

ANNEX

SEA TRAVELLER PROCESSING AT CRUISE PASSENGER TERMINALS AND WHARF SIDE

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;
 - (b) an opportunity to ensure that there is a nationally consistent approach to their working relationship on specific matters outlined in this Annex; and
 - (c) applying only in relation to travellers arriving on board cruise ships.

2 OBJECTIVES

- 2.1 DAFF and Customs and Border Protection will collaborate in the sea traveller processing environment at cruise passenger terminals and wharf side to achieve the following objectives:
 - (a) establish efficient and streamlined border management, policy and procedures that aim to minimise intervention of compliant sea travellers;
 - (b) provide complementary operations that eliminate duplication and provide value for money to the Commonwealth;
 - (c) share processes, facilities, capability, information and intelligence, including access to shared systems, data and resources, to
 - (i) identify and respond to sea traveller related border risks, and
 - (ii) improve sea traveller compliance with legislation and regulations administered by DAFF and Customs and Border Protection;
 - (d) support legitimate travel while protecting the Australian community from a range of border risks; and
 - (e) develop and maintain effective working relationships in the sea traveller processing environment.

3 KEY PRINCIPLES

3.1 Customs and Border Protection and DAFF will:

- (a) focus on minimising disruption to legitimate travel while preventing the movement of prohibited goods across the border;
- (b) maximise opportunities to achieve cost and resource efficiency by considering joint procurements and/or usage of resources, including technology skills, training facilities and infrastructure;
- (c) develop and implement joint strategies for both internal and external communications relating to the processing and clearance of sea travellers;
- (d) seek opportunities to actively promote collaboration to achieve joint business outcomes and efficiencies;
- (e) recognise the obligations of each Party in administering their respective legislation, risk and responsibilities; and
- (f) act cooperatively and collaboratively to enhance the effectiveness of each Party's performance.

4 OPERATING GUIDELINES

4.1 DAFF and Customs and Border Protection will deliver effective and efficient border security and biosecurity management in the sea traveller processing environment by:

- (a) seeking to jointly increase the compliance rate of arriving international sea travellers through targeted and risk-based operating approaches, including collaborative communication programs consistent with the Joint Communications Annex;
- (b) identifying new opportunities for collaboration in the sea traveller processing environment to jointly achieve business outcomes and efficiencies; and
- (c) facilitating a collaborative approach to managing resources, negotiating with external parties when procuring or developing resources and focusing effort on:
 - (i) detecting and acting on higher risk non-compliant behaviour by sea travellers;
 - (ii) detecting and acting on higher risk goods not voluntarily declared or presented to officers by sea travellers;
 - (iii) detecting non-compliance to encourage compliant behaviour by sea travellers;
 - (iv) facilitating the clearance of voluntarily declared and presented goods; and
 - (v) facilitating the clearance of compliant sea travellers who are not persons of interest.
- (d) Customs and Border Protection and DAFF commit to a regular review of areas where resourcing, new priority settings, and legislative change is leading to concerns for the agencies.

5 GOVERNANCE AND REPORTING

- 5.1 DAFF and Customs and Border Protection will meet regularly to discuss, develop and evaluate opportunities for collaboration.
- 5.2 The Customs and Border Protection — DAFF Strategic Working Group (SWG) will be regularly updated on performance against principles and guidelines agreed in this Annex.

6 INFRASTRUCTURE

- 6.1 DAFF and Customs and Border Protection will work collaboratively in negotiations with the terminal operator and other relevant stakeholders in relation to the use of infrastructure and facilities in the sea traveller processing environment. This will occur in conjunction with any established whole-of-Government principles and approach.
- 6.2 Where applications for new cruise passenger terminals are submitted, DAFF and Customs and Border Protection will work collaboratively to ensure that the risks of both agencies are addressed, in conjunction with any established whole-of-government principles and approach.

