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CUSTOMS CMR COMPUTER DEBACLE

A recent exchange in question time in the Senate illustrates the defensive attitude of the government when the Customs computer debacle of 2005 is raised. Senator LUDWIG — My question is to Senator ELLISON, the Minister for Justice and Customs. It concerns the new Customs computer system and the independent audit report handed down last Friday. Can the minister confirm that he authorised the IT project to proceed without a fixed budget? Can the minister also confirm that he oversaw the estimated cost of the project escalating from \$30 million to over \$205 million worth of taxpayers' funds? When did the minister first become aware of the major problems experienced with this project? What action did he personally take to protect taxpayers' interests? What responsibility does he, as the relevant portfolio minister, now take for this botched project and the massive cost to taxpayers? Senator ELLISON — I totally reject that this has not been a worthwhile exercise. What we saw was the development of a complex program which we acknowledged throughout would be complex in its changeover. I can say that, in the course of the development of this, we saw the events of 9/11, which threw the scrutiny of it onto security issues.

Senator LUDWIG — Mr President, I rise on a point of order. I actually asked the minister: Can the minister confirm that he authorised the IT project to proceed without a fixed budget? The minister has not come to answer that yet. When did the minister first become aware of the major problems experienced in this project? Senator ELLISON — As a result of my own initiative, I established a roundtable working group, which met no less than eight times over a period in excess of 18 months, and I dealt closely

When did the minister first become aware of the major problems experienced with this project? What action did he personally take to protect taxpayers' interests?

with industry. There was a decision made to proceed with the cut-over. At that roundtable we had representatives from software developers, shipping, air cargo, customs brokers and freight forwarders—the whole range of industry that interacted with us. It was always acknowledged that this was a complex task. Senator LUDWIG — Mr President, I ask a supplementary question. Was the minister advised of the problems with the system when he authorised its introduc-

tion? Can the minister confirm that, as a result of the decision to implement a half-ready system, the government is now facing compensation claims of up to \$9 million? Has the minister approved the payments of any of these compensation claims? And will taxpayers once again be asked to foot the bills for these claims, on top of the \$205 million already spent on this bungled project? Senator ELLISON — I made it clear from the start that, if there were any storage costs occasioned by the transition that could be demonstrated, under existing policy, Customs would meet them. The vast majority of the claims that have been made have related to storage costs. There have been claims registered with Customs. We are looking at them closely and the CEO is working with the industry on that. Can I say that in relation to the changeover we had overwhelming support from industry for this new system and were urged for this to occur when it did, in October last year. You have to remember that the existing system could not endure for much longer and to leave it longer would have brought in other factors that could have had much more detrimental effects. There is still no clear answer from the Minister on what he knew, when he knew it and why the cost blew out to more than \$200 million.

Sea Cargo Inspection Arrangements

Australian Customs has published a notice setting out arrangements related to the x-ray examination of sea cargo containers. The CAN covers a number of subjects, including:

Storage Charges

Container terminal operators currently provide three days free storage for containers once they are declared available for delivery after discharge from the vessel. Customs has arrangements in place with the CTO in Adelaide to provide the full three days of free storage when containers are returned from the CEF to the CTOs premises. There is no change in these arrangements. In the other CEF locations Customs has key performance indicators in its container handling contracts with the CTOs to ensure that containers are handled in the most effective manner possible. Over the last 18 months more than 94% of loaded import containers were delivered to the CEFs with at least 24 hours free storage remaining and less than 2% of containers were delivered to the CEFs with no free storage. These figures do not in-

clude containers targeted by Customs after they were unloaded, the vast majority of which were late reported. Customs is negotiating new arrangements with the CTOs to further minimize the impact of CEF operations on storage arrangements. With the exception of containers targeted by Customs after they have been unloaded, importers and brokers will have at least 24 hours free



storage to collect their container. Where containers are returned from the CEFs to the CTOs with more than 24 hours free storage remaining, importers and brokers will continue to have the remaining period of free storage. If containers are returned from the CEFs to the CTOs with less than 24 hours free storage, the

CTOs have agreed to provide one additional days free storage once the container is available for collection from the CTO. These arrangements only apply to the day immediately after the day the container is available for collection from the CTO. These new arrangements operate from 1 June 2006 at Patrick Terminals and 1 August 2006 at P&O Ports' terminals. These arrangements are a significant attempt by Customs and the CTOs to address industry concerns about storage charges. The CTOs continue to advise Customs that there are plenty of vehicle booking slots available on each day. Brokers and importers need to ensure that they adopt appropriate arrangements to minimize the potential for incurring storage charges.

