

The Auditor-General
Audit Report No.35 2002-03
Performance Audit

Fraud Control Arrangements in the Australian Customs Service

Australian National Audit Office

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of Australia 2003

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Canberra ACT
26 March 2003

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Australian Customs Service in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Fraud Control Arrangements in the Australian Customs Service*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Oliver Winder'.

Oliver Winder
Acting Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations/Glossary

AFP	Australian Federal Police
APS	Australian Public Service
APU	Accredited Purchasing Unit
ATO	Australian Taxation Office
CAC Act	Commonwealth Authorities and Companies Act 1997
CCA	Customs Compliance Assurance
CDP	Customs Development Program
CDPP	Commonwealth Director of Public Prosecutions
CEI	Chief Executive Instruction
CEOs	Chief Executive Officers
CEP	Commercial Education Program
CFISP	Commonwealth's Fraud Investigation Standards Package
CoEs	Centres of Expertise
CVR	Computerised Vetting Register
DCEO	Deputy Chief Executive Officer
FMA Act	Financial Management and Accountability Act 1997
GST	Goods and Services Tax
HMC&E	Her Majesty's Customs and Excise (United Kingdom)
IAU	Internal Affairs Unit
IT	Information Technology
JCPAA	Joint Committee of Public Accounts and Audit
NBCs	National Business Centres
NCIP	National Compliance Improvement Plan
PACE	Passenger Analysis Clearance and Evaluation
PMC	Passenger Movement Charge
PSM	Protective Security Manual
PSRRs	Protective Security Risk Reviews
QARs	Quality Assurance Reviews
QCIC	Qualifying Customs Investigator Course

SUD	Systems Under Development
TRS	Tourist Refund Scheme
VAT	Value Added Tax

Summary and Recommendations

Summary

The fraud environment

1. Fraud imposes a significant cost on Australian society. In 1997, the Australian Institute of Criminology estimated that fraud cost the community between \$3 billion and \$3.5 billion per year. Fraud against the Commonwealth is also a major concern to the Government. Agencies must ensure that fraud is minimised and that, where fraud does occur, it is rapidly detected, effectively investigated, appropriately prosecuted and losses minimised.¹
2. The changing environment in which the public sector is now operating has increased the opportunity for fraudulent activity. The trend towards the outsourcing of functions and greater focus on the contestability of services undertaken by the public sector increases the risks associated with fraud. The convergence of public and private sectors and the need for cooperative and/or strategic partnership arrangements have emphasised the need for accountability and sound corporate governance strategies. These strategies must clearly identify possible fraud risks and how these risks will be managed and minimised.
3. Effective fraud control in the public sector not only protects Commonwealth revenue, expenditure and property but also gives Parliament and the community confidence in the effectiveness and integrity of the staff and operations of public sector agencies. Fraud control requires the commitment and involvement of all Commonwealth agencies, employees and external service providers. The importance of agencies establishing effective fraud control arrangements has been recognised in the *Financial Management and Accountability Act 1997* (FMA Act). Under Section 45 of the Act, Chief Executive Officers (CEOs) must implement a fraud control plan and report to the Portfolio Minister on fraud control within their agencies.

Commonwealth Fraud Control Guidelines

4. The Commonwealth Government has outlined its fraud control policy in the recently issued *Commonwealth Fraud Control Guidelines*.² The Guidelines take account of the changing environment in which Commonwealth agencies now

¹ Attorney-General's Department, *Commonwealth Fraud Control Guidelines*, May 2002, p. iii.

² The Government first released its Fraud Control Policy of the Commonwealth in 1987. This policy was revised in 1994 and subject to extensive review and consultation. Consultation Draft No.1 was issued in June 1999 and Consultation Draft No.2 in April 2001. The *Commonwealth Fraud Control Guidelines* were issued in May 2002.

operate, including the introduction of the FMA Act.³ The Guidelines outline the Government's requirement that Commonwealth agencies put in place a comprehensive fraud control program that includes prevention, detection, investigation and reporting strategies. The Guidelines define fraud as *dishonestly obtaining a benefit by deception or other means*. The definition includes both tangible and intangible benefits.⁴

5. Fraud control continues to be an area of interest for the Joint Committee of Public Accounts and Audit (JCPAA). In its report, *Review of Auditor-General's Reports 2000–2001 Second and Third Quarters*,⁵ the JCPAA suggests that agencies develop sub-categories of fraud to provide a better understanding of the nature and significance of various types of fraudulent activity. The JCPAA requested the Australian National Audit Office (ANAO) develop fraud sub-categories that may be used when reporting fraud. This issue will be more fully considered by the ANAO when it develops its Better Practice Guide on Fraud Control in 2003–2004 following the completion of a series of fraud audits and a second survey of fraud control arrangements in the Australian Public Service (APS).⁶ A list of these audits is at Appendix 1.

