

**PETER TOMSON AND AUSTRAL**

**CHRONOLOGY OF EVENTS**

**GENERAL NOTE**

Specific details of the background to all seven shipments of seized or detained goods are set out in Section D of the detailed statement lodged as Submission 1 for this Inquiry. This chronology therefore only clarifies or expands on matters already detailed in that statement.

Please note also that, despite the claim by the ACS that only four shipments of goods owned by Mr Tomson were seized, the ACS has been well aware from very early in its investigation of the Tomson case that Mr Tomson was the owner or beneficial owner of all goods seized or detained that were imported by Thongson Imports & Exports, Vamani Pty Ltd and Lanwren Pty Ltd. These organisations jointly brought the proceedings against the ACS in the Federal Court in June 1988 to obtain reasons for the decisions to seize or detain the goods imported by each of these organisations.

Mr Tomson and his brother were also the principals of Diamondville, a business which imported two consignments of apparel through the port of Brisbane in 1988.

**KEY DATES AND EVENTS**

**DATE**

**EVENT**

6 July 1987

Purchased apparel at Pratunam Markets in Bangkok after examining samples collected by buying agent and left at premises of Steady Export Co (selling agent for market stall operators). Invoice on Steady Export letterhead (as selling agent of vendors) compiled from dockets prepared at time of sale.

[At date of visit to Steady Export Co by ACS investigation officers in December 1989, dockets used to compile invoices had been discarded. However, a sample of such a docket had earlier been provided to the ACS in respect of an importation through another export agent, In and On. See Attachment A. The invoice prepared from that docket was also supplied to the ACS. See

Attachment B. Both of these documents are reproduced from ACS file N87/09209].

- 16 July 1987 Goods arrived at Mascot. Entered for home consumption.
- 17 July 1978 Query Memorandum raised by ACS. Goods ordered not to be released.
- 22 July 1978 Goods examined by ACS. Entry details confirmed as correct. Samples drawn.
- 4 August 1987 In minute dated 4/8/87, ACS notes that Mr Tomson and his wife make regular trips to SE Asia to purchase apparel, that the purchases are made on a face-to-face basis and that the goods are paid for in cash. See Attachment C. The ACS plainly knew by 4 August 1987 that Mr Tomson did **not** purchase his goods by placing orders on overseas manufacturers in the manner normally employed by fashion houses such as Grace Brothers and David Jones Ltd.
- In a subsequent annotation to this minute, it is noted that "*there is insufficient proof to mount S. 214 action*". The possibility of releasing the goods to Mr Tomson on security is also raised.
- 12 August 1987 Despite minute dated 4/8/87 referred to above, ACS issues sec. 38 B Notice demanding evidence of payment. It is my opinion (based on my experience) that the officer issuing the Notice must have known that it would have been impossible for Mr Tomson to comply with the Notice.
- 17 August 1987 Minute raised querying declared customs (transaction) value on entry for home consumption for consignment of goods imported from Taiwan from Winelux Enterprise Co Ltd. (Attachment D). Minute notes that entry is "technically" false in that, when the customs agent prepared and lodged the entry on 6 August 1978, he inadvertently showed the terms of sale as "CIF" (cost/insurance/freight) instead of "FOB" (free on board). The significance of the error is that overseas freight costs are required to be deducted from a CIF price for goods to determine the customs value, whereas no deduction is made for freight where the terms are FOB. The agent therefore unintentionally entered a customs value lower than that required by the valuation provisions of the

Customs Act. The goods were imported on 8 August 1987 according to the entry lodged as Exhibit E68 during Mr Tomson's trial.

Mr Tomson noticed the error when the customs agent forwarded a copy of the entry to him, and asked for a replacement entry to be lodged. The agent sought confirmation of the correct terms of sale from the overseas supplier, and lodged a revised version of the entry correcting the error (according to para. 8 (vi) on page 2 of Attachment D) on 13 August 1987. The correct amount of customs duty payable was then tendered.

Para. 9 of Attachment D is particularly interesting. It notes that the error in the entry had been found and corrected by the customs agent in a short period of time - matters which could very well have taken place without Mr Tomson ever having been aware that these events had occurred. (Although it wasn't the case here, the error might equally as well have been a simple clerical error made by an employee of the customs agent. I am aware that mistakes of this kind occur frequently in the compilation of customs entries).

Paragraph 9 wrongly assumes that it was the customs agent who identified and corrected the error - in fact it was Mr Tomson who brought the error to the agent's attention. Para 9 also deliberates on the "moral" question of whether the ACS could or should use such an inadvertent error as a basis for claiming that a criminal offence had been committed by Mr Tomson so as to justify the engaging in a wholesale raid pursuant to sec. 214 of the Customs Act to seize all of Mr Tomson's business records. The "moral issues" were then apparently brushed aside and an information sworn to obtain search warrants for a large number of officers to conduct simultaneous raids on Mr Tomson's home and business premises, and the offices of his customs agent and accountant.

