Brake pads;
 - Gaskets;
 - Industrial talc powder;
 - Cement boards; and
 - In the protective wrapping of steel brackets.
- The ABF reminded members that asbestos has been a prohibited import since December 2003 and that there has been no change in processes just an increase in focus.
- Industry members advised that motor vehicles are the most challenging imports as asbestos can be found in many different areas of a vehicle.
- Industry members asked if a guide could be produced to assist them to identify where to find asbestos risks.
- ABF advised members that asbestos could be in any commodity and as a result, a definitive guide would not be a viable solution. ABF committed to keeping the website updated with information on detections.
- Members raised concerns about the delays faced when goods are subject to testing and the lack of NATA accredited laboratories in the port precinct.

- ABF advised members that the best way to avoid delays at the border is for the importer to ensure that all of the assurances in the country of export prior to importation.
- Industry members raised concerns about clearance processes when whole shipments are subject to asbestos holds but only part of the shipment required testing.
- ABF advised that consignments held for asbestos sampling will be dealt with as a whole. A partial release can be considered on a case by case basis. ABF also reiterated the importance of testing and providing assurances that goods do not contain asbestos.
- Industry members requested a point of escalation within the ABF when dealing with these matters. The ABF advised that Cargo Support is the point of contact for all cargo related matters.
- The Chair proposed a workshop for further discussion on asbestos related matters with relevant stakeholders.

Action: ABF to follow up with Cargo Support to discuss escalation asbestos related queries.

Action: Freight Trade Alliance and Customs Brokers and Forwarders Council of Australia and the Customs Broker and Forwarders Council of Australia to organise an asbestos workshop

Agenda Item 4 – Compliance Approach

Led by Inspector, Compliance Coordination and Engagement, CCB – ABF

- ABF advised members that the Compliance Approach document has been finalised. It is being formatted for accessibility for online viewing and will be published on the website soon.
- The ABF provided an overview of industry engagement in 2016 and the approach to trade and goods compliance. This included making engagement more effective by:
 - Utilising the correct communication channel;
 - Researching the right audience;
 - Ensuring accessibility of information;
 - Address manageable compliance issues; and
 - Provision of data (if applicable).
- ABF advised members that overall Customs Compliance Branch saw an increase in voluntary compliance by industry.
- ABF advised that it had developed a compliance page on the border.gov.au site to publish compliance related information and notifications of new material will be sent via the Industry Hub.
- ABF advised members that one of the main areas of focus was Cargo Reporting. The ABF worked closely with a number of industry members and provided them with monthly performance reports.
- Through the compliance approach the ABF saw:
 - A significant increase in sea and air cargo reports lodged on time in a comparable twelve month period; and

- A substantial decrease in a deficient term being used on cargo reports
- Members were advised that the Department is developing a new Integrated Cargo System (ICS) reporting facility to enable users to obtain data on their own late reported cargo.
- The ABF provided an update on the use of Item 34 of Schedule 4 of the *Customs Tariff Act 1995*. This is a concession introduced for aircraft parts, materials and test equipment.
- The ABF advised it became aware misuse with goods found being incorrectly claimed including textiles, life jackets and life rafts and other consumables.
- The ABF advised members that they had worked with the Department of Industry, Innovation and Science to develop a factsheet to provide additional guidance on Item 34 and eligible goods.
- A draft was provided to members for feedback and comment by Friday 14 April 2017.

Action: ABF to email the Item 34 Factsheet to CAG members.

