

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 76

Senator Ludwig asked the following question at the hearing on 24 May 2005:

- (a) How many ACC officers are seconded to Taskforce Gordian?
- (b) What do you expect the coercive powers of the ACC officers seconded to Taskforce Gordian to be?

The answer to the honourable Senator's question is as follows:

- (a) The ACC contribution to Taskforce Gordian is 16 personnel.
- (b) ACC officers do not have coercive powers in their own right. Only ACC Examiners, who are Statutory Office Holders appointed under the *Australian Crime Commission Act 2002*, can exercise the ACC's coercive powers. ACC officers may apply to an Examiner requesting the Examiner exercise the ACC's coercive powers.

The principal coercive powers utilised in ACC investigations, and expected to be used in investigations under Taskforce Gordian, are the power to summons a person to attend an examination and give evidence under oath and the power to demand a person or entity to produce documents to the ACC.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 77

Senator Ludwig asked the following question at the hearing on 24 May 2005:

If you recall, we were talking last time about the Customs hotline target waiting times. There may have been a misunderstanding in relation to question No. 134. We were asking whether or not there is a target time for a call to the hotline to actually get through to the operator – that is, we want to know how long it takes to get through to the operator, not how long it takes to get the call resolved. In other words, what is the pick-up time for the operator? (Eg: how many rings for the operator to pick up the telephone when it is ringing)

The answer to the honourable senator's question is as follows:

There is no standard response time.

In May 2005, 50.2 per cent of calls were answered within 1 minute, 63.2 percent within 2 minutes and 36.8 per cent were answered after 2 minutes. In this period the longest waiting time recorded was 24 minutes and 11 seconds. One caller, out of 10, 700 callers to the centre in May 2005, waited for this length of time.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 78

Senator Ludwig asked the following question at the hearing on 24 May 2005:

How much money has been spent to date on SmartGate

The answer to the honourable senator's question is as follows:

To date, the cost of SmartGate has been \$5.1million.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 79

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Compliance of reporting

Describe the process of reporting for:

- a) a cargo ship reporting its intention to enter a port in Australia
- b) a cargo ship reporting its crew and passengers who will be on board the ship at the time of its arrival at the port
- c) a cargo reporter giving information on its cargo
- d) a cargo ship arriving at a port.

For parts a) – d) provide figures as a percentage and raw number, of ships and cargo reporters that comply:

- i) within 48 hours of arrival
- ii) within 24 hours of arrival
- iii) after arrival

Container examination facilities:

- a) What is the process for checking the cargo against what the bill of lading says the cargo is?
- b) What is the process from the time the containers are landed to the time they are cleared for dispatch?
- c) What figures are available as a percentage and raw figure of containers checked?
- d) After arrival how long does it take for cargo to be identified?
- e) How many containers are then reported late, as a percentage and as a raw number?

The answer to the honourable senator's question is as follows:

a) A Cargo ship reporting its intention to enter a port in Australia

S64 of the *Customs Act 1901 (Customs Act)* requires the master or owner of a ship that is arriving from a place outside Australia to report the impending arrival of the ship to Customs. The impending arrival report is to be made at every port the ship intends to visit in Australia (ss.64(1A) and (1)). As Customs has the ability to retain information provided by the operator of vessels in its electronic information systems, it does not necessarily seek full information again for every port the vessel visits in Australia after this information is provided at the first port. The documents presented to Customs at the first port remain with the vessel under Customs seal and are available for scrutiny at each and every subsequent port.

If the journey between ports (whether the port is in Australia or overseas) takes more than 48 hours then the report must be made at least 48 hours prior to the intended time of arrival at that port. If the journey between ports (whether the port is in Australia or overseas) takes less than 48 hours then the report must be made at least 24 hours prior to the intended time of arrival at that port (ss.64(1A) and (1)), Customs Regulations 26 and 26A).

The impending arrival report may be made to Customs by document, telephone or facsimile and seeks the identification of the vessel including owner, operator and charterer names, voyage details relating to the intended ports of call, intended ports of arrival, the expected time of arrival, certificate information as required by the Australian Maritime Safety Authority, brief information concerning the crew, notification of stowaways on board and whether the vessel is carrying any

firearms or animals that are not part of its cargo. A copy of this report is attached. The report must be communicated to the officer in Customs at the port of arrival responsible for receiving such reports (ss.64(2A) and (3)).

If the owner is connected to the Sea Cargo Automation System (“SCAS”) then such a reporter may make the report electronically using SCAS. To send the message using SCAS, the reporter must send the information required by the approved statement. The reporter must sign the message with the reporter’s identification code (ss.64(2A) and (4)).

b) A cargo ship reporting its crew and passengers who will be on board the ship at the time of its arrival at the port

S64ACA and ACB of the *Customs Act* require the operator of a ship that is arriving from a place outside Australia to report to Customs all the crew and passengers who will be on board the ship at the time of its arrival in Australia. The “operator” of a ship is defined as the shipping line or its representative in Australia or, if neither of these persons are present in Australia, then the master of the ship.

As Customs has the ability to retain information provided by the operator of vessels in its electronic information systems, it does not necessarily seek full information again for every port the vessel visits in Australia. However, Customs retains the right to ask that this report be required at every port the ship intends to visit in Australia (ss.64ACA(1) and 64ACB(1)). The report forms two parts: the first identifies the vessel and its intended arrival port and requests the ship security information as required by the Department of Transport and Regional Services and the second part details the crew names, dates of birth, sex, passport number, country of issue of passport, country of birth, identity document number and the position each crew member holds on board the vessel. A copy of Form 3A and Form 3B is attached.

The passenger report is in two parts. The first identifies the vessel and its intended arrival port. The second part details the passenger names, dates of birth, sex, passport or identity document number, nationality and port of embarkation. A copy of Form 2A and Form 2B is attached

The passenger and crew reports may be communicated to Customs by document or computer. If they are communicated by document, the operator of the ship must complete the approved forms (giving the information required by the form) in writing, sign it as specified in the form and present the form to the officer(s) whose duty it is to receive documentary passenger reports and documentary crew reports (ss.64ACA(4) and (7) and 64ACB(2) and (5)).