Australian Customs Service

6. Customs is a regulatory agency with three principal roles:
- to facilitate trade and the movement of people across the Australian border while protecting the community and maintaining appropriate compliance with Australian law;
 - to efficiently collect customs revenue; and
 - to administer industry specific schemes and trade measures.⁷

³ The Guidelines were issued under Regulation 19 of the *Financial Management and Accountability Regulations 1997* (FMAR). Regulation 19 FMAR provides for the issue of fraud control guidelines. Regulation 20 FMAR requires that officials must have regard to the guidelines issued under Regulation 19.

⁴ This definition includes: theft; obtaining property, a financial advantage or any other benefit by deception; causing a loss, or avoiding or creating a liability by deception; providing false or misleading information to the Commonwealth, or failing to provide information where there is an obligation to do so; making, using or possessing forged or falsified documents; bribery, corruption or abuse of office; unlawful use of Commonwealth computers, vehicles, telephones and other property or services; relevant bankruptcy offences; and any offences of a like nature to those listed above.

⁵ Joint Committee of Public Accounts and Audit Report No.385, August 2002, *Review of Auditor-General's Reports 2000–2001 Second and Third Quarters*, p.8. The following fraud-related audit reports were reviewed by the Committee: *Australian Taxation Office Internal Fraud Control Arrangements*; and *Fraud Control Arrangements in the Department of Defence*.

⁶ Audit Report No.47 1999–2000 *Survey of Fraud Control in APS Agencies*. A second survey of APS agencies is currently being undertaken.

⁷ Australian Customs Service, *2001–2002 Annual Report*. Customs' legislative authority is provided through the *Customs Act 1901*, the *Customs Tariff Act 1995* and related legislation. Customs also administers legislation on behalf of other government agencies, in relation to the movement of goods and people across the Australian border.

7. Customs is organised into six divisions: Cargo and Trade; Border Intelligence and Passengers; Border Compliance and Enforcement; Coastwatch; Information and Office Technology; and Office of Business Systems and a governance group.⁸ As at September 2002, Customs employed 4746 officers located in 36 Australian offices in all States and Territories and overseas posts in Bangkok, Brussels, Tokyo and Washington.

8. In 2001–2002, Customs:

- collected \$4.5 billion in customs duties;
- administered over \$430 million in tariff concessions and \$93 million in duty drawbacks to industry;
- cleared 4.14 million air cargo consignments and approximately 1.38 million sea cargo consignments; and
- processed over 17 million people through international airports and seaports.⁹

Fraud control within Customs

9. Fraud control is an important element of Customs' regulatory responsibilities and goes beyond simply monitoring the effectiveness of financial controls and revenue. It requires developing and fostering a 'fraud-aware' environment and the highest standards of ethical behaviour. Customs' Fraud Control Policy aims to ensure that systematic and comprehensive fraud prevention and control arrangements are in place.¹⁰ Customs' Fraud Control Plan 2001 is designed to be the basis for ongoing monitoring and coordination of fraud control activities and is an important component of Customs' overall risk management framework.

Audit objective and scope

10. The audit objective was to assess:

- whether Customs has implemented appropriate fraud control arrangements consistent with the Commonwealth's Fraud Control Guidelines; and
- the administrative effectiveness of these arrangements.

⁸ The governance group is made up of three non-aligned branches: Financial Services; Staffing; and Planning and International.

⁹ Australian Customs Service, *2001–02 Annual Report*, p. 8.

¹⁰ Customs relied on the *Fraud Control Policy of the Commonwealth 1994 and Consultation Draft No. 1, 1999* for guidance in developing its fraud control policy and fraud control plan.

11. The audit scope included internal and external fraud and the following key elements of fraud control were reviewed:

- Customs' fraud control arrangements as part of its corporate governance framework;
- the strategies, systems and processes used by Customs to prevent and detect internal and external fraud;
- the management of internal and external fraud investigations; and
- reporting of internal and external fraud.

Overall conclusion

12. Customs has developed and implemented a fraud control framework for preventing, detecting, investigating and reporting internal and external fraud in accordance with the Commonwealth Fraud Control Guidelines. Customs' Fraud Control Plan 2001 underpins this framework. The plan identifies fraud risks, incorporates control strategies and action plans and reinforces responsibility and accountability at all levels of the organisation. Customs largely meets its reporting requirements under the Guidelines but needs to include details of internal fraud referrals and investigations in its annual report and advise the Australian Federal Police (AFP) of its current identified major fraud risks and serious or complex fraud cases under investigation.

13. Overall, the administrative effectiveness of Customs' fraud control arrangements is sound. However, the ANAO considers these arrangements could be strengthened if Customs:

- completed outstanding protective security reviews;
- regularly evaluated and analysed fraud referrals, investigations and case outcomes to identify and react to emerging fraud trends, risks and system weaknesses;
- maintained accurate records of court-imposed debts owing to the Commonwealth following successful prosecutions and ensure every effort is made to recover and manage these debts; and
- built on its ongoing work to review performance measures for preventing, detecting and controlling fraud and move towards developing a range of measures that will more accurately assess the effectiveness of its fraud strategies.

