

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 122

Senator Ludwig asked the following question on 2 December 2004:

Has Customs disputed any [damages/pillage] claims?

- a) If yes, provide details of claims, investigative process and outcome
- b) If no, why not?

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

Customs has disputed some damages/pillage claims.

- a) The details for 2003 – 04 calendar years are as follows: (Note not all complaints/claims are for financial compensation).

Date	Nature of Claim	Investigation	Outcome
Mar 2003	Claim made that personal effects and mobile phones were missing from a shipment	Claimant was advised that no evidence of the goods having been included in the shipment was evident from import documentation or the examination report	No further action ensued
April 2003	Claim made for damages to the contents of a containerised sea cargo shipment of antique furniture, art items and paintings	Examination Report made no mention of damage during the inspection and the matter was passed to Customs' labour contractor	Contractor subsequently advised that the claim had been rejected and the importer advised to refer the matter to its insurers. No further action has ensued.
July 2003	Complaint received about water damage to a containerised sea cargo shipment of gun boxes from Thailand.	Claimant was advised that no evidence of damage had been observed	Offer made to visit the importer's premises to inspect the alleged damage but this was not taken up.
Aug 2003	Claim lodged for alleged damage during the examination of a containerised sea cargo shipment of porcelain sculptures	Examination Report made no mention of damage during the inspection and the matter was passed to Customs' labour contractor	Importer advised of action taken and has not contacted Customs since.
Sep 2003	Damage to multiple ceramic pots during transport post inspection (Claim referred from SA)	Repack contractor's responsibility as items could not fit back into container so were transferred loosely by truck	Claim referred to Importer Dec 2003. Claim for storages charges dismissed. Importer was offered \$292.90 on 28/4/04, which was rejected by the client. Awaiting a response from client (last contact June 2004)

Date	Nature of Claim	Investigation	Outcome
Nov 2003	Complaint was received about damages to a containerised sea cargo shipment of furniture	The Examination Report showed no irregularities or damage during the inspection of the shipment. The importer was invited to make a claim. Matter referred to Customs' labour hire contractor.	Contractor arranged for an independent survey of the damage, which concluded that the damage was due to poor packing rather than the inspection process. No claim has been received.
Feb 2004	Defrosting of seafood	Investigation conducted using exam report and statements from officers involved.	Investigation showed that no spoilage had occurred during Customs examination. Customs Broker advised by written response to complaint. Nothing further heard.
Mar 2004	Claim of 8 damaged fridges	Damage assumed to be caused through incorrect lifting by forklift during repack. Contractors disputed claim - video footage indicated no impairment. Independent assessor appointed. Opinion damage occurred during packing container overseas	Claim rejected by Customs
April 2004	Claim received for damage to ceramics, furniture and handicrafts	Claim referred to Customs labour contractor	Claim accepted by contractor and not the responsibility of Customs
May 04	Display cartons damaged.	Investigation showed that the container in question had never been examined by Customs.	Importer advised.
July 2004	Complaint was received about the destruction of goods in a containerised sea cargo shipment of foodstuffs	Complainant was advised that six tins of foodstuffs had been drawn as representative samples of the shipment, causing their destruction	Destruction was deemed to be reasonable under s34 of Customs Act.
July 2004	Notice of Intent to Claim was received for alleged damage to sea cargo shipment of furniture	Importer was advised that although the container had been x-rayed at the Customs Container Examination Facility, it had not been unpacked or its contents interfered with in any way.	No claim ensued
Nov 2004	Claim for Damaged cartons of foodstuffs	Claim rejected damage report at time of inspection shows that the cartons were damaged in transport prior to unpack. Photos of examination forwarded to client on his request (21/12/04)	Client has requested copy of video footage. Video footage to be provided for client viewing in Customs premise.

b) Not applicable

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 123

Senator Ludwig asked the following question on 2 December 2004:

Are there currently any disputed claims which have not been resolved?

