



# Bare Facts

Number 21

Published by J.J. Lawson - Customs and Freight Brokers



## Matt's top tip



### CARGO REPORTING AND ASSEMBLY ORDERS

There has been much discussion within the Customs Broking and Freight Forwarding industry concerning the release by the Australian Customs and Border Protection Service (AC&BPS) of AC&BPS Notice 2013/20 which advised that the AC&BPS was reversing its policy of not issuing infringement notices in regard to incorrectly reported cargo.

The responsibility for reporting imported cargo falls on the cargo reporter (usually the shipping company or freight forwarder or their representatives in Australia).

The most concerning aspect of this change is the AC&BPS' approach to the reporting of 'assembly orders'.

Put simply, 'assembly orders' is a cargo reporting term used by the AC&BPS to describe a situation whereby a freight forwarder, shipping company or importer sends multiple 'consignments' to Australia in one container or as one shipment.

For cargo reporting purposes a 'consignment' refers to goods sent by a supplier located outside Australia to an ultimate recipient in Australia.

Please note that the AC&BPS does not consider a freight forwarder or overseas distribution centre that merely consolidates shipments for an importer to be the supplier for cargo reporting purposes.

#### Cargo Report for FCL Consignments

Where a Full Container contains only goods from one supplier to one importer and if there is more than one order and the orders are not paid separately, this is an FCL Consignment and there are no changes to current cargo reporting requirements.

#### Cargo Reporting for FCX Consignments:

An FCX Consignment refers to an FCL containing goods from multiple suppliers to one importer.

For example, an Australian importer arranges for a full container to be packed overseas with goods from three different overseas suppliers - this is usually referred to as an FCX consignment.

In this example, under the cargo reporting requirements of the Customs Act, this FCX shipment would constitute three consignments and the cargo reporter needs to separately report each consignment.

Continued on page 2



## China's New Tax Policy

A New Tax Policy concerning China's Value Added Tax (VAT) came into effect on 1st August 2013.

The Ministry of Finance and State Administration of Taxation issued Cai Shui Chinese National Fiscal and Tax Policy (Circular No 37).

This notice proposes that the pilot program that was implemented in Shanghai at the beginning of last year, and then other regions throughout China, will now be implemented as part of a Nationwide VAT reform.

In compliance with the above-mentioned policy, an additional six percent VAT will be levied on any prepaid Freight and local Chinese charges (pre-carriage, warehousing, port charges, handling fees, etc).

We will monitor the implementation of this policy and update clients on any changes that may occur in the early stages.

If you require further information, please contact  
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on AQIS machinery  
update!





# Matt's top tip

Continued from page 1

When this problem arises, the AC&BPS has advised it will not permit the cargo reporter to use a 'dummy' number to report the other shipments but requires the use of alternate identifying numbers that have some relevance to the shipment documentation, requiring the shipping company or freight forwarder to identify or create alternate identifying numbers.

This requires the customs broker to ascertain the alternate identifying numbers used by the cargo reporter, so that they can be included in the Customs Entry to generate a release in the Customs computer system.

Just to throw an additional spanner in the works, in a recent fact sheet released by the AC&BPS, it is advised that an FCL container containing multiple orders from the same supplier to the same importer, where the orders have multiple import invoices that are to be paid separately, must be dealt with as an FCX shipment rather than FCL and each consignment must be reported separately. Therefore, the cargo reporter must be informed if there is more than one consignment in a container.

Quite often the cargo reporter will not know that there are multiple consignments in a container. It may not be discovered until the customs broker prepares the Customs Entry identifying that there are multiple suppliers.

In this instance, the AC&BPS has not explained what happens next, as there is no legal responsibility on the customs broker to advise either the cargo reporter or the AC&BPS about this situation, other than lodge the Customs Entry with the multiple supplier details.

Yet the AC&BPS has advised that they may issue Infringement Notices and fines against the cargo reporter for failing to correctly report the consignments.

Further, where it becomes apparent after the Cargo Report has been lodged that there is more than one consignment in a shipment, the Cargo Report needs to be amended, changing the container status from FCL to FCX (where necessary) and include the new alternate identifying numbers.