7 OPERATING GUIDELINES - ACTIVITIES THAT MAY OCCUR IN MULTIPLE LOCATIONS

- 7.1 DAFF Risk Assessment Officers will operate at pre or post Entry Control Point (ECP), or prior to traveller disembarkation, to assess and select sea travellers for screening and to assist travellers to complete their quarantine clearance formalities.
- 7.2 During periods of heightened human health risk at Australia's border, DAFF officers will be deployed at various locations within the terminal to screen sea travellers prior to their arrival at the ECP for prescribed symptoms and take necessary actions to contain identified persons exhibiting prescribed symptoms of human health risks.
- 7.3 Deployment of DAFF and Customs and Border Protection Detector Dog Teams occurs in various locations throughout cruise passenger terminals and wharves and is guided by the principle that:
 - (a) Where it is contemplated that Customs and Border Protection and DAFF detector dog teams are to work in the same area, it will be the responsibility of the respective handlers to clear the operation through their Detector Dog Unit Team Leaders who will determine the appropriate operational arrangements in conjunction with DAFF and Customs and Border Protection duty supervisors.

- 7.4 Visual inspection of goods voluntarily produced from a sea traveller's hand baggage to resolve dog reactions or in response to officers' questions is acceptable, but baggage examinations are only to be conducted at an appropriate baggage examination bench within the secondary examination area.
- 7.5 Open lines of communication between DAFF officers and Customs and Border Protection officers are to be maintained at all times to ensure effective management and processing of the arriving sea traveller flow.
- 7.6 Where an agency has placed goods under their control through the use of an official seal or evidential tape, prior approval is required for the other agency to examine those goods.

8 OPERATING GUIDELINES PRE-ARRIVAL

8.1 Pre-Arrival

Applications for the approval of a cruise ship, sea travellers and/or goods to visit a port other than a proclaimed port and/or restricted or minor port, or a port without a permanent border agency presence will be assessed and processed collaboratively in a timely manner.

This should occur through the appropriate sea traveller processing committee, subject to the terms of reference for that committee and in accordance with the whole-of-Government principles and approach.

8.2 Gangway and Entry Control Point (ECP)

- (a) DAFF will provide and maintain Amnesty Bins in designated areas as agreed with the terminal or wharf owner/operator. DAFF Biosecurity is responsible for the clearance of Amnesty Bin contents and unless otherwise agreed, Customs and Border Protection will attend all bin clearances.
- (b) Where appropriate, DAFF and Customs and Border Protection will explore the opportunity to use joint signage (including electronic) and will work collaboratively with terminal operators to achieve this.
- (c) Customs and Border Protection officers will process sea travellers at the Entry Control Point (ECP), performing agreed sea traveller assessments.
- (d) Customs and Border Protection will facilitate, to the extent possible, DAFF's performance of its functions and responsibilities, on behalf of DoHA, during periods of heightened response to human health risks.

9 OPERATING GUIDELINES - SECONDARY SCREENING AND PROCESSING

9.1 Secondary Examination Area and Exit Marshal Points

- (a) Customs and Border Protection will provide marshals for the secondary examination area entry queue and exit points and will be responsible for managing the flow of sea travellers through the secondary examination area, in conjunction with the terminal operator and in collaboration with DAFF.

- (b) Customs and Border Protection will perform marshal functions in collaboration with DAFF to ensure sea traveller processing and clearances are effectively and efficiently managed to deliver the desired outcomes for both agencies.
- 9.2 Joint management of seasonal peak period congestion will also be determined on a local basis in consultation with the terminal or wharf operator and the cruise passenger lines. Arrangements will be consistent with respective national operational policies.

10 OPERATING GUIDELINES - BAGGAGE EXAMINATION AREA

- 10.1 DAFF and Customs and Border Protection are committed to continue referring items of interest, detected during the screening of imported goods, to each other for assessment. To this end, DAFF and Customs and Border Protection will establish local arrangements.
- 10.2 Use of X-ray Equipment
- DAFF and Customs and Border Protection are committed to rationalising the use of X-ray equipment for baggage screening. The operation and positioning of X-ray equipment will be agreed between DAFF and Customs and Border Protection, in consultation with terminal or wharf operators, to optimise the support of operational requirements.
- 10.3 Use of Inspection Bench Facilities
- DAFF and Customs and Border Protection will optimise the use of baggage inspection benches in the secondary examination area.
- 10.4 Inspection and Referrals
- (a) In principle, Customs and Border Protection and DAFF will take responsibility for examining their respective declarants (in relation to their declarations on the passenger cards) and selections of declarants for further Customs and/or DAFF assessment.
 - (b) Protocols for clearing “Not Understood” (NU) travellers will be determined at individual ports between local Customs and Border Protection and DAFF officers.
 - (c) The agencies agree to refer to each other, suspected travellers or goods relevant to the other agency’s jurisdiction, including non-compliant travellers or goods that may have been imported in contravention of the other agency’s legislation.
 - (d) DAFF and Customs and Border Protection agree, where possible, to provide appropriate staffing levels at the baggage examination areas to ensure that sufficient number of officers are available to assume responsibility for cases where an inspection by one agency requires action by the other in relation to any goods inspected.
 - (e) Where appropriate training and guidance has been provided, and appropriate agreements are in place between the agencies, Customs and Border Protection may release identified low risk goods to sea travellers in order to minimise double handling and streamline the clearance process.