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

Yes. There are six claims involving damages/pillage goods which have not been resolved.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 124

Senator Ludwig asked the following question on 2 December 2004:

What is the time frame for resolution of claims?

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

There is no set timeframe or policy for these claims to be resolved. Customs would seek to expedite and resolve claims as efficiently as possible; however, the timeframe of resolution would vary according to the complexity and the nature of the claim.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 125

Senator Ludwig asked the following question on 2 December 2004:

What is the longest time it has taken for a claim to be resolved?

- a) Provide details of this claim.
- b) Was alternative dispute resolution used to help resolve this claim?
- c) Does Customs use ADR in any claims?
- d) If yes, in how many cases is ADR used?
- e) Was there a successful outcome were ADR was used?
- f) If ADR is not used – what were the legal costs for processing, disputing and resolving claims for 00-01-02-03-04?

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

This information was not able to be sourced within the given timeframe and would require additional research and a significant diversion of resources for it to be provided. From the data obtained, it appears that claims have been investigated and resolved within appropriate timeframes.

- a) N/A
- b) N/A
- c) Customs have not used ADR for any claims
- d) N/A
- e) N/A
- f) The information required to answer these questions is not readily available and would require a significant diversion of resources to provide the requested material.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 126

Senator Ludwig asked the following question on 2 December 2004:

Who are the Members of the Audit Committee?
How many times did they meet in 2003 - 2004?

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

The Audit committee met four times in 2003 – 2004.

Members of the audit committee are:

MEMBER	ATTENDANCES 2003 - 2004
John Jeffery, Deputy Chief Executive Officer (DCEO)	4/4
John Drury,(DCEO)	2/4
Gail Batman, National Director (ND) Border, Intelligence and Passengers	4/4
Jon Brocklehurst, Chief Financial Officer (Member of the committee as at December 2003)	3/3
Murray Harrison Chief Information Officer	3/4
Christine Marsden- Smedley, National Manager (NM) Planning and International	4/4
Jenny Peachey, Regional Director Victoria	4/4
Debbie Rogers, Director Internal Audit	4/4
Paul McGrath AM, External Member	4/4

Other Participants

NAME	ATTENDANCES 2003 - 2004
Peter White, Executive Director, Performance Audit, Australian National Audit Office (ANAO)	4/4
Allan Thompson, Executive Director, Financial Audit, (ANAO)	4/4
Hugh Somerville, Partner, PricewaterhouseCoopers (PwC)	4/4
Andrew McPherson. Partner PwC	4/4

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 127

Senator Ludwig asked the following question on 2 December 2004:

There were 52 Internal Audits in 2003-2004. Can the Department please provide details as to what the subject of each investigation was in each audit? How many are now complete? What is the status of the remaining audits? Can the Department provide a summary of the findings of each audit, and a summary of what action has been taken on each issue since the audit?

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

Internal audit works on a calendar year basis however in answering the question the following reviews were undertaken in the 2003-2004 financial year

AUDIT NAME	AUDIT NAME
Follow-up Review of Customs response to dealing with Terrorism	Peoplesoft (Human Resources System) Application Review
Customs Re-Organisation 2003	National Pay and Accounts Centre (NPAC)
GST post Implementation	Licensing
Physical Security	Airport Control Rooms
Benchmarking of Compliance Assurance Strategy	Review of Service Level Reporting – Electronic Data Systems (EDS)
Container X- ray	Access Control Review
Software Licensing	Freedom of Information
Accounting Health Checks	Customs Frontline
Financial Management Improvement Program	Information Technology Branch Charge-back Follow –up
Revenue and Debt Management	National Marine Unit- follow up
Client Service Charter	Legal Follow up review
Prohibited Goods	Records Management
National Intelligence System (NIS) Access Controls Review	Review of the controls over the handling and storage of firearms under Customs control
CMR- Production readiness- Interfaces	Review Compliance Assurance Function
Accounting Health Checks	Travel Arrangements
Code of Conduct	Desktop Pricing and Accountability
Performance Assessment Framework	Project Health Check – Civil Maritime Surveillance 2004 Project (CMS04)
Preparedness for Exports	Business Continuity Planning
LAN Access Controls Review	Preparation of Ministerial
Privacy	QA of Financial Statements
Internet Review	Air Passenger Processing
Review of District Offices	Review of Activity Based Costing
Air Cargo Examinations	Management of Data
International	Unix Baseline Reviews
Disaster Recovery Planning	CMR Probity
Site Security Review	Drawbacks