Agenda Item 5 – Traveller, Customs and Industry Policy Update

Led by Assistant Secretary, Trade and Customs Branch – The Department

- The Department thanked members for the feedback on the draft Department of Immigration and Border Protection Notice on the definition of ‘owner’.
 - The updated draft was sent to members again and, although the Department was not seeking additional submissions, it will consider any further feedback. It is expected that the DIBPN will be published by the end of March 2017.
- The Department advised that it is updating DIBPN 2016/30 – Assurances that imported goods do not contain asbestos. This was in response to concerns raised by Senate Economics Reference Committee members during a public hearing of the inquiry into non-conforming building products. Senators were concerned that the language in the existing notice is not sufficiently strong and clear.
 - The Department invited members to provide their views on what aspects of DIBPN 2016/30 could be strengthened. No comments were provided.
- The Department provided members with a draft guidance on Free Trade Agreements (FTA) refund periods. The purpose of the document is to provide clarity on refund periods for each FTA, but it does not constitute legal advice, replace existing guidance or aim to address all special circumstances that might arise in a refunds context. This document was also circulated electronically to CAG members.
 - The Department has asked members if they could please provide any feedback on the draft guidance to them by 31 March 2017.
- The Department provided members with an update from the Legislative Working Group meeting held on 16 March 2017. The meeting discussed legislative changes over the last twelve months and current parliamentary consideration of:
 - *Customs and Other Legislation Amendment Bill 2016*

- *Customs Amendment Bill 2016*
- GST on low value goods
- and foreshadowed legislation on the following being planned for 2017 on strengthening tobacco offences and Wine Equalisation Tax adjustments
- The Department also advised of the 1 April commencement of the *Commerce (Trade Description) Regulation 2016*.
- The Department noted the entry into force of the Trade Facilitation Agreement.

Agenda Item 6 – Focus Areas for CAG

Led by Commander, Customs Compliance Branch (CCB) – ABF

- The Chair provided an overview of the key achievements of the 2016 CAG group:
 - Providing clarity on the compliance approach to Tariff Concession Orders through discussions with key Department and ABF stakeholders;
 - Development of the Guidance on Minor Errors or Discrepancies on Certificates of Origin for ChAFTA; and
 - A factsheet to address concerns regarding mitigating the risk of importing asbestos.
- The ABF asked the group to suggest focus areas for discussion in 2017.
- The topics that were raised included:
 - Cargo Reporting;
 - Export Reporting;
 - Steel and Aluminium misclassification, misdescription and transshipments; and
 - Voluntary Disclosures.
- Export Reporting will be the focus area for discussion at the next meeting.

Action: Export Council of Australia to develop a discussion paper on Export Reporting issues for consideration by the CAG members..

Other business and meeting close

Led by Commander CCB – ABF

- Industry members raised concerns about Fit and Proper assessments. ABF advised that CAG was not the forum for this topic but would confirm the correct forum and advise.
- Industry members raised concerns about the reliability of DIBNs.

Action: The Department to advise members of the correct forum to raise concerns about Fit and Proper assessments.

Meeting concluded at 4.30pm

Next CAG meeting is scheduled for Thursday, 29 June 2017 located in Customs House at Sydney International Airport

Attendees

Attendees
Australian Border Force (chair and secretariat)
Department of Immigration and Border Protection
Conference on Asia Pacific Express Carriers
Customs Broker and Forwarders Council of Australia
Australian Federation of International Forwarders
Freight and Trade Alliance
Kognition
Boeing Defence Australia Ltd
Manufacturers Trade Alliance
International Cargo Solutions
Hunt and Hunt Lawyers
Susan Danks Tariff Consulting
DHL Global Forwarding
Export Council of Australia
Food and Beverage Importers Association

Apologies
Compliant Customs

Action Items

No.	Action Item	Responsible	Status
2016/18	ABF to investigate whether it can release the names of suppliers of goods that have been detected as containing asbestos at the border	Superintendent, Compliance Coordination and Engagement	Open
2017/1	ABF to update the terms of Reference to reflect the agreed changes to membership and tenure	Superintendent, Compliance Coordination and Engagement	Open
2017/2	ABF to follow up with Cargo Support to discuss escalation procedures. relating to asbestos queries	Superintendent, Compliance Coordination and Engagement	Open
2017/3	Freight Trade Alliance and Customs Brokers and Forwarders Council of Australia to organise an asbestos workshop	Freight Trade Alliance/Customs Brokers and Forwarders Council of Australia	Closed
2017/4	ABF to email Item 34 Factsheet to CAG members	Superintendent, Compliance Coordination and Engagement	Closed
2017/5	Export Council of Australia to develop a discussion paper on Export Reporting issues for consideration by the CAG members.	Export Council of Australia	Open
2017/6	ABF to advise members of the correct forum to raise concerns about fit and proper persons.	Superintendent, Compliance Coordination and Engagement	Open