Costs and Charges

Section 186 of the Customs Act 1901 provides Customs with the power to examine any goods subject to its control. The Government has decided that Section 186 applies to the logistics **Continued on page 5...**

VIC Supreme Court Upholds Importers Claim

A recent case in the Supreme Court of Victoria considered who was responsible for the loss of part of a consignment shipped in an ocean container from Italy to Australia. The importer purchased 10,000 electric hair dryers on FOB Italian port terms. Upon opening the container at the delivery address in Melbourne it was discovered that more than half of the contents were missing. The court took evidence from witnesses representing each party in the supply chain from the time

of loading the container in Italy until its delivery in Melbourne. Despite evidence



that the container had been sealed in Italy, the court accepted on the balance of probabilities, and based on

the evidence of an expert marine surveyor that the seal was not properly engaged when fitted to the container, that the theft of the goods had taken place before the container reached the Italian port. Under those circumstances the supplier was found to be in breach of its contract and was therefore liable for damages in respect of the missing goods. The case illustrates the importance of the Incoterms agreed between parties and the need to be cautious in the use of container seals.

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P&O Ports Fishermans Is. Time Slot procedures

From Thursday 31st August 2006, the following changes will be applicable for all Time slot bookings:

- **Import slot bookings must be made 3 working days prior to collection** (i.e. Mon for Thurs, Tue for Fri etc); the import container number is required to be assigned to the slot by 16:00 of the day of booking.

- All slots for which import container numbers have not been assigned will be automatically readvertised post 16:00.

- Readvertised import slots

will be available for booking by any carrier up to 20:00 the same day.

- Any unused import slots post 20:00 will automatically become export slots.



WHAT DOES THIS MEAN

Primarily time slots have to be booked 72 hours prior to delivery. Free time at P&O

Ports continues to be 72hours from first day of availability inclusive of Saturday and Sunday.

To ensure containers do not incur storage in wharf area, time slots need to be secured prior to vessel arrival. Consequently it is essential we receive documentation for shipments prior to vessel arrival.

BOTTOM LINE - PLEASE SEND DOCUMENTS AS EARLY AS POSSIBLE TO AVOID DELAYS & POSSIBLE STORAGE ISSUES. WE CAN'T CLEAR WHAT WE

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Infringement Notice Guidelines Revised

The CEO of Australian Customs has approved a new set of guidelines for the Customs Infringement Notice Scheme. The 2004 version of the guidelines have been amended to provide clearer guidance to decision makers when deciding whether or not to serve an infringement notice. The amendments include:

a) clearer descriptions of the relevant offences under the Customs Act;

b) guidance on the impact of the Australia-United States Free Trade Agreement on the false and misleading statement offences in the Customs Act;

c) clarification on the relevance of the number of false and misleading statement particulars or omissions in the relevant cargo or outturn report;

d) clarification that when considering whether a breach is part of an ongoing pattern of non-compliance,

the context of the person's compliance history will be considered;

e) clarification on the relevance of an overseas agent's contribution to the commission of offences;

f) clarification that an infringement notice will not be served where a person has made reasonable efforts to comply with regulatory requirements and the person has been unable to comply due to an identified Customs system problem.

Stevedoring Levy Ends

The Minister for Transport and Regional Services, Warren Truss, has announced the end of the stevedoring levy.

"The levy was introduced in 1998, to support the Australian Government's waterfront reform agenda and it has effectively funded the major reform and restructuring of the stevedoring industry through redundancy payments," he said. The levy has recently been collected at an average of \$3.4 million per month. Mr Truss said the funds from the levy have been used by Maritime Industry Finance Company (MIFCo) to fund redundancy packages for 1,487 employees – at a cost of more

than \$178.3 million.

"I am sure the cessation of the levy, four years ahead of schedule, will be welcomed by the stevedoring industry which has



been absorbing the cost of levy. Over the past eight years, the levy has done its job in supporting workplace reform and restructuring," he said.