Codenamed "Operation Honk", the issue of search warrants to nine officers was authorised on 19 August 1987. See Attachments E and F. The warrants were executed on 20 August 1987.

26 October 1987

Despite having seized all of Mr Tomson's business records on 20 August 1987, the ACS served a further sec 38B Notice on Mr Tomson.

Supplementary  
Submission (Attachments)  
1-2 (Mr. Rodda)

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เลขที่ 075

IN & ON

เลขที่ 03745

1067 Sukhumvit Rd., Bangkok, Thailand.

現兌單  
CASH SALE

บิลเงินสด

ทะเบียนการค้า

รายชื่อ Customer 名

วันที่ Date 日期

ที่อยู่ Address 地址

Mr. Rodda  
MONEY MARKET

2/4/87

数量 จำนวน Quantity	貨名 รายการ DESCRIPTION	價目 หน่วยละ Unit price	計 จำนวนเงิน AMOUNT
502	Men Shirts 100% cotton	฿ 13	฿ 65
20	Lady Shirts 100% cotton	฿ 15	฿ 30
10-4	Men Shoes leather upper non-leather sole	฿ 31.50	฿ 315
30 Pcs.	Men Socks 100% cotton	฿ 1.95	฿ 58.50
718 4	Men Socks 100% cotton - 357 cotton	฿ 1.80	฿ 1,292.40
PAID ALREADY			
THE RECEIVER SIGNED 15, 1987			
(AMOUNT ONE THOUSAND SEVEN HUNDRED THIRTY AND 00/100 ONLY)			

Certified By  
The Chamber of Commerce

THAI CHAMBER OF COMMERCE

รับ  
RECEIVED

*[Signature]*

รวม  
TOTAL

฿ 1,720.90

ived am 11/7/87  
white

DOCUMENT No. ...

844

222 22

IN & ON  
1087 Sukhumvit Road,  
Bangkok, Thailand.

Date JUNE 27, 1987

Ref. CASH SALE No. 037/15 dd. Apr. 20, 1987

Dear sir,

We confirmed the order from Thongson Imports & Exports on Apr. 20, 1987 and detail of the following:-

Men shirts 100% cotton	5 doz. @AU\$13.-	65.00	X
Lady skirts 100% cotton	2 " @AU\$15.-	30.00	
Men shoes leather upper non leather sole 10"	@AU\$31.50	315.00	
Men trousers 100% cotton	30 pcs @AU\$1.95	58.50	
Men trousers 67% polyester-33% cotton	718 " @AU\$1.80	1,292.40	

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Total F.O.B. BANGKOK AU\$ 1,760.90

We receipted the money of your goods already (Amount AU\$ 1,760.90 On Apr. 20, 1987) We sent your goods on June 14, 1987 by QUANTAS CARGO AIR WAYBILL NO. 081-7318 7030 FLIGHT QF32/14.6.87 15 CARTONS 465 KGS.

Your Faithfully,

*[Handwritten Signature]*

412  
Received AM 11/12/87.  
white

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REF/08208

ASSISTANT COLLECTOR  
INVESTIGATIONS

P & L VILASACK TRADING AS THONGSON IMPORT & EXPORT POSSIBLE  
UNDERVALUATION OF CLOTHING AND FOOTWEAR.

Attached is the results of enquiries made by Bay 1 into imports made by the above company.

As a result of their enquiries it appears that this importing company is importing Men and womens clothing and footwear from both Thailand and Hong Kong in reasonably small lots at a unit price that trade opinion confirms as being far less that can be reasonably be purchased by others in the same countries.

Direct enquiries made of Vilasack has indicated that:

- (1) Vilasack (husband and wife) make regular trips to both Thailand and Asia
- (2) All goods imported by them are paid for in cash on a face-to-face basis while in those countries.
- (3) Invoices for the purchases are available only after the goods are imported.
- (4) All business dealings are face-to-face and no correspondance or other documents are available or readily obtainable to substantiate these dealings.
- (5) Any reference to any other sources of information (e.g. books of account) are not available and are not offered, including sales costings, etc. The importer maintains that his prices are cash only and no records are available to confirm this.


Information supplied by a competitor's sources overseas confirms that this importer could not possibly obtain unit prices as stated on the invoice receipt supplied by Vilaysack. Additionally, INTEL has confirmed that this importer, and his wife, do make regular trips overseas to Asia. However INTEL also confirms that on three previous occasions Vilaysack has been convicted of having undeclared commercial quality goods in his possession on return from these trips.

The information obtained on this importer leads to the opinion that the entered values quoted are grossly understated. The fact that all transactions are conveniently paid for as face-to-face cash would also lead to the suspicion regarding the price actually paid.