If the reports are to be communicated electronically, the operator of the ship must communicate the information required by the approved statement (ss.64ACA(8) and 64ACB(6)).

The operator must make the reports not later than 48 hours before the arrival of the ship at the port if the journey from the last port is likely to take more than 48 hours. If the journey from the last port is likely to take less than 48 hours then the report must be made not later than 24 hours before the arrival of the ship at the port (ss.64ACA(5) and 64ACB(3)) and Customs Regulations 30A and 30B.

c) A cargo reporter giving information on its cargo

S64AB of the *Customs Act* requires that the master and owner of a ship that is due to arrive from a place outside Australia, to communicate to Customs a report of cargo intended to be unloaded at all ports in Australia. It should be noted that the definition of “owner” in respect of a ship is not restricted to the shipping line or its representative in Australia or a charterer of the ship. It also includes slot charters and freight forwarders who have contracted to have cargo carried on the ship. Therefore the obligation extends to these persons (ss.64(1A) and (1)).

The cargo report may be made by document. It may also be made electronically if the owner of the ship is a registered user (ss.64AB(3A)).

If the cargo report is made by document it must be made in the approved form (containing the information required by the approved form) including particulars of the person who is able to provide information required by the form. The form must be signed in the manner specified in the form and communicated to the officer doing duty in relation to the receipt of documentary cargo reports (ss.64AB(4) and Customs Regulation 27).

If the cargo report is made electronically by a registered user, the report must contain the information required by the approved statement and signed by transmitting the identifying code of the person making the report. The report must be transmitted using a cargo automation system (ss.64AB(5)).

S64AB of the *Customs Act* also requires the cargo reporter to communicate to Customs a report of any cargo that is to remain on board the ship while it is in Australia that is intended to be shipped to a place outside Australia (ss.64AB(3AA)).

The cargo reporter will communicate to Customs all cargo intended to be unshipped from a vessel. Australian Customs Notice 2004/55 advised that with effect from 13 January 2005, all cargo intended to be landed at any port in Australia must be reported before the ship arrives at its first Australian port. Sea cargo reports must be lodged at least:

- 48 hours before arrival for voyages likely to take 48 hours or more; and
- 24 hours before arrival for voyages likely to take less than 48 hours.

d) A cargo ship arriving at a port

S64AA of the *Customs Act* requires the master or owner of a ship that has arrived at a port in Australia from a place outside Australia to report its arrival. The master or owner of the ship is required to report the ship’s arrival at all ports that the ship enters by completing the Ship’s Report of Arrival, (Form Five Part One attached). The master or owner must make the report within 24 hours of the ship’s arrival (excluding any time that falls on a Sunday or holiday) or before a certificate of clearance is issued, whichever occurs first (ss.64AA(1AA) and (1)). The master or owner must communicate the Report to Customs by sending it or giving it to an officer doing duty in relation to the report of ships at the port of arrival (ss.64AA(1), (1A), (2) and (3)).

The Ship’s Report of Arrival must be in writing and signed in a manner specified by the form. The Ship’s Report of Arrival identifies the vessel, its port of arrival, serves as a cover page to attached forms detailing stores and effects belonging to the crew and contains a declaration by the Master/Owner that goods have not been delivered out of the ship since its departure from a specified port/last place of lading.

S 64AE of the *Customs Act* requires the master or owner of the ship to answer questions asked by a Collector about the ship or the ship’s cargo, crew, passengers, stores or voyage. On request of a Collector the master or owner of the ship must also produce documents relating to the ship or the ship’s cargo, crew, passengers, stores or voyage that are in his or her possession at the time.

For parts a) – d) provide figures as a percentage and raw number, of ships and cargo reporters that comply:

Ships:

- i) within 48 hours of arrival
For the period 1 July 2004 to 31 May 2005 10,499 vessels first ported in Australia. 10,394 vessels, 99 per cent of all arriving vessels reported impending arrival, crew and/or passengers not later than 48 hours before arrival.
- ii) within 24 hours of arrival
105 vessels, 1 per cent, reported impending arrival less than 48 hours before arrival. Some of these vessels would be entitled to the alternate 24 hours reporting time frame.
- iii) after arrival
Nil vessels reported impending arrival after arrival.

Cargo:

Cargo Reporting Table

13 Jan 2005 to May 2005

Rating Description	Number of Lines	% of Lines
Over or equal to 96 hours before vessel arrival	250862	37.88%
Over or equal to 48 and less than 96 hours before vessel arrival	199117	30.07%
Over or equal to 24 and less than 48 hours before vessel arrival	66259	10.00%
Over or equal to zero and less than 24 hours before vessel arrival	45108	6.81%
After vessel arrival	100925	15.24%
Total	662271	100%

Note: following the legislative changes to cargo reporting effective 13 January 2005, the calculation for timeliness changed from vessel arrival at the intended port of discharge to vessel arrival at the first Australian port.

It is worth noting that the timeliness figure is currently taken from the final version of the cargo report rather than the original version. A new version of a cargo report is generated whenever the cargo report is amended. Effectively, this means that cargo recorded by Customs as late may have been originally reported 48 hours prior to arrival.

Container Examination Facilities

- a) **What is the process for checking the cargo against what the bill of lading says the cargo is?**
Customs is currently inspecting containers at a rate of 133,000 twenty-foot equivalent units (TEU) per annum. At the Melbourne, Sydney, Brisbane and Fremantle container examination facilities

(CEFs), containers are X-rayed and then the image analyst compares the manifest information, and any other information that is available, with the X-ray image. If the X-ray image is not consistent with this information, if the image is unclear, or if further checks are necessary the container may be physically examined.

At the Adelaide CEF containers are unpacked and the cargo is put through the large pallet X-ray where the image analyst compares the manifest and any other available information against the X-ray images.

b) What is the process from the time the containers are landed to the time they are cleared for dispatch?

