

Regulating for Globalization

Trade, Labor and EU Law Perspectives

Thoughts and themes from the CBFCA National Conference

Andrew Hudson (Rigby Cooke Lawyers) · Wednesday, December 11th, 2019



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I have been in the fortunate position of being involved with the [Customs Brokers and Forwarders Council of Australia \(CBFCA\)](#) for a number of years.

That has encompassed a wider variety of tasks than merely providing legal advice in an office! There has been legal and policy advice ranging from working with industry to manage the botched delivery of the Integrated Cargo Systems for imports in 2005, through to asbestos and Brown marmorated stink bug (**BMSB**) issues helping develop and deliver education and training for CBFCA members around legal issues, new legislation and free trade agreements (including more recently continuing professional development), working with Government and its agencies to represent the interests of the CBFCA and its members in various forums such as the National Committee on Trade Facilitation (**NCTF**) and the International Trade Remedies Forum.

This involvement has led to many speaking engagements whether overseas or locally and, on an annual basis, delivery of member legal forums around Australia twice a year for CBFCA members, presenting through webinars and the CBFCA State Conventions as well as involvement at the

centrepiece CBFCA National Conference which takes place towards the end of each year. The ‘National’ has always represented a chance both to address current pressing issues affecting industry but also look more deeply at significant issues likely to affect industry and trade into the future as well as drawing on past experiences. The CBFCA enlists relevant speakers across a two-day program with the first day given over to Government, its regulatory agencies and policy issues and the second day addressing more operational issues. Of course, there is also time for networking with others in attendance as well as formal and informal drinks and dinners including the ‘Gala’ dinner at which the CBFCA recognises contributions to its success with State and national awards for members and students.

The venue for the National has shifted to different places around the country and even overseas with the most recent National being held at Crown Promenade in Melbourne recognising the 115th birthday of the CBFCA stretching from its origins in earlier associations. The central theme of this year’s National was ‘The Changing Face of International Trade industry and its regulation and across the two days, speakers from Government, its agencies and the sector provided their views on the future shape of the industry and its regulation. The choice of the theme was deliberate, being aimed at informing and helping industry prepare to engage in the challenge of the future supply chain. As between all parties in the supply chain, (whether public or private) there is an understanding that as trade flows continue to rise, there will need to be improvements both in modernising and facilitating trade both here and overseas, to ensure that the trade moves at expected speeds without compromise to compliance, revenue protection or security and without undue increases in expenditure by Government and its agencies. This requires the adoption of new and assured technology and changes to procedures and practices by all parties.

There is a clear recognition by Government and its agencies that it cannot make these changes on its own and that good ideas and outcomes come equally from those in the private supply chain, which underpins much of the work of the NCTF and its sub-committees. That will also require an evolution in the relationship between Government, its agencies and those in the private supply chain to ensure that trusted parties secure a ‘light touch at the border’ with intervention reserved for those who are recklessly or deliberately non-compliant.

The keynote speaker on the first day was Dr Bradley Armstrong PSM, the leader of the new ‘Customs Group’ within the Australian Border Force (ABF) as well as being chair of the NCTF. Dr Armstrong provided more details on the proposed operation of the Customs Group and the intended future path for the ABF as it sought to manage expected significant increases in trade without similar increases in resources relying on developments in trade modernisation and facilitation. The ABF was also represented by Craig Palmer, the regional director for Victoria and Tasmania who provided an update on the compliance focus and actions of the ABF both currently and into the future. The audience also received a briefing on aviation and marine security initiatives from the ABF, including the workaround scanning of international air cargo which will lead to new scanning requirements for domestic air cargo starting in 2020. Each of these speakers spoke of the importance of the ‘trusted participant’ programmes of the Australian Trusted Trader Programme and the ‘Known Consignor’ programme. The significant contribution of the ABF was then rounded out by Steve Moore, the director from Customs Licensing, Trusted Trader and Trade Services Branch, Customs Group at the ABF. Steve has been involved with the service providers in the private supply chain for many years from the technology aspect but is now directly involved with the ABF’s licensing activities, including that of licensed customs brokers. Steve provided some interesting detail on changes to the numbers of licensed customs brokers with numbers experiencing an initial drop following the introduction of the continuing professional development

and other newer licensing obligations. Steve also provided insight into the expectations of the ABF from those who it licences. In a related compliance and enforcement area, Chris Ellway from the Victoria Police provided an update on the work of the Trident Task Force guarding against the influence of organised crime in the supply chain and how those in the private supply chain can assist the work of the police as they have for some time.

Other relevant agencies were represented including Department of Foreign Affairs and Trade (providing updates on our FTA agenda), the Department of Agriculture (with Dean Merrilees advising on BMSB and other threats along with how technological advances assist the work of industry) and the ACCC which focussed on concerns of industry including regulation of unfair terms and conditions of contracts, possible restrictions on landside operators at ports and airports and the ACCC role in regulating those operators. Speakers from Freight Victoria, Melbourne airport and the Port of Melbourne also addressed related issues of development of additional assets to assist the movement of goods through the supply chain and the basis on which they would be provided and regulated. Peter Kosmina from the MisterMina Group also spoke to the importance of technological developments in the private supply chain with which Peter has been involved for many years having been a founder of 1 – Stop.

As mentioned above, I was fortunate enough to be asked to speak at the National. My topic touched on the elements of corporate social responsibility which have found their way into reporting obligations on those in the private supply chain (asbestos and illegal logging for example), those which are likely to impose new reporting obligations (combustible cladding, modern slavery and protection of human rights), the nature of those reporting obligations and the changes to business practices which would be required. I also reiterated my plea that there is no place for strict liability obligations on licensed customs brokers for inadvertent errors when completing ‘Community Protection Questions’ in Full Import Declarations as those providers are not in any position to be able to verify on those issues comprehensively. My opinion is that the licensed customs brokers should have realistic and achievable expectations on their due diligence. Still, the main focus should be on the suppliers, importers and their customers who source, supply, purchase and use the items of concern. Undue pressure should not be placed on licensed customs brokers, merely because they happen to be the licensed party completing those Declarations.

The National was not solely focused on trade trends but gave important attention to the challenges for employment and leadership in industry as demands increase including speakers on the challenge of supporting mental health and providing the most supportive and effective workplace.

The National was another success with congratulations to those at the CBFCA who undertook long hours of preparation and planning to deliver such an outstanding event. Yet again the National served the interests and expectations of CBFCA members and others in the supply chain who are tasked to the safe and prompt delivery of our air and sea cargo.

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Globalization Blog, please subscribe [here](#).

This entry was posted on Wednesday, December 11th, 2019 at 12:50 am and is filed under [Australia](#), [Customs](#) generally refer to taxes that are imposed on goods imported into or exported out of a country and are enforced by customs authorities. The European Union (EU) has its own customs union, meaning that within the EU there is a uniform system for handling the import, export and transit of goods. A common set of rules has been implemented, referred to as the Union Customs Code (UCC). No customs duties are to be paid at the borders between EU countries after a good from outside the EU has first entered.“>Customs

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