If the Customs Entry has been lodged this will also need to be amended.

This creates additional work for everyone in the logistics chain and raises the possibility of delays in delivery of the cargo.

It would be fair to assume that importers may start seeing requests from various parties in the importing chain for information on the number of consignments in a shipment and warnings that, if the information is not supplied in a timely fashion, additional costs may be incurred.

For FCX type shipments these issues do not present as big a problem as will now arise for LCL cargo.

## Cargo Report for LCL Consignments

Where a shipment is a traditional LCL shipment – where an overseas freight forwarder packs consignments from multiple suppliers to multiple importers in a shipping container and issues a Bill of Lading for each consignment – there is no change as to how these are currently handled with each consignment being separately reported and a separate Customs Entry completed.

However there are two other possible situations that are now completely different:

- (a) Where multiple consignees ship to a single importer. If these consignments are not sufficient to make up an FCX shipment they are often shipped as LCL cargo, under one House Bill of Lading.

When this occurs and only one House Bill of Lading is prepared, some freight forwarders report these shipments as one consignment. This means only one Customs Entry is required.

With the AC&BPS enforcing the requirement that each supplier/importer combination must be separately reported, LCL shipments will require each LCL consignment to have a separate Customs Entry lodged, as the Customs Computer System will not handle multiple House Bills on one Customs Entry (this is different to FCX shipments where Customs Entries with multiple House Bills of Lading can be lodged).

- (b) Where a single consignee or multiple consignees send goods to multiple importers in an FCL Consignment arranged by one importer. This may come about where an importer in Australia has spare room in a Full Container that they are having prepared overseas, and
  - a. The Australian importer agrees to allow goods for a related company to be packed in that container; or
  - b. for a staff member to have personal goods packed in that container; or
  - c. is doing a favour for a customer by allowing them to ship a small consignment

- in the container; or
- d. a person imports goods for their business and other goods for their personal use; or
- e. any other similar permutations.

This is now not an FCL consignment nor is it an FCX consignment, it is an LCL consignment.

As a result,

- (a) multiple cargo reports need to be lodged for each consignor/importer combination;
- (b) separate Customs Entries are required for each consignor/importer combination; and
- (c) the container will not be delivered to the consignee named on the Original Bill of Lading but it must be delivered to container unpack depot, unpacked with separate outturn reports created and lodged and the cargo is delivered loose from the unpack depot.

This situation is not as rare as it might seem, particularly where either personal use goods are imported with business use goods or where the importer has goods delivered directly to their end customer and samples for someone else packed in the container.

## Addendum

We attended a seminar run by the AC&BPS on 20 August and it seems that the AC&BPS is blaming importers' business models for all these problems and that to overcome these issues, the importer needs to advise either their supplier or their freight forwarder/shipping company to issue multiple Bills of Lading (House or straight bills) for each supplier/importer combination in their container.

Further, the AC&BPS advised that

- where Bills of Lading for each supplier/importer combination cannot be obtained, they require evidence by way of an email or other trail to show that attempts have been made to obtain such; and
- if satisfactory compliance cannot be achieved, their ultimate sanction is to refuse to release goods until their requirements have been satisfied.

The legality of some of the AC&BPS requirements is definitely at issue. We will keep you informed.

A copy of the AC&BPS Fact Sheet "Cargo Reporting and Clearance Requirements" can be found at,

<http://www.customs.gov.au/webdata/resources/files/FactSheet-cargoreportingandclearancerequirementsAugustFINAL.pdf>

## Dumping

On 1 July 2013, the administration of Australia's Anti-Dumping system was passed to the newly created Anti-Dumping Commission so all applications for the imposition of dumping and countervailing duties are now handled by the new commission. The AC&BPS is now only charged with collecting these duties.

This is a good thing as the AC&BPS was really in an unacceptable position under the old regime. They had a section set up that would monitor imports and advise the steel industry about possible dumping situation and another section would advise and assist local manufacturers in preparing dumping duty applications. Yet another section would then determine if the dumping duty application was valid and then investigate the dumping complaint. Finally, the AC&BPS would determine the amount of dumping duty payable and then collect it.