All cargo arriving in Australia is screened and risk assessed. Cargo that is selected for inspection at one of the CEFs has an X-ray hold placed on the cargo and this hold is transmitted to the stevedores who separate the selected containers into a Customs stack.

Customs contracted transport provider goes to the relevant wharf and the stevedore loads the selected containers, which are then transported to the CEF. When the truck arrives at the CEFs the details of the containers are entered into Customs systems, the truck enters the X-ray scanning hall and the containers are X-rayed. If the image is clear and matches the manifest and any other relevant information, the transport provider is instructed to return the containers to the wharfs and the Customs X-ray hold is lifted. The cargo is then available for collection by the importer. If Customs decides to conduct a physical examination, the container is taken off the truck at the examination hall. Prior to opening the container, Customs tests the container for the presence of fumigants. If fumigants are detected, the container is defumigated. Once the container is ready for unpacking Customs will open the container and contracted staff unpack the container under Customs supervision. Customs officers will then examine the contents of the container using a range technologies and tools. Once the examination of the cargo is complete the contract staff repack the container and the transport provider returns the container to the wharf. The Customs X-ray is lifted as the cargo leaves the CEF and the cargo is then available for collection by the importer.

c) What figures are available as a percentage and raw figures of containers checked?

The number of TEUs inspected at CEFs from 1 September 2004 to 31 March 2005 are detailed in the following table. No figures are provided for the Adelaide CEF as it commenced operations on 14 March 2005 and had an eight week ramp up period.

	Melbourne	Sydney	Brisbane	Fremantle	Total
TEU inspected (1/9/04 – 31/3/05)	22,872	22,298	14,917	12,070	72,157
TEU Target (1/9/04 – 31/3/05)	22,211	22,211	14,975.8	11,704	71,101.8
Inspections as % of target	103.0%	100.4%	99.6%	103.1%	101.5%

d) After arrival how long does it take for cargo to be identified?

Figures provided by the stevedores indicate that on average containers are delivered to the Container Examination Facilities around 43 hours from when the container is unloaded.

Once cargo arrives at the CEF, an X-ray inspection and analysis of the resulting image takes around 10 minutes per TEU. A physical examination can usually be completed within a few hours, but may take 24 hours or longer depending on a range of factors such as the presence of fumigants in the container and the type of cargo.

e) How many containers are then reported late, as a percentage and as a raw number?

Customs records timeliness at cargo line level rather than container level as it is cargo line information that is used by Customs for risk assessment and targeting. A cargo line might represent several containers or a single package within a container of many packages.

See 'Cargo Reporting Table' above.

IMPENDING ARRIVAL DETAILS

VESSEL_____ CALL SIGN_____

PORT OF REGISTRY_____ OFFICIAL NO._____

PREVIOUS NAME_____

TIME AND DATE OF EXPECTED ARRIVAL_____

LOCAL AGENT_____

CERTIFICATE EXPIRY DATES

LOADLINE_____ SAFETY RADIO_____ MOP INS_____

SAFETY CONST_____ IOPP_____ SAFETY EQUIP_____

LAST FOUR PORTS OF CALL AND DATE OF DEPARTURE

1. _____ / / _____

2. _____ / / _____

3. _____ / / _____

4. _____ / / _____

LAST AUSTRALIAN PORT

_____ / / _____

ON BOARD ARE THERE ANY	- PASSENGERS	YES / NO
	- ANIMALS	YES / NO
	- STOWAWAYS	YES / NO
	- FIREARMS	YES / NO

NOTE: THIS FORM AND THE CREW REPORT MUST BE RECEIVED (ON APPROVED FORMS 3A AND 3B) BY THE AUSTRALIAN CUSTOMS SERVICE 48 HOURS PRIOR TO ARRIVAL. THE CREW REPORT IS TO BE IN ALPHABETICAL ORDER.

IF PASSENGERS ARE ON BOARD, A SHIP'S PASSENGER REPORT AND PASSENGER REPORT (FORMS 2A AND 2B) MUST BE PROVIDED WITH THE NAMES OF ALL PASSENGERS IN ALPHABETICAL ORDER.

H:/ PRINT/IMPEND.DOC



PART ONE

CREW REPORT

Intended Australian port of arrival:	Estimated time and date of arrival at intended port:
--------------------------------------	--

Name of ship:	IMO number:	Country of registration:
---------------	-------------	--------------------------

Name of vessel operator:

Number of crew on board	**Number of passengers on board
-------------------------	---------------------------------

** If no passengers on board, please complete as NIL and do not complete Passenger Report Forms 2A and 2B

PART TWO

SHIP SECURITY REPORT

SECURITY LEVEL:

International Ship Security Certificate or approved equivalent

Number:	Issued by:	Expiry Date:
---------	------------	--------------

List the last ten ports of call on this voyage (including Australian ports), and the security level that the vessel operated at while in those ports:

Port	Departure date	Security level	Port	Departure date	Security level
1.			6.		
2.			7.		
3.			8.		
4.			9.		
5.			10.		

Were there any special or additional security measures undertaken at any of the above ports, or did the ship engage in any ship to ship activity? If yes, give details.

Name and expected arrival date for next 4 Ports of call (including Australian ports):

Port	Date	Port	Date
1.		3.	
2.		4.	

Signature of Master /owner of ship/ authorised agent	Date
--	------

PART ONE: We require this information under section 64ACB of the Customs Act 1901 in order to assess crew for the risk they may present in relation to a range of Commonwealth laws. Under subsection 64ACB(8) of the Customs Act 1901, the information provided must be disclosed to the Department of Immigration and Multicultural and Indigenous Affairs. This information may also be disclosed to a number of agencies including the Department of Transport and Regional Services, the Australian Federal Police, Australian Crime Commission, Attorney-General's Department and the Department of Foreign Affairs and Trade.

PART TWO: We require this information under Regulations 4.80 and 5.10 of the Maritime Transport Security Regulations 2003. This information will be disclosed to the Department of Transport and Regional Services.



