

# ANNEX A3

## AIR AND SEA CARGO OPERATIONS

An Annex to the Memorandum of Understanding on the collaborative working relationships between  
the **Australian Customs and Border Protection Service**  
and  
the **Department of Agriculture, Fisheries and Forestry**

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## 1 STATUS

- 1.1 This Annex is made in accordance with clause 10 of the Memorandum of Understanding (**Memorandum**) between the Australian Customs and Border Protection Service (**Customs and Border Protection**) and the Department of Agriculture, Fisheries and Forestry (**DAFF**).
- 1.2 The Parties view this Annex as:
- (a) not intending to create any legally binding obligations; and
  - (b) an opportunity to ensure that there is a nationally consistent approach to their working relationship on specific matters outlined in this Annex.

## 2 OBJECTIVES

- 2.1 This Annex sets out the governing principles for the Parties to facilitate the joint management of border risks in the cargo environment by:
- (a) providing a framework for mutual arrangements including the management of detained goods, unaccompanied personal effects, operation of X-ray machines, access to Integrated Cargo System (ICS) reports, and other cargo related functions and approaches;
  - (b) promoting cooperative arrangements for the development of border operations and surveillance activities involving cargo related processes and initiatives;
  - (c) encouraging greater interaction in information sharing, joint training initiatives, sharing of appropriate resources and cargo processes between the Parties;
  - (d) recognising that while each Party has individual responsibilities and functions that contribute to a whole of government approach both Parties are committed to a collaborative and complementary operational approach in the cargo environment.

## 3 KEY PRINCIPLES

- 3.1 The Memorandum and this Annex provide the basis for the collaborative working relationship between the Parties in relation to the cargo environment.
- 3.2 Customs and Border Protection and DAFF will ensure the following principles are applied:
- (a) achieving effective border management is focused on minimal disruption to trade, the prevention of the movement of prohibited goods across the border, and ensuring border integrity is not compromised;
  - (b) the use of resources is maximised and duplication is minimised to achieve whole-of-government outcomes in the processing and clearance of air and sea cargo; and
  - (c) efforts will focus on further strengthening the collaborative efforts already in place in the air and sea cargo environment, identifying and developing new areas of collaboration, leveraging risk-based knowledge in the areas of non-compliance, and access to systems, data and intelligence.

## 4 OPERATING PRINCIPLES

- 4.1 This Annex will apply in conjunction with existing agreed arrangements that provide details as to how the Parties will maintain appropriate compliance with relevant legislative requirements. These existing arrangements complement and support the objectives of this Annex.
- 4.2 The joint management of biosecurity risk in the cargo environment includes but is not limited to compliance, profiling, monitoring of third party operations, shared service delivery, reporting and information exchange.
- 4.3 Customs and Border Protection and DAFF will apply the following operating principles to deliver effective and efficient community protection, border protection management and biosecurity services in the air and sea cargo environment by:
  - (a) applying risk-based approaches to the management of border regulatory and biosecurity threats involving air and sea cargo and jointly develop strategies to minimise these threats;
  - (b) working collaboratively to facilitate legitimate trade and identify illegal importation in arriving air and sea cargo through targeted and risk-based communication programs, in alignment with the Joint Communications Annex to the Memorandum; and
  - (c) identifying new opportunities for collaboration between the Parties in the air and sea cargo environment to jointly achieve business outcomes and efficiencies.
- 4.4 Each Party will, through agreed joint activities, co-operate and as necessary act on behalf of the other Party to minimise the requirement for both agencies to intervene in the same cargo and where possible, ensure coverage in operational areas where the other Party has limited or no arrangements in place.
- 4.5 The Parties will continue their relationship in relation to the access and use of the ICS.
- 4.6 The Parties agree in principle that in circumstances where Customs and Border Protection and DAFF both have an interest in a particular consignment of goods, Customs and Border Protection's officers will have priority to first examine that consignment of goods before DAFF's risk assessment or treatment activities may be undertaken ("Dual Hold Priority Arrangement"). The Parties further agree to put in place appropriate administrative arrangements, as necessary, to facilitate and support this Dual Hold Priority Arrangement.

## 5 ACCESS TO DOCUMENTS AND INFORMATION

- 5.1 The Parties are committed to continuing collaboration in the use of their respective Information and Communications Technology systems. To underpin these arrangements, the parties will work together to ensure that appropriate arrangements for access to systems and related business continuity mechanisms are maintained.
- 5.2 Each Party will make available to the other Party documentation and information held by either agency that is essential for the proper management of the border security and biosecurity functions. This includes material which may indicate possible breaches of relevant legislation. All information exchanged between the Parties will be in accordance with Commonwealth legislation and requirements including the Privacy Act 1988 and Section 16 of the *Customs Administration Act 1985* and will only be used for the purpose it was given or a related purpose.