On a related issue, the AC&BPS recently distributed a media release advising that they have been executing search warrants relating to the evasion of dumping and countervailing duties on aluminium road wheel (mag wheel) imports from China. The AC&BPS allege that importers were trying to by-pass the dumping and countervailing duties by shipping these wheels through third-party countries.

Importers of goods subject to dumping and countervailing duties should be aware that shipping such goods via third-party countries in an attempt to avoid payment of these duties is fraught with danger as the AC&BPS has a monitoring regime in place to detect such imports.

## New Dumping Investigations

- Currants, processed dried, from Greece – review of existing measures
- Power transformers from China, Indonesia, Korea, Taiwan, Thailand and Vietnam – new investigation.
- Tomato products, prepared or preserved from Italy – new investigation.
- Peach Products, prepared or preserved from South Africa – new investigation.

The Dumping Inquiry into Formulated Glyphosate from China has been terminated.

## Australia-US Free Trade Agreement (AUSFTA) – Consignment Provisions.

The AC&BPS recently released AC&BPS Notice 2013/30 in which they advised that they were amending their interpretation of the Consignment Provisions of the AUSFTA to more closely reflect the provisions of the Customs Act.

The Consignment Provisions prescribe certain circumstances under which US Originating Goods will not be entitled to the Duty Free and Reduced Duty rates

under the AUSFTA.

Under the Consignment Provisions, if goods are transported through a third country (not Australia or the US) and “undergo operations other than unloading, reloading or operations to preserve it in good condition or any other operation that is necessary for the good to be transported to Australia” they will cease to be US Originating Goods.

Under a previous ACN 2004/39 the AC&BPS advised that packing and packaging were acceptable operations that did not fall foul of this rule. The AC&BPS have now removed this concession.

What we think this means is that if you have US Originating Goods that are packed or packaged in a third country, this does not automatically disqualify the goods from being US Originating Goods but rather that the circumstances of any “packing or packaging” will need to be examined.

The AC&BPS offers an Origin Ruling Service that can be utilised to resolve any uncertainty. Please let us know if this applies to your imports and we can discuss the issue further.

### Transfer Pricing

In AC&BPS Notice 2013/19, the AC&BPS advised that it has re-issued its Transfer Pricing Policy Practice Statement – a copy of which can be found at [www.customs.gov.au](http://www.customs.gov.au) website.

So, just a quick reminder that those companies who import from related overseas entities need to ensure that the sales pricing between the two companies should reflect arms-length pricing for Customs Valuation purposes. If they do not, please let us know so that we can discuss your options with you.

### Prohibited Imports

The AC&BPS recently removed the Import Restrictions on Oil of Wormwood and preparation thereof, as well as Xylitol and preparations thereof.

Control of these products will now be via the Food Standards Code and the Therapeutic Goods Act.

### Quarantine

DAFF has recently advised:

- That the Low Risk Wooden Articles Program is to come under the control of the Import Permits System from 6 September 2013.
- That due to recent risk assessments DAFF advise that the following items can be imported for **personal** use with an import permit,
  - Meat Jerky / Biltong – commercially packaged, up to 1 kg.
  - Mooncakes containing egg (commercially packaged up to 10 kgs) – mooncakes containing meat still require an import permit.
  - Manufactured articles containing oyster shell (this also applies now to commercial imports).
- Of an increase in imports of used machinery with unacceptable levels of contamination and have refused entry to at least seven shipments. Please ensure that any used machinery you import has been properly cleaned prior to export.

You may sometimes wonder why we are so nit-picky on packing declarations and treatment certificates. Recently, a Customs Brokerage in Victoria was suspended by DAFF from the Non-Commodity For Containerised Cargo Clearance Scheme and the AEP for Commodities Scheme.

This meant that this Brokerage was required to present DAFF with the import documents for every FCL, FCX and LCL shipment they were clearing to have the shipments manually processed until the suspension was lifted. It did not matter whether the shipment contained goods that were subject to the Quarantine or not.