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This matter is addressed to you as to whether:

- (a) there is sufficient information now available for further investigation by your section re undervaluation and possible fraud.
- (b) that if there is not sufficient information thus far obtained what further information will be required before your section will investigate, or,
- (c) in light of the response that the importer maintains that he does not have nor can he reasonably obtain the information to confirm the custom's value no means are available to us to take further action to establish if the goods are in truth undervalued.

  
 Nic Carter  
 C.I.C.A.(1)  
 4/8/87

CICA(1).

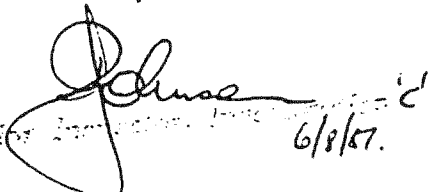
I have discussed this matter fully with Mr. Greig of Commodity Bay 1.

Whilst there are definite suspicions of undervaluation in this matter, there is insufficient proof to mount S-214 action.

I have discussed the type of evidence needed before S-214 action can be mounted and Mr. Greig will refer the matter back to investigators if this evidence is forthcoming.

I have also suggested S-388 letter be forwarded to importer and possible security amounts be taken vide S-388(4) and Reg 25 (Forms 45A & 45AA), if delivery of goods is requested.

I am also happy to provide a Band 5 Inspector (GREG GRAUSTAM) to accompany your officers on visits to this importer.

  
 Senior Inspector Greg Graustam  
 6/8/87





# Australian Customs Service

NEW SOUTH WALES

## MINUTE

N87/09209

Chief Inspector  
INVESTIGATION 1

OPERATION 'HONK'

PAUL AND LEE VILAYSACK T/A THONGSON IMPORTS & EXPORTS  
SECTION 214 ACTION

The preceding folios on this file relate to attempts by Commodity Audit Bay 1 to establish the bona fides of imports by Thongson Imports & Exports, especially in relation to transaction values.

2. The matter was forwarded to this section for appraisal of S.214 action on 4 August, 1987. (Refer folio 55). I discussed the matter with Commodity Audit staff as directed by you and subsequently advised them that they had insufficient evidence for sworn evidence of an "unlawful entry". I suggested a S.38B request may be more appropriate unless an entry was found to be false in a particular.

3. Intelligence assessment of Vilaysack is included as folios 56/59. Paul Vilaysack has already been convicted of one count each of S.234(1)(e) and S.233(1)(a) in 1985.

4. All imports by Vilaysack are suspected of being grossly undervalued. Information supplied to Commodity Audit officers by a competitor, Prelea Investments Pty. Ltd., is of particular interest. (Refer folios 69 and 43). Folios 60-64 detail overseas remittances by Vilaysack of A\$196,127 for the 18 months period January, 1985 to June, 1986, whereas Customs values for the 3½ years period January 1984 to August 1987 were only \$139,679.

5. Mr. Schroder of Commodity Bay 1 has summarised the current situation in his report at folios 76/78.

6. Entry No. IM 7218 1152K, subject of the proposed Section 214 action, is technically false in a particular in that the stated F.O.B. amount is incorrect. Refer report at folio 78.

7. The question now arises whether to proceed with proposed S.214 action on this false entry (unlawfully entered) having regard to the fact that the licensed Customs agent drew the matter to our attention that the values were F.O.B. and not C. & F. as stated on the produced invoice.

8. I believe the following circumstances support my recommendation for S.214 action based on unlawful entry:-

- i). The produced invoice, packing list and A.W.B. were faxed to the Customs agent from the supplier on 6 August, 1987;
- ii). Entry No. IM.7218.1152K was then created at 16:15 hrs. on 6 August;
- iii). Entry No. IM.7218.1152K was then lodged on day 219, i.e. 7 August, 1987, at SK9A;

- iv). Documents subsequently tendered by the agent show that they faxed the supplier on 7 August, 1987 requesting details as to the status of the invoice, i.e. C. & F. or F.O.B; (folios 71/2 refer).
- v). If the agent was concerned about the F.O.B./C. & F. status of the invoice; why then did he go ahead and lodge the entry using the invoice in its produced C. & F. format? On 7 August he would also have known the entry was "red lined" to Commodity Audit and not "green lined".
- vi). Subsequent amended invoice and explanation was faxed from the supplier to the agent on August 10, 1987 and tendered to Customs on 13 August with covering letter. Folios 73/5 refer.
- vii). The unit values of the goods entered, even at F.O.B. invoice level, appear grossly undervalued.

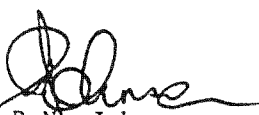
9. I believe the fact that the agent was suspicious of the FOB/C&F status of the invoice produced to Customs and still went ahead and lodged the entry and supporting invoice, overrides the moral issue of mounting a S.214 action based on an unlawful entry that was brought to our attention by that same agent.