11 REVENUE COLLECTION

- 11.1 Revenue collection will be undertaken in accordance with the Cost Recovery Arrangements and Revenue Collection annex.
- 11.2 In the instances where Customs and Border Protection has a dedicated Duty Collector available, Customs and Border Protection will receive DAFF infringement notice payments and goods treatment fees at the time of issuance and issue receipts to travellers.
- 11.3 In circumstances where Customs and Border Protection does not have a dedicated Duty Collector, DAFF will arrange with the traveller an appropriate method to collect fees related to biosecurity treatments.
- 11.4 DAFF officers will issue infringement notices as appropriate. Where a 'deferred payment' infringement notice is issued, payment will only be receipted by DAFF.
- 11.5 Customs and Border Protection will provide DAFF with a quarterly reconciliation statement of revenue collected within mutually agreed deadlines. Both agencies acknowledge the need for additional ad hoc reports from time to time and the provisioning party will endeavour to deliver the report.
- 11.6 Both agencies acknowledge that their obligations and responsibilities in this clause 11 are to be carried out in accordance with and subject to the *Financial Management and Accountability Act 1997* and the agencies' guidelines and terms of agreement, if any, in relation to revenue collection.

12 NON-COMPLIANCE ACTION

- 12.1 Joint DAFF and Customs and Border Protection prosecutions, will be undertaken through the Australian Government Solicitor (AGS) for summary matters.
 - (a) DAFF and Customs and Border Protection will assess the viability of each case and determine if a matter should be referred to AGS for further action in the courts.
 - (b) For offences under Quarantine legislation, DAFF will make the final decision whether to commence legal action against the offenders. DAFF will bear the cost incurred including legal costs as invoiced or advised by AGS, in any such action taken.
 - (c) Where the non-compliance involves a breach of Quarantine legislation only, and there is no evidence of a Customs and Border Protection offence, DAFF and Customs and Border Protection acknowledge that referral to the Commonwealth Director of Public Prosecutions may be required following investigation. In these situations the agencies will consult to determine the most appropriate course of action.
 - (d) Wherever possible, Customs and Border Protection will facilitate a record of interview when requested by DAFF to help determine and establish an offence, unless both agencies agree that particular circumstances exist that prevent this function from being achieved.
 - (e) Where a 'more serious' offence is established, Customs and Border Protection may prepare appropriate records of the interview and briefs of evidence in consultation with DAFF.
 - (f) DAFF will provide Customs and Border Protection with written authorisation to proceed with an action.

- (g) DAFF is responsible for the seizure of any prohibited biosecurity goods and for the security of any biosecurity-risk exhibits or evidence to be produced in Court.
- (h) DAFF's Investigations and Enforcement Program may request Customs and Border Protection's assistance in incidents involving an offence under the *Quarantine Act 1908*. Where possible, Customs and Border Protection will provide assistance upon such requests. Subsequent prosecution may either be conducted by DAFF through the Commonwealth Director of Public Prosecutions or through Customs and Border Protection and the AGS.

13 TRAINING

- 13.1 DAFF and Customs and Border Protection will provide each other with the necessary training to:
 - (a) promote an understanding of their respective functions at cruise terminals or wharves and the controls used in the management of risks; and
 - (b) facilitate the referral of sea travellers or items of interest to the other Party.
- 13.2 DAFF and Customs and Border Protection will provide specific training for those functions that are performed on their behalf by the other agency, as identified or agreed by both agencies.
- 13.3 Each will develop content, format, learning outcomes and assessment criteria to facilitate and deliver cross or joint agency training as identified in clauses 13.1 or 13.2.
- 13.4 The agencies agree not to assign any of their officers or employees to a position where the other agency's functions and duties are performed until agreed training has been completed. This may include the completion of refresher training.

