

## **The Australian Accredited Client Program – A Work in Progress**

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Partnership arrangements between customs and industry are becoming commonplace around the globe. The partnership approach is seen to be a particularly successful one in that it provides a range of tangible commercial benefits to those companies that can demonstrate a high level of compliance with customs requirements. A key compliance benefit is the willingness displayed by industry to invest in those systems and procedures which impact on their compliance levels, in order to achieve the benefits of the partnership arrangements.

From their inception, implementation of the industry partnership arrangements, the Accredited Client Program, represented a major element in the reform agenda of the Australian Customs Service. A decade later, however, Australia is yet to see its first Accredited Client.

### **The Concept**

In 1994, following a major review of the Australian Customs Service<sup>2</sup>, the Minister responsible for Customs convened a panel of industry representatives to assist in the development of an effective compliance management strategy. The panel's report<sup>3</sup> proposed an approach to compliance management which not only recognised the need to balance enforcement with assistance, but also recognised the benefits of establishing partnership arrangements with the international trading community.

In 1997 the concept of partnerships with industry was formally announced through the release of the Customs Cargo Management Strategy<sup>4</sup>. Under the proposed partnership arrangements, those companies with a demonstrated record of compliance would not be subjected to the same level of scrutiny as those with a history of poor compliance. As a consequence, a key element of the strategy sought to provide highly compliant companies with more latitude to self-assess their revenue liability, by relying primarily on their internal accounting systems and procedures. This in turn, it was argued, would provide compliant companies with a high degree of flexibility in the way in which they would interact with Customs.

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<sup>2</sup> Australian Customs Service 1993 *The Turning Point*, Review of the Australian Customs Service, Australian Government Publishing Service, Canberra.

<sup>3</sup> Australian Customs Service 1995 *Looking to the Future - Compliance Improvement*, Report of the Industry Panel on Customs Audit Reforms. Australian Customs Service, Canberra

<sup>4</sup> Australian Customs Service 1997 *The Cargo Management Strategy*, Australian Customs Service, Canberra

A key element of the proposed new strategy was the need for the relationship between customs and industry to be one of partnership and trust. That is, one which reflects a mutual commitment to accountability and improving compliance. Such partnerships, as the term implies, must be a two-way thing. There will inevitably be costs and responsibilities for both parties. Those companies which propose to enter into such partnerships must, for example, be prepared to open up their operation to analysis by auditors. They also need to advise of any changes to their systems or operations which may impact on the customs assessment of their level of compliance.

On the other side of the partnership equation, customs is seeking to create an environment in which companies can maximise their entitlements and meet their obligations for revenue payment and trade compliance with minimum commercial impact. Equally, they are seeking to provide companies with the means to achieve certainty and clarity in assessing their liabilities and entitlements, to allow them to conduct subsequent business without fear of additional imposts after the transaction is concluded and the opportunity to recover costs has passed. In other words, no unpleasant surprises.

At the time of its inception, industry played a major role in identifying a range of tangible benefits which should made available under the partnership arrangements, including:

- Facilitated clearance of cargo
- Periodic accounting, as opposed to transaction-by-transaction accounting
- Duty deferral arrangements
- Off-setting arrangements under which companies would self-assess any refunds or other moneys due, and pay the net amount to customs
- Establishment of a customs ‘account manager’ to provide the company with a single national point of contact within the customs administration.

A more global benefit which was being pursued as early as 1998, was the facilitated customs clearance of a partner company’s exports in the country of destination. Under this proposal, overseas customs agencies would, in effect, accept Australia’s low risk rating of a company and, as a result, facilitate the clearance of their goods on arrival. This was a particularly exciting concept for both customs and industry, as clear benefits were evident for both parties<sup>5</sup>.

At the time of its announcement, the partnership proposal received an interesting response from service providers such as customs brokers and freight forwarders. Recognising that many traders rely on the systems and procedures of their service providers to comply with customs legislation, brokers were keen to invite customs auditors to assess the integrity of their internal systems. The intention was to enable compliant brokers (I will resist using the term honest broker!) to act as a conduit for their clients to gain access to the various benefits of the partnership arrangements.

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<sup>5</sup> Widdowson, David 1998 ‘Managing Compliance: More Carrot, Less Stick’ pp. 99-104 in: Chris Evans & Abe Greenbaum (eds) *Tax Administration: Facing the Challenges of the Future*. Prospect, Sydney.