"The reality is that this reform and restructuring has been a major factor in improving efficiency on the waterfront – with crane rates, for example, increasing from 18.8 containers per hour in March 1998 to 27.7 containers per hour in December 2005."

Mr Truss noted that a report by the Australian Competition and Consumer Commission in 2000 concluded that the cost of the levy had been more than offset by savings achieved through the stevedores' workplace reforms. Mr Truss said a \$1.5 million surplus in levy collections would be returned to the stevedoring industry.

Business urged to protect intellectual property

With China predicted to become Australia’s biggest export market up from its current number two spot, Austrade has said businesses must view protecting intellectual property (IP) as a central element of a Chinese business strategy. The advice comes as exports to China continue to climb. Latest figures show in five years, merchandise exports to China more than doubled. For the financial year 2005-06 to April merchandise exports were valued at \$14.4 billion compared to \$6.3 billion for the same period in

2000-01. Austrade’s Beijing-based Senior Trade Commissioner, Kym Hewett said that it is essential Australian businesses properly manage IP as a core element of their China export strategy. “Protections for IP routinely found and used in Australia may not apply at all, or in the same way, in China. Local advice in China and knowledge is essential to Australian businesses, otherwise any product that attracts a premium because of its brand appeal, or technology is at risk,” Mr Hewett said. “There’s been substantial

progress over the last 15 years in China to protect IP with well established procedures for the registration of patents, Trade-marks, designs, trade secrets and domain names. China subscribes to all relevant international treaties and conventions. It’s also important to find out just how loss of control of IP might compromise core business objectives and to develop strategies to ensure IP doesn’t leak out into the market.

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1000th Pup a Customs Milestone

Customs last month reached a milestone in its detector dog breeding program with the birth of its 1000th puppy. The black female Labrador was one of nine pups delivered at Customs National Breeding and Development Centre in Melbourne. The pup, which has been named Spirit of Australia, will join the long list of puppies specially bred and groomed to help protect Australia’s borders from the importation of illegal narcotics,

firearms and explosives. Spirit’s mother Meg, is a successful brood bitch at the Centre while her father is a young operational dog, Webby, who recently made a significant heroin detection just one month after graduating from detector dog training. Australian Customs was the first border protection agency in the world to develop a successful selective breeding program for detector dogs. Customs has also provided both puppies and trained

detector dogs to other countries including the United States, China, Indonesia, Malaysia, Saipan, Japan, and the Geneva International Centre for Humanitarian Demining.



“Australian Customs was the first border protection agency in the world to develop a successful selective breeding program for detector dogs.

Definition of “Consignment” - Customs View

Another Australian Customs Notice sets out the Customs’ view on identifying single consignments, particularly where consignments are being cleared without formal entry. Formal entry is not normally required for goods: (i) that are included in a consignment consigned otherwise than by post by one person to another; and (ii) that are all transported to Australia in the same ship or aircraft; and (iii) that have a value not exceeding \$1,000. Some importers and brokers

are using Self Assessed Clearance declarations to separately enter multiple packages (each covered by separate air waybills or ocean bills of lading) consigned from one consignor to one consignee on the one ship or aircraft. According to Customs, where goods are shipped from one consignor to one consignee and the goods are sent on the one ship or aircraft, irrespective of the number of packages in which the goods are sent or the number of related air waybills or ocean bills, all packages should be taken to be one

consignment. It follows that, if the total value of all the packages sent from a single consignor to a single consignee on one ship or aircraft exceeds \$1,000, the goods must be formally entered. While a Self Assessed Clearance declaration of goods imported by post is not required for a consignment with a value not exceeding \$1,000, the same principle determining the composition of a consignment applies equally to postal goods. This interpretation by Customs may be open to question.