10. I recommend S.214 action be mounted against Paul and Lee Vilaysack trading as Thongson Imports & Exports. Sworn information and necessary Form 61 and Schedule V warrants have been prepared and are enclosed. Three premises will be visited during this operation with follow-up visits to the Customs agency and Tax consultant. Premises are:

- i). Registered office - 5 Shropshire Close, Wakeley.
- ii). Known place of business - Shop 11, Woolworths Plaza, Cabramatta.
- iii). Known place of business - Shop 2L, Compass Centre, Bankstown.

11. Objectives will be to establish the correct transaction values of all imports and uncover any fraudulent intent to undervalue by the importer. Proposed date of action if approved is Thursday 20, August, 1987.

12. Submitted for approval and onforwarding for favour of Collector's signature.

  
R.N. Johnson  
Senior Inspector  
INVESTIGATION 'C'

17/8/87.



# Australian Customs Service

NEW SOUTH WALES

## MINUTE

N87/9209

19/8/87  
COLL  
Supported  
M & D  
ACU 19/8/87

SENIOR ASSISTANT COLLECTOR (COMMERCIAL OPERATIONS)

ASSISTANT COLLECTOR INVESTIGATION

*OPERATION "HANK"*

Paul Vilaysack and Lee Vilasack trading as THONGSON IMPORTS & EXPORTS

The Collector has power under Section 214 of the Customs Act to require production of books and documents and may authorise an officer to receive such books. Warrants in the form of Schedule V may be issued.

2. The background to this case is contained in Senior Inspector R.N. Johnson's report of 17 August 1987 ( at folios 81/82). The goods were entered on the basis of a CIF invoice from which the prepaid airfreight was deducted to arrive at the FOB value shown on the entry. Subsequently, a further copy of the original invoice was produced showing the same particulars but with the terms of sale FOB TAIWAN. As a consequence, the FOB value on the entry has been understated by A\$1,547.47 thereby creating a false particular.

3. The resultant short payment of duty and sales tax approximates to \$800 in this instance. However, it is strongly suspected that the unit invoiced prices of this and all previous shipments have been understated by 75%. With a VOT of A\$86,000 this represents a potential revenue leakage of around \$230,000. The Vilaysacks' have traded under a further three business names with a VOT of A\$53,000, which could result in another \$150,000 being shortpaid.

4. Should Section 214 action be authorised, it is planned for officers to attend the two known business premises from which the Vilaysacks' operate, their home (which is also the registered office of Thongson Imports & Exports) and the Customs Agent, Interlink Agencies Pty. Ltd. The objective of the action is to gather documentary evidence of any smuggling and evasion and evidence relating to fraud associated with this and any earlier importations.

5. On the basis of sworn information (at folio 83), I recommend that the Collector exercised his powers under Section 214 and;

- (a) authorise Officer Gregory Steffan Grausam to receive books and documents;
- (b) issue the Notice in Form 61 for Officer Grausam; and
- (c) Issue Schedule V Warrants for Officers of Customs

Gregory Steffen Grausam  
 Anthony Peter Graham  
 Janice Georgia Parsons  
 Keith Colin Range  
 James Brian Roxburgh  
 Peter James Greig  
 Andrew Thomas Hosking  
 Robert John Schroder

6. The necessary forms have been prepared for signature and are contained in the envelope at folio 83.

*Paraggio*

P.R. Paraggio  
 Chief Inspector, Investigation  
 OPERATIONS 1

19 August 1987

*Paraggio  
 Assistant  
 Collector  
 19.8.87*

SIINC

Please undertake S214 action

*Am Dawson*

ASSISTANT COLLECTOR  
 INVESTIGATION

19/8/87

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Operation "Hunt"

THONGSON IMPORTS AND EXPORTS

BUSINESS NAME OF PAUL AND LEE VILAYSACK

TARGET 1  
Shop 11  
Woolworths Plaza,  
CABRAMATTA

TEAM 1  
G Grausam  
A Graham  
P Grieg

Callsign 11/3

TARGET 2  
Residence and  
Registered Office  
5 Shropshire Close,  
WAKELEY

TEAM 2  
J Roxburgh  
J Parsons  
R Schroder

Callsign 11/10

TARGET 3  
OSAKA Ladies and Mens Wear  
Shop 2L,  
Compass Centre,  
BANKSTOWN

TEAM 3  
A Hosking  
K Range

Callsign 11/9

TARGET 4  
Customs Agents  
Interlink Agencies  
Unit 11, 21 Power Ave  
ALEXANDRIA

TARGET 5  
Tax Agent  
APEX Accounting Co  
190 Cabramatta Rd  
CABRAMATTA  
(Contact Mr NGHIA Vanduong)

BASE  
R JOHNSON  
CALLSIGN 12/1