b) How many are now complete?

All fieldwork and reporting for the audits listed above, was undertaken and completed in the 2003-2004 year.

c) What is the status of the remaining audits?

See answer to (b)

d) Can the Department provide a summary of the findings of each audit, and a summary of what action has been taken on each issue since the audit?

Customs cannot provide details of the outcomes of all the audits listed in the responses as a number deal with in-confidence and sensitive information. A general summary is:

- There were a total of 253 agreed management items arising from the 52 audits referred to in the annual report.
- Action has been finalised for 12 audits.
- Of the remaining 40 audits there are 86 items still to be finalised.

All audit reports, including progress in implementing agreed management actions, are reviewed by the Audit committee on a quarterly basis.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 128

Senator Ludwig asked the following question on 2 December 2004:

How many staff were vetted by Customs for security clearance for each year in a) 2000-01, b) 2001-02, c) 2002-03, d) 2003-04?

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

F/Y	Vetted
2000/2001	1286
2001/2002	2335
2002/2003	1297
2003/2004	1269

* Note that these figures also include those clearances that were partially processed by vetting providers (refer to question 129 overleaf).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 129

Senator Ludwig asked the following question on 2 December 2004:

How many staff were vetted for security clearance by a vetting service provider for each year in a) 2000-01, b)2001-02, c) 2002-03, d) 2003-04?

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

00/01	01/02	02/03	03/04	TOTAL
Nil	17	4	176	197

* Note that vetting providers complete only part of the security clearance assessment function. Customs specific checks and clearance decisions are, in all cases, processed and completed by Customs.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 130

Senator Ludwig asked the following question on 2 December 2004:

Who provides the vetting service? What is the cause of the security clearance backlog that led to the use of a security vetting service?

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

1. Customs has utilised the services of five vetting service providers to assist in the process of security clearance assessments. These providers are:
 - The Australian Security Vetting Service (ASVS);
 - StaffSure (now deregistered and no longer trading);
 - Peak Industries;
 - PerSec Solutions; and
 - StaffCheck.
2. Customs uses vetting service providers from time to time to assist in managing workload peaks and for those clearances where there may be potential privacy issues or conflict of interests if in-house vetting officers undertake the clearance. In all cases though vetting service providers complete only part of the security clearance assessment function. Customs-specific checks and clearance decisions are, in all cases, processed and completed by Customs. Work-load peaks that arose in 2003-4 were related mainly to the engagement of service providers, particularly in the telecommunications and IT environment and the recruitment of marine crew.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 131

Senator Ludwig asked the following question on 2 December 2004:

With regard to Customs consultancies of a value less than \$10,000 engaged in a) 2000-01, b) 2001-02, c) 2002-03, d) , 2003-2004; can the department provide details of what each consultancy was for, which consultants were engaged, the method of appointment, who appointed them, the value of the engagement, whether the consultancy was publicly tendered for, whether the consultancy was publicly advertised, whether a skill set was generated in determining the appointment and what relevant experience each consultant had?

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

The information required to answer these questions is not readily available and would require a significant diversion of resources to provide the requested material.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 132

Senator Ludwig asked the following question on 2 December 2004:

How many external fraud referrals were received (for) the following years?

