**FACT SHEET Number 02/2002**  
Revised October 2009 (replaces original dated December 2002)  

PROCEDURES FOR UNCLAIMED OR ABANDONED CARGO INFORMATION FOR SHIPPERS, CONSIGNEES, SHIPPING COMPANIES AND THEIR AGENTS

**Introduction:** Prompt return of equipment is paramount to the efficient operation of a container service. Abandoned cargo presents an impediment to achieving this objective and adds unnecessary costs which reflect on the results of shipping companies and therefore the basis of establishment of freight rates.

**Purpose of this Fact Sheet:** To record the steps which shipping companies are entitled to take if they believe that cargo has been abandoned.

It is emphasised that the shipper or his representative remains by law, responsible for all prejudice caused to the shipping company until the complete conclusion of the contract of carriage (as indicated in the Bill of lading), and until the physical delivery of the cargo is made to the consignee nominated by the Shipper.

Shipping companies have a number of options if the consignee fails to take delivery of a consignment under the terms and condition of the bill of lading issued for the subject shipment and under common law. The shipping company has a lien on the cargo by which it may recover the costs for storage, demurrage, freight, handling charges etc. Typically a bill of lading would have terms and conditions to the effect that if the Customer/Consignee or the Owner [Customer] of the goods fails to take delivery of the goods in timely manner the shipping company shall be entitled to store the goods at the sole risk and cost of the Customer. The shipping company absolves itself from any liability at this stage. The shipping company shall also be entitled to dispose of the Goods at the expense of the Customer at the shipping company’s sole discretion.

Disposing of the cargo is seldom a viable option for low value cargo. In some instances, the Customer may not clear the cargo due to incorrect labelling or documentation, for which a ‘stopper’ may be placed on the cargo by Australian Customs and Border Protection (ACBP) or Quarantine.

The processes of law allow shipping companies to:
- unpack cargo from containers, which frees the equipment for return to service
- place cargo into a bonded store
- sell the cargo
- offset all costs incurred from the proceeds of the sale
- take legal action to recover the difference between sale price and costs incurred
- if the sale price does not cover the costs incurred by the shipping company, then there is provision in international law for action to be taken against the shipper.
Procedures in Australia: Section 218A of the Customs Act provides for the disposal of goods that a Collector has reason to believe have been abandoned at a Customs Place and which are not required to be, or are unable to be, entered for home consumption. Australian Customs and Border Protection Service published revised guidelines for the disposal of abandoned cargo in August 2009 and these may be found on the ACBP web site at -


Note that the ACBP Guidelines have limited application to -
- imported motor vehicles without a Vehicle Import Approval; or
- imported whiskey, brandy or rum without proof of maturation.

and do not apply to goods that are:
- listed in the Prohibited Imports (Customs (Prohibited Imports) Regulations) 1956);
- listed in the Prohibited Exports (Customs (Prohibited Exports) Regulations 1958);
- forfeited goods or special forfeited goods;
- input into the Customs Detained Goods Management System (DGMS);
- subject to Customs and Border Protection investigation or seizure action; or
- held in a ACBP store for any reason.

The ACBP Guidelines refer to two classes of “certain abandoned goods, viz
(a) personal effects of passengers or crew members of a ship or aircraft, and
(b) imported goods that were found in a Customs place such as wharfs, airports (s.15 places) and depots (s.77g) places that have not been entered for home consumption.

This Fact Sheet is confined to the latter class of “certain abandoned goods” and does not refer to goods for which the ACBP Guidelines have limited or no application.

Suggested Procedures for shipping companies:
1. Advise the consignee in writing to collect their cargo.
2. All correspondence should be kept for future reference.
3. At any time (see note below) after the expiry of the free storage period when the shipping company becomes aware that cargo has not been collected the consignee should be informed in writing (by recorded/registered delivery):
   a. That the consignee has failed to comply with international trading practices, which are customarily and by law used in the fulfilment of its obligation as a Contract of Carriage by Sea.
   b. Give notice that if the said cargoes are not collected within a stipulated time, the shipping company will not be held liable for the custody of the cargo (without any further correspondence from the shipping company). ACBP would require evidence of a trail that would stand up in court to show that a real attempt has been made to contact the owner.
c. Give notice that the shipping company holds the consignee jointly and severally liable for all prejudice, financial and otherwise, including costs, expenses, levies, fees, duties, taxes and all disposal action charges and demurrage etc.

4. The shipping company or a licensed customs broker should lodge a declaration to ACBP stating that the goods are to be sent to a bonded warehouse. The ACBP form is B368 and can be found at:


Note: There is no minimum waiting time for a shipping company to commence proceedings to resolve any case of abandoned cargo. Prompt implementation of the procedures recommended in this Fact Sheet will expedite resolution and contain costs.

Options for resolution of abandoned cargo:
Re-exportation: This includes returning the goods to the shipper named in the bill of lading or to some other overseas place. As the goods had not been entered into home consumption by way of an Import Declaration to ACBP, the shipping company may lodge an Export Entry to inform ACBP that the reported goods are leaving the country and to obtain an Export Consignment Number (ECN).

Sale to a new Owner: The shipping company may seek out a buyer for the goods. The negotiated price should, if possible, at least cover the costs incurred by the shipping company, be subject to the buyer accepting responsibility for lodgement of an Import Declaration and payment of all duty and GST. The new buyer can take delivery from the bonded warehouse.

Disposal (dumping, destruction etc.): Due to environmental regulations and the requirements of the Customs Act, the shipping company must obtain prior permission from ACBP to dispose of abandoned goods. Application for permission should be sent in writing to the regional ACBP office. ACBP will then provide disposal/destruction instructions and conditions if necessary; and

- advise if Customs and Border Protection will attend the destruction/disposal; or
- specify what verification of disposal Customs and Border Protection may require.

Physical supervision by ACBP of destruction will normally be required where ‘limited circumstance’ goods are approved for disposal.

Note that if ACBP personnel are required to be present, ACBP will levy a charge for that attendance.

Auction of Goods by ACBP: The ACBP has advised that it will no longer auction goods on behalf of shipping companies.

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