Ship's Report of Arrival

(in duplicate)

* delete whichever is inapplicable

State of	<input type="text"/>	Port of	<input type="text"/>
Report of the (ship)	<input type="text"/>	of	<input type="text"/>
(the country of Registry), of	<input type="text"/>	* tonnes tons gross and	<input type="text"/> * tonnes tons net,
which arrived in port on	<input type="text"/>	and containing stores and effects belonging to the crew, as per forms attached.	
Location of ship	<input type="text"/>		
Certificate Expiry Dates			
Marine Navigation Levies	<input type="text"/>	Australian Marine Oil Pollution Levy	<input type="text"/>
International Loadline Certificate	<input type="text"/>	International Safety Radio Certificate	<input type="text"/>
International Safety Construction Certificate	<input type="text"/>	International Safety Equipment Certificate	<input type="text"/>
Declarant's Name and Address	<input type="text"/>		
	<input type="text"/>		
	<input type="text"/>		
I declare that the particulars of this report are true and complete to the best of my knowledge and that bulk cargo has not been broken nor goods delivered out of the ship since its departure from <input type="text"/>			
the last place of lading except at <input type="text"/> (stating where, if anywhere).			
<input type="text"/> <i>Master/Owner</i>			
Signed and declared this	<input type="text"/>	day of	<input type="text"/> 20 <input type="text"/> , in the presence of
<input type="text"/> <i>Collector</i>			



PASSENGER REPORT

PAGE 1

Intended Australian *Port / Airport:	
ETA and date at intended *Port / Airport:	
*Name of Ship / Aircraft Registration number:	
Name of *Operator / Owner:	
I declare that the particulars shown above, and on the attached pages numbered 2 to <input type="text"/> inclusive are true and correct and that those pages contain particulars relating to passengers of the *ship / aircraft.	
Signature of *Master / Owner of Ship / Authorised Agent / Pilot-in-Command	Date: / /

* strike out whichever is not applicable

FACE SHEET

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 80

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Tradegate fees reserve: How much has been recovered since the program started?

The answer to the honourable senator's question is as follows:

The Tradegate Fees Reserve was established in 1993-94 to record the collection by Customs of fees from industry users of the Tradegate network and subsequent payment of this revenue to Tradegate Australia Ltd. Tradegate provides users with a link into Customs COMPILE system that allows the electronic lodgement of import entries. The fee for this service provided by Tradegate is collected by Customs at the time the import entry is lodged and passed on to Tradegate subsequently.

As at 13th June 2005 the total recovered for Tradegate since the program began, amounts to \$122,743,082.32.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 81

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Please provide copies of committee notes taken at the two Customs National Consultative Committee meetings.

The answer to the honourable senator's question is as follows:

Copies of the minutes of Customs National Consultative Committee (CNCC) 45 and CNCC 46 are attached.

MINUTES
CUSTOMS NATIONAL CONSULTATIVE COMMITTEE MEETING 46
8 March 2005

1. Chairman's introduction

Members were welcomed to the 46th meeting of CNCC.

2. Minutes of CNCC 45

There were no objections to CNCC 45 minutes and they were confirmed.

3. Matters arising from the previous meeting

International Issues

A brief was provided to members on the US approach to EDIFACT messages.

Key issues in the agenda paper were:

- The USA has been proposing several amendments to the Advanced Passenger Information (API) PAXLST message for some time but there still appears to be a lack of clarity as to what the final requirements will be.
- Privacy issues are addressed by the World Customs Organization (WCO) API Guidelines as well as the 'PNR' Agreement between the US and the European Commission.

The AATA representative noted that the US proposed changes would slow industry significantly. The Chairman and AATA representative agreed to monitor developments.

Action: Customs and AATA to monitor developments of US approach to EDIFACT messages.

Container Examination Facility

The LCA representative reported that the LCA had met with the Minister to discuss supply chain issues. This issue would be discussed under agenda item 6.

Standing Reports

International Issues

A copy of ACN 2004/47 was provided to members which further clarified the date of effect of the US FTA on the implication of goods into Australia. National Director Cargo and Trade clarified that goods imported into Australia from the US on and from the commencement of the AUSFTA legislation on 1 January 2005 that are “US originating goods” will qualify for the preferential rates of customs duty applying under the AUSFTA. Goods imported into Australia from the United States of America before the commencement of the AUSFTA legislation cannot be “US originating goods”. Consequently, such goods will be subject to general rates of customs duty. Such goods will not qualify for the preferential rates of customs duty applying under the AUSFTA, even if the goods are entered for home consumption after the commencement of the AUSFTA legislation. Some discussion was held on entry for home consumption and ND C&T advised the concept would be tested before the AAT. ND C&T noted that Customs is awaiting clarification from the Department of Foreign Affairs and Trade regarding whether goods in transit at that time should be included in the preference arrangement.

Feedback was provided to members in relation to advice on amendments to COMPILE messaging. ND C&T noted that Customs endeavours to provide industry with sufficient lead-time to enable EDIFICE software changes without creating an unnecessary rush. On occasion changes are initiated by other government agencies which results in late notification to Industry. The Chairman indicated that Customs would raise this issue with the relevant agencies.

Legislation

The LCA representative clarified the issue of payment under protest he raised at CNCC 45. The LCA representative reiterated concerns about the processes requiring ongoing payments under protest when there are outstanding unresolved disputes already before the AAT for goods of the same kind. The LCA representative suggested this requirement imposed unnecessary additional requirements and costs on industry. Furthermore, legislation only allows for payment at the time of entry. He asked that the Customs Act be examined and revised. The Chairman indicated he would look into the issue.

Action: Customs to review current requirements in relation to payment under protest.

A brief was provided to members on CTPAT progress.

Updates included:

- US Customs and Border Protection (CBP) agency stresses that its intention is for C-TPAT to remain a voluntary program, although it is also their intention to raise expectations of standards to be met; to indicate validation will be a CBP role to confirm that it does not contemplate third party validations.
- CBP recently announced that it would no longer be a requirement for importers to have C-TPAT membership to gain access to the Automated Commercial Environment (ACE) Secure Data Portal which provides benefits such as periodic monthly payment.

