

# ANNEX C3

## INFORMATION SHARING

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:
  - (a) facilitate the sharing of information to improve the administration and enforcement of legislation for which the Parties are responsible;
  - (b) provide a framework for mutual arrangements including an agreed collaborative approach to the sharing of information that is the subject of a legal demand for access from a third party;
  - (c) promote cooperative arrangements for the performance of statutory functions within the existing applicable legal framework;
  - (d) encourage greater interaction in information sharing, joint training initiatives, sharing of appropriate resources and work processes;
  - (e) recognise that while each agency has individual responsibilities and functions which contribute to a whole of government approach, there is a commitment to a collaborative and complementary approach to the cross agency sharing of information; and
  - (f) recognise that the foregoing principles involve particular public policy and legal responsibilities.

### 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 sharing of information.
- 3.2 The Parties will ensure that efforts will be made to focus on further strengthening the relationship in performing the statutory functions of detecting, investigating and deterring non-compliance with relevant legislation.
- 3.3 Working together, each agency will continue to take an agreed approach to the sharing of information that is the subject of a legal demand for access from a third party.
- 3.4 Each Party will liaise with the other to identify new opportunities for collaboration in relation to the sharing of information within existing legislative frameworks.

### 4 OPERATING PRINCIPLES

- 4.1 Each agency has interests in information generated by the other arising out of the performance of their responsibilities and functions and which may impact them.
- 4.2 The Parties will share information, proactively and respond to requests for information from one another. However, each acknowledges that the sharing of information is at the absolute discretion of the agency providing the information.
- 4.3 Both agencies acknowledge that the sharing of information between them is subject to the legal and operational framework which governs the generation and disclosure of that information.
- 4.4 Both also acknowledge the importance of and are committed to maintaining accurate, detailed and complete records of information shared between agencies in relation to investigations, enforcement and related matters. This includes any information provided or received in any form including in a non-documentary form, for example, information which is verbally provided.
- 4.5 The agencies agree to handle and manage all information shared in accordance with the Commonwealth's Protective Security Policy Framework.

### 5 ACCESS TO DOCUMENTS AND INFORMATION

- 5.1 Each will make available to the other documentation and information held by either agency which 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 agencies will be in accordance with Commonwealth legislation and requirements including the Privacy Act 1988 and section 16 of the *Customs Administration Act 1985* which will only be used for the purpose it was given or a related purpose.
- 5.2 The agencies 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.

- 5.3 Each agency disclosing information will ensure that the security classification, including any caveat or handling instruction, is clearly identified when doing so.
- 5.4 Both agencies will ensure that their officers hold the required level of security clearance appropriate to access or receive the other's information. The agencies 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 and gain access to facilities as required, for border and biosecurity activities.

## **6 GOVERNANCE AND REPORTING**

- 6.1 The Customs— DAFF Strategic Working Group (SWG) will oversight the implementation of the responsibilities under this Annex and all information sharing arrangements between the agencies.
- 6.2 Proposals for information sharing arrangements that have policy or operational implications will be submitted to the SWG for endorsement.
- 6.3 For the purposes of ensuring that each agency can effectively carry out their respective roles, senior officials of Customs and Border Protection and DAFF who are responsible for investigation, enforcement and compliance 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.
- 6.4 Reports of meetings between the above stated officials will be provided half yearly or in such period as agreed by the DAFF- Customs Strategic Working Group (SWG) for information. This will include progress reports, proposals for change and outcomes of changes made to the information sharing arrangements.

## **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 in accordance with clause 10 of the Memorandum.
- 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 agency may raise matters relevant to information sharing with respect to their responsibilities and functions with the following nominated contacts:

- (a) Customs and Border Protection –  
National Manager, Intelligence Branch  
Switchboard Ph: 1300 558 287
- (b) DAFF –  
Assistant Secretary, Business Assurance and Risk 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 Parties; or
- (b) the date the last Party signs, where the Parties 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:

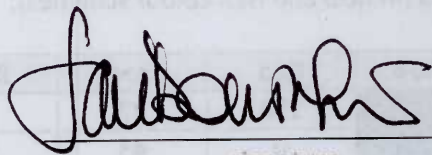
<b>Annex</b>	means this Annex made in accordance with the Memorandum;
<b>Commonwealth</b>	means the Commonwealth of Australia;
<b>Memorandum</b>	means the Memorandum of Understanding on the collaborative working relationship between the Australian Customs and Border Protection Service and the Department 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 Jan Dorrington  
National Director, Intelligence &  
Targeting Division



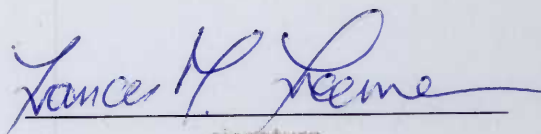
signature

on

15 April 2012

date

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



signature

**Fran Freeman**  
First Assistant Secretary, Government  
Division on

2 April 2012

date



**VERSION CONTROL**

Version:	Date:	Author:	Comments:	Cleared by:	Date:	Comments:
0.1						
0.2						

**NOTE:**

- A new version of the document must be created each time any major changes are made.
- Versions "0" are draft versions.
- Versions "1" are versions forwarded to the CEO for approval.
- Versions "2" are versions for publishing.

**Corporate Colours (in RGB and HEX colour schemes):**

Colour Scheme: RGB	Red	Green	Blue	HEX colour scheme
<b>RED</b>	158	27	50	002B46
<b>BLUE</b>	0	43	70	9E1B32
<b>GREY</b>	153	139	125	998B7D