- a) 1995-96, b) 1996-97, c) 1997-98, d) 1999-00, e) 2000-01, f) 2001-02, g) 2002-03,
h) 2003-04

For each of the above years:

- i) How many cases were accepted for investigation? What was the estimated value of fraud in each case?
ii) What was the estimated value of fraud for referrals accepted?
a) in total
b) for each case
iii) What was the estimated value of fraud for referrals rejected?
a) in total
b) for each case
iv) How many external fraud investigations were completed?
v) What was the total revenue awarded to customs for external fraud investigations completed?

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

The external fraud referrals for the following years are:

- a) 1995-96 - Electronic data unavailable
b) 1996-97 - Electronic data unavailable
c) 1997-98 – 437 (207 revenue matters, 230 community protection matters)
d) 1998-99 – 516 (241 revenue matters, 275 community protection matters)
e) 1999-00 – 738 (166 revenue matters, 572 community protection matters)
f) 2000-01 – 1619 (168 revenue matters, 1451 community protection matters)
g) 2001-02 – 1992 (158 revenue matters, 1834 community protection matters)
h) 2002-03 – 1846 (111 revenue matters, 1735 community protection matters)
i) 2003-04 – 2442 (108 revenue matters, 2234 community protection matters)
- i) The number of cases accepted for investigation for each of the following years was:
- a) 1995-96 - Electronic data unavailable
b) 1996-97 - Electronic data unavailable
c) 1997-98 – 120-revenue matters, 176 community protection matters
d) 1998-99 – 164-revenue matters, 186 community protection matters
e) 1999-00 – 100-revenue matters, 267 community protection matters
f) 2000-01 – 90-revenue matters, 603 community protection matters
g) 2001-02 – 82-revenue matters, 555 community protection matters
h) 2002-03 – 68-revenue matters, 582 community protection matters
i) 2003-04 – 70-revenue matters, 578 community protection matters

The estimated values for the external revenue investigations were:

	Year	Revenue ('000)
a	1995-96	Electronic data unavailable
b	1996-97	Electronic data unavailable
c	1997-98	\$118 624
d	1998-99	\$66 276
e	1999-00	\$51 608
f	2000-01	\$56 223
g	2001-02	\$39 245
h	2002-03	\$20 280
i	2003-04	\$21 675

ii) At the referral stage there is no estimated value of fraud. An estimated value of external fraud is made when the referral is accepted as a case.

iii) See (ii) above.

iv) The number of revenue investigations completed does not directly relate to the number of investigations commenced within any given year. An investigation can take some years to complete and be finalised through the Court system.

Investigations may not proceed if:

- a) There is insufficient evidence
- b) A breach is not identified
- c) It is outside Customs Guidelines
- d) The offence is referred to another agency
- e) There are resource limitations

The following are the completed external revenue investigations in the representative years.

- a) 1995-96 - Electronic data unavailable
- b) 1996-97 - Electronic data unavailable
- c) 1997-98 - 20
- d) 1998-99 - 32
- e) 1999-00 - 33
- f) 2000-01 - 21
- g) 2001-02 - 33
- h) 2002-03 - 24
- i) 2003-04 - 24

- v) Penalties from external revenue investigations may not be collected for several years because of the time taken to investigate the matter and proceed through the Court system. Court imposed penalties can also be disproportionate to the initial value of the fraud.

The total revenue awarded to Customs following successful prosecution of external revenue matters includes fines, penalties, legal costs, other costs such as Court costs and/or donations to Court funds, reparation orders, settlements, revenue recoverable-duty and/or revenue recoverable-other. The total costs awarded by the Courts for external revenue cases was:

	Year	Revenue ('000)
a	1995-96	Electronic data unavailable
b	1996-97	Electronic data unavailable
c	1997-98	\$3 876
d	1998-99	\$7 166
e	1999-00	\$6 703
f	2000-01	\$4 693
g	2001-02	\$8 999
h	2002-03	\$5 105
i	2003-04	\$9 834