Until next time....  
Matt McAuliffe

Tough!



Tough!



# AQIS Machinery update

On Monday 23 September 2013, DAFF (formerly AQIS) placed a notice on their website stating that, as from Tuesday 24 September, it was amending the Tariff Classifications covered by their profile for machinery and machinery parts (including vehicles and vehicle parts) imported by air or sea-freight. By Friday it had been withdrawn. However DAFF advise it will be implemented early next year.

This will result in, importers of machinery or machinery parts covered by the profile having to obtain a new and unused declaration from their supplier for those goods that are new and unused.

The declaration should state the following:

‘The machinery, equipment and/or parts are new and have not been field tested or factory trialled.’

This declaration can either be on the import invoice or on a separate declaration provided by the supplier.

If the declaration is provided on the invoice, the invoice must,

- State ‘the machinery, equipment and/or and parts are new and have not been field tested or factory trialled’.
- Contain the suppliers name and address
- Be signed
- Be dated
- Contain the name and position of the person in the company who signed the invoice.

If a separate declaration is to be provided, please contact us for the recommended format. When the changes are implemented, failure to provide either of these declarations will cause shipments to be delayed until the declaration is provided, or the shipment will be directed for a quarantine unpack and inspection.

Even if there is only one component that falls within one of the Tariff Classifications selected by DAFF, this declaration is required.

We advise that it is in your best interest to start making this new and unused declaration a document that is issued for every shipment of machinery and machinery parts, including vehicles and vehicle parts. Even if you do not have goods covered by this profile in a particular shipment, you may have them in future shipments so we believe it is best to get your suppliers into the practice of issuing this document for each shipment.

If you require further information, please contact  
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## BEAR BITS



While many Russians find pleasure in vodka, Russia's bears, no longer able to resist the sweet temptation of gasoline, have found themselves suffering from a good old-fashioned jet fuel addiction.

More specifically, it's the bears living on the Kronotsky Nature Reserve that have taken to huffing jet fuel out of old barrels until they're woozy enough to hit the ground. The adorable, 1,200 pound junkies will even go so far as to actively stalk helicopters for their fix, scavenging for and sucking up any excess fuel as it leaks onto the soil.

And this isn't our large, furry friend's first foray into the world of vice—Ukrainian bears already have a reputation for going a little too heavy on the sauce. While an intervention is clearly in order, it might even help to stop leaving barrels full of discarded jet fuel lying around nature reserves!

So Russian bears, remember: you're not bad bears - you've just made some bad decisions. Stay tough—don't huff!

(source: gizmodo.com)

Tough!







# Meet the Bears!



## **Nathaniel Alfonso - Customs Manager AKA - Thansi, N-man**

**Has been at JJL since...**  
*March 1994*

**The best thing about my job is...**  
*seeing a JJL truck on the road means that we have done our part in the supply chain. And that is what we are good at – here at JJL we always deliver.*

**My biggest work achievement to date is...**  
*passing the national exams. There were a lot of sacrifices leading up to that one. And more importantly being given the privilege to head the Customs department.*

**My ideal weekend would be...**  
*deep sea game fishing and actually catching one (and not just passing out on deck!)*

**The most amazing thing I ever saw...**  
*was the Empress Falls in Katoomba in full flight. It was a two hour trek but well worth the pain.*

**To me, sport is all about...**  
*the control of the TV remote on a Saturday night.*

**I really admire...**  
*Bear Grylls – tenacious and gritty (and they are just the things he eats trying to survive!)*

**When I'm driving around, I'm listening to...**  
*80's music*

**Don't talk to me about...**  
*the LA Lakers 2012 season dubbed Dwightmare*

**In ten years time...**  
*visiting the lost Inca city of Machu Picchu*

**All I want for Christmas is...**  
*2014 Sydney New Year's Day Ashes Tickets*

**What I like most about working for JJL...**  
*the people working at JJL – they are interesting, engaging, always supportive and a real pleasure to work with.*



## **On the Net**

*This and previous Bare Facts Issues are also available for download from [www.jjlawson.com.au](http://www.jjlawson.com.au)*



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