- 5.3 The Parties understand that they are not to disclose to any other party confidential information provided by a Party in conjunction with this Annex, except where this is required or authorised by law or is required as part of the parliamentary process. Where possible the disclosing Party will notify the other Party before doing so.
- 5.4 The Parties will ensure that their officers hold the required level of security clearance appropriate to access the other Party's information or receive information from the other Party. The Parties will consult with each other and agree on the level of security clearance required for accessing or receiving information as well as for officers to attend briefings, operations planning, gain access to facilities, including IT systems and information, and conduct required border and biosecurity activities.

## **6 GOVERNANCE AND REPORTING**

- 6.1 The Customs— DAFF Strategic Working Group (SWG) will oversight the implementation of the obligations under this Annex.
- 6.2 Proposals for joint air and sea cargo arrangements that have policy or operational implications for the Parties will be submitted to the SWG for endorsement.
- 6.3 Customs and Border Protection and DAFF will cross report within program areas on issues upon agreement by both agencies. These reports will be provided to the senior officials responsible for the oversight of the air and sea cargo operations area within the agencies. Outcomes from these reports are essential for the progressive improvement, development and streamlining of joint national operational standards, procedures and initiatives.
- 6.4 For the purposes of ensuring that each Party can effectively carry out its respective role, senior officials of Customs and Border Protection and DAFF who are responsible for oversight of the air and sea cargo operation areas will engage in regular and high level meetings at the national level. These meetings will set and monitor the strategic direction and priorities for inter-agency activity.
- 6.5 Reports of meetings between the above stated senior officials will be provided quarterly to the SWG. This will include progress reports, proposals for change and outcomes of changes to joint arrangements in relation to the air and sea cargo environment.

## **7 COSTS**

- 7.1 In accordance with clause 9 of the Memorandum, the Parties agree that each will bear their own costs in fulfilling their commitments under this Annex except where a prior written agreement has been reached by both Parties as to their sharing or apportionment.

## **8 PROCEDURAL MATERIAL**

- 8.1 The Parties may, either jointly or independently, develop Procedural Material that are consistent with this Annex.
- 8.2 Where the creation or modification of any Procedural Material by one Party may affect the other Party, Customs and Border Protection and DAFF will consult with each other and discuss any concerns to allow for the efficient operation of both Parties.

## **9 NOMINATED CONTACTS**

- 9.1 Each Party may raise matters relevant to the air and sea cargo environment with the following nominated contacts:

(a) Customs and Border Protection –

For Air Cargo: Catherine Asbridge, National Manager, Air Cargo & Detained Goods Branch, 02 8339 6600;

For Sea Cargo: Graham Krisohos, National Manager, Sea Cargo and International Mail Branch, 03 9244 8654.

(b) DAFF –

Assistant Secretary of Cargo and Shipping Branch

DAFF Switchboard Ph: +61 2 6272 3933

## **10 REVIEW OF ANNEX**

- 10.1 The Parties will review the operation of this Annex three (3) years after commencement or at such other time as mutually determined by the Parties to assess the suitability of arrangements under this Annex.

## 11 COMMENCEMENT

11.1 This Annex commences, unless otherwise specified, on:

- (a) the date it is signed by both agencies; or
- (b) the date the last agency signs, where the agencies do not sign the Annex on the same day.

## 12 DEFINITIONS

12.1 Unless the contrary intention appears, a term used in this annex has the meaning shown in the table below:

<b>Annex</b>	means this Annex made in accordance with the Memorandum;
<b>Commonwealth</b>	means the Commonwealth of Australia;
<b>Information and Communications Technology systems</b>	means any equipment, technology or interconnected system or subsystems of equipment or technology that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception, of data or information by a Commonwealth agency, or under a contract with a Commonwealth agency.
<b>Memorandum</b>	means the Memorandum of Understanding on the collaborative working relationship between the Australian Customs and Border Protection Service and the Department of Agriculture, Fisheries and Forestry signed on 21 July 2011; and
<b>Procedural Material</b>	includes Standard Operating Procedures, Instructions and Guidelines or Business Practice Statements or any procedural material made in accordance with this Annex.

## 13 MODIFICATION AND TERMINATION

13.1 This Annex can be modified or terminated by a written agreement signed by the Chief Executive Officer of Customs and Border Protection and the Secretary of DAFF or their delegates.

13.2 Unless otherwise specified, a modification or termination:


- (a) takes effect from the date the last Party signs the modification or termination; and
- (b) has no effect unless endorsed in accordance with this clause.

## 14 SIGNATURE

SIGNED at Canberra  
for and on behalf of the  
**Australian Customs and Border  
Protection Service** by

David Leonard, National Director,  
Cargo Division on

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signature  
22/2/2012  
date

SIGNED at Canberra  
for and on behalf of the  
**Department of Agriculture,  
Fisheries and Forestry** by

Mr Tim Chapman  
First Assistant Secretary, Quarantine  
Operations Division on

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signature  
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