The Chairman noted that CTPAT underpins supply chain security and would be addressed under agenda item 6.

Container Examination Facility

Discussion relating to this issue was held under agenda item 6.

4. Standing Reports

4a. International Issues

International issues were detailed in the agenda paper provided. The IACAA representative requested a copy of the WCO Guide to Measure Time Required for the Release of Goods and a list of the countries identified in the responses. The Chairman indicated Customs would provide this to the IACAA representative.

Action: Customs to provide reference to the WCO Guide to Measure Time Required for the Release of Goods and details of the countries identified in the responses to the IACAA representative.

The CBFCA representative raised the customs business dialogue to be held in Korea in September and sought clarification on agenda items invited by the Korean Customs Service. The Chairman indicated Customs would contact the CBFCA representative.

Action: Customs to contact the CBFCA representative to discuss Korean Customs Service request for agenda items for the business dialogue to be held in Korea in September.

4b. Legislation

Relevant Legislation was detailed in the agenda paper provided. The Chairman clarified that Act no. 130 related to the Customs Tariff Act and Act no. 131 related to the Customs Act.

4c. Cargo Management Reengineering

A brief was provided to members on Cargo Management Reengineering (CMR).

ND C&T reported on the Minister's Round Table conference on 1 February:

The Round Table Conference and related CMR issues were discussed including:

- Industry feedback on the exports phase of CMR was positive and the Minister commended cooperation between Customs and Industry.
- Testing levels for the imports phase had not yet reached anticipated levels and industry is being encouraged to commence their testing as soon as possible
- Customs is preparing explanatory material. Customs will hold information/consultation sessions regarding transition and the duration of the cutover period.
- The communication and training strategy will be a similar format to that undertaken during the exports phase.
- Customs has coordinated discussion sessions throughout Australia regarding business issues and the majority of significant issues will be finalised shortly. It was noted that less significant issues should not hold up the process and would be examined after cutover. ND C&T invited industry to contact Customs if clarification or explanation on business issues is required.

The Chief Information Officer gave a brief status report on recent problems experience in Exports. He also reported on the progress of imports and noted the target implementation date for the imports side of the Integrated Cargo System (ICS) is 1 July 2005.

The AICAA representative raised concerns regarding the time frame available once software providers have supplied them with the new systems for industry. Customs clarified that the implementation date must be before 20 July 2005, and the cutover date can be up to forty calendar days after implementation. The cutover date is the critical date whereby all industry must use ICS.

There was some concern regarding low testing volumes. It was noted that the bulk of testing volumes would not commence until April as many members are still developing their own software. Initially Customs is focussing on functionality testing, then scalability and end to end testing will be addressed. Maximum volume testing will be undertaken in the next couple of months.

The CAPAC representative raised the issue of testing from a business process perspective. The CIO acknowledged that business process issues were critical and noted Customs was already working with three major organisations to ensure any potential problems are addressed. ND C&T noted this can be arranged with any large operator.

The CEO congratulated both industry and Customs staff for the cooperation evident in resolving difficulties associated with business process. He emphasised that so far as Customs systems were concerned Customs will find it increasingly difficult to make any changes to the ICS to facilitate business process outcomes as the 1 July start date for cut over approaches.

Service Quality Reviews were discussed and Customs agreed to the importance quality reviews and advised that performance would be reported and freely available.

ND C&T noted that the draft Imports Business Continuity Plan (BCP) would be distributed for comment shortly. The AATA representative requested that the Exports BCP be progressed as soon as possible.

5a. Proposed Changes to Cargo Reporting Times

Proposed changes to cargo reporting times were detailed in the agenda paper provided.

The Pre-ITM cargo reporting requirements of the *Customs Legislation Amendment (Airport, Port and Cargo Security) Act 2004* came into effect on 13 January 2005. For the purpose of the regulations that applied from 13 January 2005, the time frames currently prescribed (i.e. 48 hours before arrival at the first Australian port for sea cargo), remained in place. ND C&T reported that there is a strong indication that reporting times will be adjusted to 96hrs for security reasons.

The Shipping Australia representative raised concern that global shipping companies current computer systems may not have the capacity required for 96hr reporting. He expressed a preference for the internationally accepted 24hr before loading rule.

Customs reiterated that Australia's information requirements differ from those currently operating in the US. As discussed at CNCC 45, Customs will continue to examine the preference expressed by CNCC members for 24 hour pre-load reporting of sea cargo and review amending the Act.

5b. February 2005 Price Review of Cost Recovery Charges

An overview of the Price Review of Cost Recovery Charges was provided to members.

The Chief Financial Officer (CFO) reported on Import Processing Charges and logistic costs associated with Container Examination Facilities (CEFs). The CFO discussed the 2003/2004 Financial Year outcomes. He reported an over recovery of \$5 million and an under recovery of logistic costs. The projections for the 2004/2005 Financial Year were for a break-even position. The CFO discussed future costs associated with CEF logistics and volumes for Cargo Container inspections taking into account six day per week operations.

The ACCI representative asked about the Government funding of logistic charges. Deputy Chief Executive Officer responded that Customs could not give a response until the Budget process was finalised.

The CNCC members participated in a general discussion about cost recovery charges. The IACAA representative queried division and allocation of funds and the CEO responded that funds can be allocated to many activities but difficulty arises when dealing with IT issues.

The CBFCA representative questioned whether the regime was compliant the GATT and DCEO (J) reported that the regime is complying with GATT and if the recovery amount varied significantly the charges would need to be reviewed.

6. CEF Update

An agenda paper providing a general update, outcomes on the Australian National Audit Office (ANAO) report and details on the CEF Communication strategy was provided to members.

National Director Border Compliance and Enforcement reported that all container x-ray facilities (CEFs) are now working six days per week and from commencement of CEFs in November 2002 until 31 December 2004, illicit drugs with a street value of more than \$800 million have been seized and over \$35 million in revenue evasion prevented.