14 DATA COLLECTION

- 14.1 DAFF and Customs and Border Protection will explore opportunities for sharing data captured to minimise or eliminate duplication of Commonwealth effort and resources.
- 14.2 DAFF and Customs and Border Protection will share or exchange data on a timely basis as agreed at the national level and in line with the Information Sharing annex.

15 ACCESS TO DOCUMENTS AND INFORMATION

- 15.1 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.
- 15.2 All information exchanged between the agencies will be in accordance with Commonwealth legislation and other 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.
- 15.3 Each agency, when disclosing information to the other, will ensure that the security classification, including any caveat or handling instruction, is clearly identified when doing so.
- 15.4 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.

16 COSTS

- 16.1 The agencies agree that each will bear their own costs in fulfilling their commitments under this Annex, except where written agreement has been or will be reached by the agencies as to their sharing or apportionment.
- 16.2 In accordance with clause 12.1 (b), DAFF will pay costs as advised by the AGS, relating to DAFF prosecutions.

17 PROCEDURAL MATERIAL

- 17.1 The agencies may either jointly or independently develop Procedural Material that is consistent with this Annex in accordance with clause 10 of the Memorandum.
- 17.2 Where the creation or modification of any Procedural Material by one agency may affect the other agency, Customs and Border Protection and DAFF will consult with each other and discuss any concerns to allow for the efficient operation of both agencies.

18 NOMINATED CONTACTS

- 18.1 Each agency may raise matters relevant to the sea traveller environment with the following nominated contacts:
 - (a) Customs and Border Protection –
National Manager, Enforcement Operations, 02 6246 1344
 - (b) DAFF Biosecurity
Assistant Secretary, Passengers and Mail Branch, 02 6272 5499
DAFF Switchboard Ph: +61 2 6272 3933

19 REVIEW OF ANNEX

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

20 COMMENCEMENT

- 20.1 This Annex commences, unless otherwise specified, on:
- (a) the date it is signed by both Parties; or
 - (b) the date the last Party signs.

21 DEFINITIONS

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

Annex	means this Annex made in accordance with the Memorandum;
Commonwealth	means the Commonwealth of Australia;
Customs and Border Protection	means the Australian Customs and Border Protection Service;
Cruise Ship	means a ship that: <ul style="list-style-type: none"> (a) has sleeping facilities for at least 80 persons (other than crew members); and (b) is being used to provide a service of sea transportation of persons from a place in Australia to a place outside Australia, or from a place outside Australia to a place in Australia, that: <ul style="list-style-type: none"> (i) is provided in return for a fee payable by persons using the service; and (ii) is available to the general public.
DAFF	means the Department of Agriculture Fisheries and Forestry;
DIAC	means the Department of Immigration and Citizenship;
DoHA	means the Department of Health and Ageing;
Entry Control Point (ECP)	means the point that is controlled and operated by Customs and Border Protection and/or DIAC and at which point passengers and crew are immigration cleared;
Information	means data, whether or not processed or analysed, and documents, reports, and other communications in any format, including electronic, or certified or authenticated copies of such data;
Joint Communication Annex	means the Joint Communication Annex between DAFF and Customs and Border Protection made pursuant to the Memorandum and signed by the last Party on 17 November 2011;
Memorandum	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 21 July 2011; and
Procedural Material	includes Standard Operating Procedures, Instructions and Guidelines, Business Practice Statements or any procedural material made in accordance with this Annex.

22 MODIFICATION AND TERMINATION


- 22.1 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.
- 22.2 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.

23 SIGNATURE

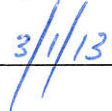
SIGNED at Canberra
for and on behalf of the
**Australian Customs and Border
Protection Service** by

Demetrio Veteri
Acting National Director
Compliance and Enforcement
Division, on

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signature




date


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

Tim Chapman
First Assistant Secretary
Border Compliance Division , on

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signature



date




VERSION CONTROL

Version:	Date:	Author:	Comments:	Cleared by:	Date:	Comments:
0.1	06 Sep 2011	DAFF				
0.2	23 Oct 2012	Customs and Border Protection				
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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
RED		158	27	50	002B46
BLUE		0	43	70	9E1B32
GREY		153	139	125	998B7D