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ACCC Allows Collective negotiations at Port Botany

The Australian Competition and Consumer Commission has issued a final determination authorizing the Container Logistics Action Group to engage in collective negotiations with the stevedores at Port Botany. CLAG is a group of container carriers, customs brokers and freight forwarders involved in the transportation of containers to and from Port Botany. The authorisation will enable its members to collectively negotiate with the stevedores

on the terms of access to the Port Botany container terminals. Other matters for negotiation include the price of a number of services supplied by the stevedores, such as container washing and storage. The ACCC noted that there is a significant imbalance of negotiating power between stevedores and container carriers, arising from the features of the industry and is satisfied that the proposed arrangements are likely to result in a net benefit to the

public. In particular, the arrangements will increase the flow of information and give transport providers a greater opportunity to provide input into dealings with the stevedores. The ACCC also noted that the arrangements are voluntary. The authorisation does not compel CLAG members or the individual stevedores to participate in the collective bargaining discussions. The authorisation has been granted for a period of five years.

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Advanced Manufacturers plan to make it Globally

The advanced manufacturing industry has announced its vision to boost its international competitiveness by integrating with global supply chains, with the launch of the Advanced Manufacturing Action Agenda. The Agenda places priority on accessing new markets and providing opportunities for smaller Australian companies to grow into global players. Industry will be consulted on plans to broaden the program guidelines to

increase support for projects involving international collaboration. The program will provide \$25 million of industry assistance until June 2011. Industry Minister Ian Macfarlane thanked the Strategic Industry Leaders Group which developed the Action Agenda and announced Mr Bruce Grey of Bishop Technology Group Ltd will go on to chair the next phase of the Agenda. "The Implementation Leaders

Group, including representatives from leading small to medium manufacturing and engineering companies, will now work to put the recommendations into place over the next two to three years," said Mr Macfarlane. Mr Grey said "The industry needs to focus on creating and exploiting intellectual property to accelerate its growth and build a sustainable presence in global manufacturing."

Sea Cargo Inspection Arrangements continued

From page 2..

arrangements involved in the container examination initiative and has decided not to change its policy of cost recovery for these activities. The cost of presenting cargo for examination is being fully recovered through the Import Processing Charge. The Government's decision to cost recover CEF logistics costs through an increase in the Import Processing Charge (IPC) was made after extensive consultation with industry. It was deter-

mined that this model would provide an equitable approach by spreading the costs of presenting cargo for inspection across all importers. The current Import Processing Charges for sea cargo are \$50.00 per electronic import declaration and \$65.75 per documentary import declaration.

Damages

The Customs Act also provides that: Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of Customs except by the neglect or

willful act of some officer. While Customs exercises appropriate care for all cargo, importers and exporters should ensure that they arrange for the appropriate packing and insurance of their goods. Customs has recently reviewed its policy in regard to damages. A copy of the policy can be downloaded from Customs internet site at www.customs.gov.au

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Australian Exporters to gain from WTO deal with Russia

The Doha round of negotiations may have failed but the existing WTO framework still offers opportunities. Australian exporters will benefit from better access to the Russian market following Australia's successful bilateral market access negotiations with Russia according to the Deputy Prime Minister and Minister for Trade, Mark Vaile. The recent signing of the bilateral agreement in Geneva marks the end of bilateral negotiations between Russia and Australia during the

process of Russia's application for membership of the World Trade Organization. The outcomes will improve trading conditions for Aus-



tralian exporters and help provide a secure basis to expand exports. The deal covers Australian export

interests in both goods and services and will enhance access for Australian exports in areas such as meat products, wine, wool, alumina and seafood, as well as mining software and services. The deal will take effect when Russia joins the WTO. "Russia is a growing market for Australia's exports. In 2005, merchandise trade between Australia and Russia grew nearly 80 per cent to around \$436 million, and services trade totalled \$97 million," Mr Vaile said.

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Foot Notes

Recently you may have been contacted by Lisa Weber from Quantum who has been assisting with our marketing strategy, I would like to thank all those who took the time to answer Lisa's questions and thank you for the wonderfully positive feedback received.

As part of our marketing program we are also in the process of upgrading our web presence and will be introducing some exciting new tools including a web based customer log in for online tracking and order placement etc. so stay tuned.

Thanks again for your continued support, it means the world to us.

Kind regards

Kingsley Fletcher

PS: Below travel snap of our Tradewinds China team, from left to right; Yan, Blanca, Helen, (Kingsley), Emily & Yoyo taken during my recent visit to Shenzhen. Certainly a lot prettier than our Brisbane office, Mona & Sally excluded ofcourse.



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