It was noted that Customs is currently working towards implementation of the ANAO report recommendations. Over the last several months Customs has been involved in detailed discussions with its contracted service providers about improved performance, suitable Key Performance Indicators (KPI) and reporting requirements. The Joint Committee on Public Accounts and Administration (JCPAA) is now examining the ANAO report, with a public hearing on 8 April.

ND BC&E noted that although compliance has improved, late reported cargo remains a concern and Customs is working with non-compliant companies to reduce this. ND BC&E reiterated that Customs will accept responsibility for any administrative or logistical problems on the part of Customs.

The CNCC members briefly discussed issues affecting cargo delivery including discharge and availability times and vehicle booking time-slots.

The CBFCA representative noted commendable improvement in CEFs since 2002. He requested Customs develop policy in relation to missing and damaged goods at the CEF.

ND BC&E invited feedback from industry in relation to the CEF Communication Strategy.

7. WCO developments re Supply Chain Security

General discussion was held regarding the meeting on 28 February in Brussels that considered the WCO endorsed Framework of Standards to Secure and Facilitate Global Trade. The WCO Secretariat provided two Annexes including detail on the Customs-to-Customs Network arrangements and Customs-to-Business Partnerships.

Key issues discussed were:

- Industry concern regarding inadequate consultation
- Insufficient detail and impracticable framework.

The paper is to be presented to the WCO Council Sessions in June 2005 for adoption.

8. Risk analysis and its relationship with Customs compliance activities

An agenda paper was provided to members regarding the Customs Compliance Assurance Strategy (CCAS), a program developed by Customs to deliver an international trading environment that is typified by high levels of self-regulated compliance with government requirements.

It was agreed that Customs would liaise with Industry and other Government Agencies to canvas their views on areas of current and emerging risks and perceived weaknesses at the border from a compliance point of view.

9. Non-CMR IT Update

An agenda paper was provided to members detailing the following IT issues:

- IT Market Testing
- Standardised Data Set Project
- Voice Transformation Project
- Neutron Scanner Trial
- SmartGate Trial
- Desktop Refresh.

The Chief Information Officer (CIO) highlighted the whole of government data harmonisation exercise to produce a Standardised Data Set (SDS) based on an internationally endorsed benchmark for the submission of import, export and transit data related to international trade and the movement of certain classes of persons. The SDS will enhance supply chain security and trade efficiency by establishing a common platform for regulatory data across Australian Government Agencies. The completed SDS will provide the platform on which a trade 'Single Window' can be built accessible by all relevant Government Agencies and may eventually be available to use internationally for import export data.

The Chairman confirmed that the Australian Customs Service is working on the WCO model rather than the US information requirements.

10. Neutron Scanner Project

ND BC&E reported that construction of the commercial prototype scanner has commenced and Customs is now refining the logistics of the project to prepare for the commencement of the trial in mid-2005.

Customs has started a new round of industry consultations to explore the implementation of new processes to support the field trial. Based on logistics modelling the impact of the scanner operating airside may add up to 120 minutes to import cargo processing timeframes at Brisbane Airport. Customs will work towards minimising this timeframe although a number of results cannot be confirmed until the facility is operational.

The trial will start gradually with import cargo. When Customs is satisfied with the performance of the technology and business processes, the trial will be expanded to include scanning export cargo. While published delivery times of some express couriers was acknowledged it was noted that security measures is the primary consideration and the aim is to one day screen 100 percent of cargo.

ND BC&E confirmed Customs was working closely with the Department of Transport and Regional Services to ensure no duplication of existing aviation security screening arrangements.

ND BC&E also advised that should the Neutron Scanner equipment be successful in screening cargo at the ULD level, it would possible to remove x-rays from depots.

The Chairman agreed to monitor similar international developments and noted that Australian Customs would be willing to share knowledge with international Border agencies.

11. Anti-dumping

National Manager Trade Measures Branch outlined general activities in relation to anti-dumping and noted a global decline in anti-dumping cases. Customs is currently focussing on business improvement issues and issues affecting the trade remedies area, including the feasibility study for a possible free trade agreement with China.

The ACCI representative raised concerns, on behalf of distributors of textiles, that only manufacturers (and not distributors) can lodge dumping complaints. The Chairman noted that Customs abides by Australian and international law.

12. Cargo Automation Development Fund (CADF)

ND C&T reported that Customs' preferred option for disbursement of the CADF funds is to offset the cost of digital certificates. It is doubtful that this can be implemented while there is an ongoing case in the Federal Court.

13. Other Business

Date of the next meeting

The next meeting will be held in early June subject to availability of members. Members will be contacted with proposed dates.

MINUTES
CUSTOMS NATIONAL CONSULTATIVE COMMITTEE MEETING 45
10 November 2004

1. Chairman's introduction

Members were welcomed to the 45th meeting of CNCC. Apologies from Mr Geoff Clarke, the International Air Couriers Association of Australia (IACA), Mr Bob Gosling, Customs Brokers and Forwarders Council of Australia (CBFCA), Mr John Law, the Law Council of Australia (LCA) and Mr Chris Charlton, the Confederation of Asia Pacific Express Couriers (CAPEC), were noted. Mr Louis Gross (LCA) and Mr Robert Battistel (CAPEC) were welcomed.

2. Minutes of CNCC 44

There were no objections to CNCC 44 minutes and they were confirmed.

3. Matters arising from the previous meeting

Express Air Cargo vs Postal Carriers

National Director Cargo and Trade (C&T) reported that Customs is continuing to discuss the issue of aligning value thresholds for imported air and postal goods with the Department of Treasury, the Department of Communication, Information Technology and the Arts and Australia Post regarding threshold options.

The implications of the Review of Thresholds Report by the Productivity Commission will have to be clearly defined to ensure there is a whole of government response to the report.

Customs will continue to keep CNCC members informed and advise outcomes when known.

International Issues

A brief was provided to members on the Unique Consignment Reference (UCR) Number.