## Legislative Base

In July 2001, a suite of legislation known as the Customs Trade Modernisation legislation became law, the principal element of the legislative package being the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act. The legislation provides the Australian Customs Service with a statutory basis for the implementation of a modern approach to compliance management for international cargo and provides for the introduction of a flexible electronic business environment for customs clearance of imports and exports.

A key element of the new legislation is the formalisation of the Accredited Client Program, a set of statutory provisions which allow certain traders to be provided with tailored methods of demonstrating compliance with their statutory obligations. At the time of its introduction, the Australian Customs Service commented that ‘The Accredited Client Program is based on the philosophy that ‘one size doesn’t fit all’ - some traders import or export more regularly than others, some have better systems for providing information and making revenue payments, and others, because of the goods they deal in, pose a lesser risk to the Australian community’<sup>6</sup>.

Under the Accredited Client Program provisions, traders with appropriate internal systems and procedures and a demonstrated high level of compliance are entitled to special privileges relating to customs clearance. Such privileges include minimal customs intervention in their commercial activities and the ability to take immediate delivery of their shipments by providing customs with basic details about the goods at the time of importation, with other required information being submitted on a periodic basis. In this regard, the new legislative provisions provide the foundation for implementing compliance management strategies that are tailored to reflect the perceived level of risk posed by individual traders.

Whilst a reduced level of intervention by customs authorities is considered to be achievable without the express support of specific legislative provisions, the ability to provide incentives or ‘rewards’ to compliant traders along the lines of those provided for under the Australian Accredited Client Program is considered to be totally dependent upon such statutory support.

According to the Minister for Customs, the new statutory provisions represent one of the most significant reforms for the ACS since its inception. Ellison argues that the new provisions are designed to modernise the ACS approach to compliance management in order to improve both trade facilitation and the timely detection and control. In describing the new statutory arrangements, Ellison comments that the provisions are:

about the creation of an environment that is intended to reduce the cost of communication and to provide choice in how that communication occurs. It establishes an environment that relies on commercial information rather than something specifically created for government ... their objectives are to intercept high risk cargo while allowing low risk cargo to flow

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<sup>6</sup> Australian Customs Service 2001 *Introduction to the Customs Trade Modernisation Legislation*. Australian Customs Service, Canberra, p.20.

unimpeded...this proposed legislation supports good compliance through initiatives such as the accredited client program and associated administrative mechanisms. At the other end of the scale, it also provides necessary censure for noncompliance through strict liability offences. This proposed legislation provides for a new framework for cargo management - one which allows for the maximum use of technology, more efficient deployment of Customs resources and more rapid cargo clearance times<sup>7</sup>.

## Reviews

The Accredited Client Program underwent a number of changes as a result of a Ministerial working party held in May 2003, which resulted in, among other things:

- Inclusion of a security component in the eligibility requirements
- Introduction of Memorandum of Understanding (MOU) based arrangements
- Replacement of compulsory customs audits with company self-assessment audits, which are subsequently verified by customs.

Subsequent to these amendments to the program, it was also determined that deferred duty arrangements would not be extended to Accredited Clients.

Earlier this year, the Senate Legal and Constitutional Legislation Committee held an inquiry into the Customs Legislation Amendment (Border Compliance and Other Measures) Bill 2006. In its report, the Committee expressed a number of concerns about the content and implementation of the Accredited Client Program, and recommended that an independent cost benefit analysis of the Program be undertaken which takes into account the removal of the duty deferral mechanism.

## Research Study

Currently no companies have been admitted to the Accredited Client Program, and it is not anticipated that this will occur until at least mid-2007. There has been considerable criticism of the way in which the Program has been developed, not the least of which is the time taken to implement the initiative. More fundamental concerns relate to the costs involved in becoming an Accredited Client compared with the benefits that are likely to flow from membership.

The Centre for Customs and Excise Studies at the University of Canberra is currently undertaking research into the Program, including an analysis of costs and benefits. The research is in its early stages, with initial results expected to be available in September 2006.

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<sup>7</sup> Ellison, Chris 2001 *Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2001, Import Processing Charges Bill 2000, Customs Depot Licensing Charges Amendment Bill 2000: Second Reading Speech*. Senate Hansard, Commonwealth of Australia, Canberra, pp.1,2.