Key issues in the agenda paper were:

- The UCR resolution and accompanying Implementation Guidelines were endorsed by Council in June 2004. WCO encourages all members to use the UCR as soon as possible.

- Customs, EAN Australia, AQIS and Meat & Livestock Australia are prepared to commence a project involving meat exports to the US as proof of concept of UCR using EAN/UCC international numbering standards. Customs is awaiting US Customs and Border Protection Agency response.
- Customs has commenced work to incorporate UCR in CMR cargo messages.

The Australian Federation of International Forwarders (AFIF) representative expressed his concern about providing industry with sufficient notice of any potential changes. The Chairman advised that, while the World Customs Organisation (WCO) had agreed in principle to the UCR, there was no timeline for implementation and that substantial work is required before the UCR can be adopted as international customs practice.

The Chairman advised that the WCO Policy Commission is due to meet in Jordan in December and Customs hoped to obtain an indication of international UCR developments.

Standing Reports

International Issues

The AATA representative reiterated his concerns relating to the proposed inclusion of additional fields to EDIFACT messages for Advanced Passenger Information, and in particular the potential for conflict with privacy laws which may be exacerbated by the differences between the United States of America and European Union approaches. The AATA representative also commented on the potential impact on check-in times and the increasing complexity of the process. The Chairman noted the comments.

Action: The Chairman advised he would seek further information on the US approach and will provide further advice to CNCC members.

Legislation

The Chairman advised that the *Customs Legislation Amendment (Airport, Port and Cargo Security) Act 2004* has been introduced and details of the legislation are available through the Parliamentary website.

The Chairman reiterated comments in his letter to members of 16 July regarding cargo-reporting, that adoption of the US 24hr reporting model rather than the current 96hr reporting rule would require additional amendments to the relevant legislation. Customs is working to bring this in line and is currently consulting with Shipping Australia to develop arrangements as closely aligned to the US model as possible. The Chairman advised that international industry feedback was positive.

Cargo Management Reengineering

The CMR Export Communication Strategy was provided to members on 13 July 2004. ND C&T indicated the Import Communication Strategy which will closely follow the template of the Exports Strategy will be available shortly.

Container Examination Facility

The AFIF representative commented that feedback he had from industry indicated that Customs statistics in the Post Implementation Review do not reflect the problems in the supply chain being experienced by importers. The chairman asked if AFIF was in a position to provide more substantive information.

The CNCC members engaged in general discussion about the broader issues affecting cargo delivery including availability of time-slots and resources. The Chairman emphasised that late reported cargo is a contributor to delays and additional storage costs. National Director Border Compliance and Enforcement (BC&E) noted that Customs is placing significant effort into meeting key performance indicators in areas that Customs controls and Customs will accept responsibility for any administrative or logistical problems on the part of Customs.

The AFIF representative indicated he would discuss the issues with CBFCA, Shipping Australia and Stevedores. The Chairman indicated Customs willingness to assist industry as far as possible to work through difficulties being experienced by providing industry with any information available. The Chairman also advised Customs could provide members with specific data on containers examined at the container examination facilities if required.

Action: AFIF to advise outcomes of discussion with CBFCA, Shipping Australia and Stevedores about supply chain problems.

Other Business

US Immigration Control Program

The Chairman advised that Customs has not been approached by the US to put Immigration Control Officers at Australian airports.

Client Survey Feedback

This was addressed under agenda item 7a.

4. Standing Reports

4a. International Issues

International issues were detailed in the agenda paper provided. The Chairman noted that only four countries needed to accede to the Revised Kyoto Convention for it to come into force.

Free Trade Agreements. The Chairman also noted Customs was working closely with the Department of Foreign Affairs and Trade and that substantial effort had been, and was being, attributed to the development of Free Trade Agreements.

Customs input involved tariff and tariff classification, rules of origin and intellectual property issues.

The Law Council of Australia sought clarification on the date of effect of the USFTA for imported goods. National Director C&T advised that ACN 2004/39 states that US FTA will apply to goods imported, i.e. that arrive in, Australia after 1 January 2005.

The Chair advised that Customs would provide clarification of the ACN.

Action: Customs will provide additional clarification on the date of effect of the US FTA on the importation of goods into Australia in the ACN.

Changes to Compile Messages. The CAPEC representative raised concerns about insufficient lead time to implement recent amendments to COMPILE messaging. He also advised similar concerns about changes made under the Singapore Free Trade Agreement. ND C&T indicated he would look into the issue.

Action: ND C&T to investigate short notice of advice on amendments to COMPILE messaging and provide feedback to CAPEC. Feedback to be provided to all members if there are wider implications

4b. Legislation

Refund Payments. The LCA representative raised concerns about the administrative processes requiring ongoing payments under protest when there are outstanding unresolved disputes already before the AAT for goods of the same kind. The LCA representative suggested this requirement imposed unnecessary additional processes and costs on industry and asked that the requirements of the Customs Act be examined.

Action. The Chairman agreed that Customs would clarify the requirements of the Customs Act relating to ongoing payment under protest for disputes before the AAT.

Malika. The LCA representative also gave a brief overview on the High Court decision in *Malika* and raised discussion on interpretation by industry and Customs. The Chairman advised Customs is seeking further legal advice and noted members' comments on the differences in interpretation. The LCA representative also advised that he thought some of the correspondence Customs had sent to industry clients on this matter was "aggressive".

Action: The Chairman agreed to review the tone of Customs correspondence relating to duty recovery.

CTPAT. The CBFCA representative queried the US Customs Commissioner's comments on CTPAT and CSI implications for Australia. The Chairman noted the indication that the US are going to implement mandatory minimum standards for CTPAT companies.

Action: Customs to advise members on CTPAT progress after the December meeting.

4c. Cargo Management Reengineering

A brief was provided to members on Cargo Management Reengineering (CMR).

The Exports cutover to the Integrated Cargo System (ICS) took place at 3am, 6 October 2004. National Director C&T reported on peak times on Fridays between 5pm-6pm and emphasised the importance of early reporting over longer periods to help alleviate congestion.

Indications to date have been generally positive and Customs appreciates the assistance of industry and software developers in achieving a successful implementation of the exports phase of CMR. Some problems have been experienced both of IT and business process. They are being addressed by both Customs and industry as they arise.

Customs has registered 3000 digital certificates from 1100 organisations. Approximately 1000 digital certificates are not yet registered.

National Director C&T noted a number of issues including the number of people were not ready to use the new system due to incomplete registration processes, short timeframes and the unexpectedly high number of internet lodgments. Some fixes are still required and a balance is to be reached between the IT and business requirements.

There was some discussion on industry notification in the event of a system processing event. Customs' monitoring capability is being strengthened to identify issues earlier and address them in a responsive manner. Customs continues to try to improve communications with IT providers, regional officers and industry. The Chairman encouraged industry members to advise Customs of any issues to facilitate the resolution of problems. Feedback from AATA, AFIF, Shipping Australia representatives on the implementation of the export phase of ICS was positive.

National Director C&T noted that industry questions should be directed to the correct 1300 and 1800 help desks rather than individual Customs contacts.

An update was provided on Imports Implementation of the Integrated Cargo System. Industry tests focussing on EDI messaging have commence and will be delivered in three phases based on business process, ie: report, outturn and clearance. To support industries preparation for the ICS imports cutover, Customs will run a number of advertising and training campaigns. The Minister has indicated his preference to continue with the successful industry 'roundtable' forums in February and March 2005 in preparation for the imports transition.

5. CEF Update

The chairman commented that most CEF issues had already been discussed earlier in the meeting.

National Director BC&E reiterated that additional Government funding has enabled Customs to increase the hours of CEF operations.

The Chairman noted Customs Industrial action and disruption to services. The AATA representative provided a positive assessment of Custom reaction and the contingency plan that was put in place.

National Director BC&E reported that Australian Customs Notice 2004/33 on sea cargo examination arrangements was issued in August 2004. The ACN clarifies the role of the CEFs, outlines revised arrangements for the handling of enquiries and indicates it is important that the inspection of containers at the CEF becomes an accepted and integral element of the logistics chain. A number of CNCC members commented on the need for Customs to raise awareness about the reasons for increased security at the border.

Action: Customs to review communication strategies to raise industry awareness, education and understanding of border security issues.

6. Neutron Scanner Project

National Director BC&E provided an update to members on the Neutron Scanner Project. A site for the neutron scanner facility has been confirmed at Brisbane Airport. Customs anticipates that the field trial will commence in mid 2005. Business logistics including efficiency of movement of air cargo are being examined. Customs is developing an evaluation strategy to ensure that the scanner is rigorously tested on a range of air cargo and against a range of prohibited items to ensure the facility runs as efficiently as possible.

The Chairman noted the importance of the pilot period to test this new technology and to examine ways of improving handling of air cargo logistics, not to impose an additional layer. After the pilot is evaluated and deemed to proceed, cost recovery factors will be examined. The Chairman agreed to keep industry advised and consult with industry as the project progresses.

Cost Recovery. The CNCC members participated in a general discussion about cost recovery charges. The Chairman indicated that he would seek members views on the most appropriate way to apportion cost recovery for container x-ray. The general consensus (with several reservations) was that members considered the affected industry segment rather than the whole industry should meet the costs. Customs Deputy Chief Executive Officer advised members that further consultation would be sought.

7. Other Business

7a. Client Survey

A brief on the outcome of discussions from the Client Survey was provided to members.

Change of Member. The AFIF representative, Mr Peter McNamara advised CNCC members that CNCC 45 would be his final meeting as chair of AFIF. The Chairman expressed appreciation for Mr McNamara's contribution to CNCC over the years, and expressed his hope that Mr McNamara's successor would contribute as effectively as Mr McNamara has done.

Antidumping. The LCA representative requested Antidumping to be included on the Agenda for the next meeting. The chairman agreed to this provided the discussion focussed on issues of relevance to other attendees. Otherwise the discussion could be conducted directly with Customs outside the forum of the CNCC.

7b. Date of the next meeting

The next meeting will be held in early March subject to availability of members. Members will be contacted with proposed dates.

Labor Day in Melbourne on Monday 7 March was noted.

The Chairman had advised earlier in the meeting that the next meeting of CNCC will be held at the new Customs House at Sydney airport.

Customs will disseminate information on arrangements for attendance at the new Sydney building location prior to the meeting.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 82

Senator Ludwig asked the following question at the hearing on 24 May 2005:

How many Customs vessels have sought to board another vessel but have not because of anti-boarding devices or other reasons.

The answer to the honourable senator's question is as follows:

The crew of the Australian Customs Vessels (ACVs) sought to board one vessel on 19 November 2004 but was unable to do so due to the aggressive actions of the Master. There were further incidents on 13th September 2004 and 5 July 2005. On these two occasions the ACV crew could not board the vessel due to the vessel's speed, course and poor prevailing weather conditions.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 83

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Arming Australian Customs Vessels: Please breakdown the \$25.2 million over the four years as to how much of it will be on:

- a) hardware and;
- b) training.
- c) does this price include the cost of the weaponry and the installation?

The answer to the honourable senator's question is as follows:

The majority of the \$25.2 million will be allocated to staffing requirements. QoN 206 provides a comprehensive breakdown of expenditure.

- a) Arms cost, including weapons purchase, ammunition, mounting, storage lockers, maintenance and communication equipment is \$1 million.
- b) Training costs are \$0.7 million.
- c) Yes.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 84

Senator Ludwig asked the following question at the hearing on 24 May 2005:

What is the daily operation price for an Australian Customs Vessel undertaking activities?

The answer to the honourable senator's question is as follows:

Based on 2400 operational vessel days per annum direct and indirect National Marine Unit costs generate the daily operational price for an Australian Customs Vessel as \$19,200. When Customs corporate overheads are included the daily price is \$22,300.