14. Although Customs' Audit Committee was involved in developing its Fraud Control Plan, the ANAO considers the Committee should take a more active oversight role in relation to fraud control. This would provide ongoing

assurance that fraud control strategies are being properly implemented and continue to be effective.

Recommendations

15. The ANAO has made nine recommendations aimed at improving Customs' systems and processes for preventing, detecting, investigating and reporting internal and external fraud. Customs has agreed with all recommendations.

Acknowledgements

16. The ANAO would like to express its appreciation to Customs' management and staff for their valuable assistance in the conduct of this audit.

Key Findings

Fraud control in Customs—Chapter 2

Fraud control plan

17. Customs' Fraud Control Plan fulfils the requirements outlined in its Chief Executive Instructions and conforms with the Commonwealth's Guidelines. The Plan reinforces responsibility and accountability at all levels of the organisation. Customs' Plan contains appropriate links to the agency's Corporate Plan and the activities specified in the business and operational plans of individual work areas. Fraud prevention policies and practices and consideration of fraud risks have been integrated into the business planning process through the action plans. The Plan gives Customs a sound basis for reviewing and updating its fraud control framework.

Fraud reporting

18. Customs largely meets its reporting requirements under the Commonwealth's Guidelines. However, Customs has not reported its current identified major fraud risks or provided the details of its serious or complex external fraud cases to the AFP as required by the Guidelines.

19. Customs also does not identify those cases that specifically relate to internal fraud in its annual report. Rather, it reports the total number of complaints of serious misconduct and/or criminality and miscellaneous inquiries received by the Internal Affairs Unit. It reports the number of matters substantiated, unsubstantiated and under investigation, but does not classify these matters as relating to either misconduct or criminality, which includes fraud. Identifying, as it does for external fraud, the referrals and investigations that relate specifically to internal fraud will assist Customs in meeting its reporting obligations.

Protective security

20. Protective security risk reviews (PSRRs) are undertaken within a three-year cycle unless required earlier. Their purpose is to identify threats, examine existing physical countermeasures and security procedures, and to recommend improvements. As at October 2002, 26 'security-rated' sites were either due or overdue for review. One 'highly protected' site in Western Australia was last reviewed in 1996 and 16 sites have yet to have an initial PSRR. Until outstanding reviews are completed, Customs is not able to meet the requirements outlined in the Commonwealth Protective Security Manual. That is, until a security risk

review has been completed, it is unable to determine the appropriate physical environment. As a consequence, potential fraud risks may not have been identified.

Outsourcing and contract management

21. The ANAO reviewed the fraud control arrangements for four major contracts identified in Customs' Fraud Control Plan relating to IT services, Coastwatch surveillance activities and internal audit. The ANAO found that Customs has a number of safeguards in place to limit the potential for fraudulent activity in relation to contractual arrangements. These include: the work of the Accredited Purchasing Unit; a multi-layered approach to verifying and reconciling invoices; the separation of payment from authorisation; and negotiated contracts with a clear understanding of performance measures, bonuses and sanctions.

22. Coastwatch and the Information Technology Branch (ITB) use computer spreadsheets to reconcile their fortnightly and monthly invoices. The spreadsheet maintained by ITB is locked at the end of each month's review to prevent further editing. The spreadsheet used by Coastwatch covers a full financial year with cumulative totals, and is updated fortnightly. It is stored on the responsible Section's shared drive, accessed by approximately six officers. Although the spreadsheets are password protected, they do not have an audit trail;¹¹ and no paper copy is retained for management and accountability purposes.

Quality assurance in fraud control

23. Customs' Audit Committee has a key role in providing advice on all matters relating to audit, evaluation, risk management and fraud control. The Audit Committee was required, under the Commonwealth's Fraud Control Policy, to oversee the process of developing and implementing Customs' Fraud Control Plan. Committee minutes noted discussion during 2001 relating to the development of the Plan.¹² However, fraud control is not a standing agenda item at Committee meetings and the topic was not discussed again until July 2002. Committee minutes do not reflect the regular reporting of internal or external fraud issues or cases.

¹¹ A complete audit trail is a key output control. The audit trail is a set of processing references, data, reports or logic documentation that enables the tracking of transaction processing from its source to inclusion in the organisation's records or tracing of any result of processing back to its origin. The audit trail should allow tracing in both directions. Source: The Institute of Internal Auditors Research Foundation Module 2 Audit Control Environment.

¹² April, July and August 2001 Audit Committee meetings.

24. The Audit Committee is an influential element of Customs' corporate governance framework and is responsible for providing overall assurance on internal controls and systems. The ANAO considers the Committee could take a more active coordination and oversight role of fraud control for greater assurance.

Fraud prevention and detection—Chapter 3

Integrity and fraud awareness training

25. Training and awareness presentations on ethics, probity, conduct, integrity and fraud are given to Customs' trainees, graduates, National Marine Unit officers, and investigators. Customs does not systematically record details of these presentations. To support the planning and review of future integrity and fraud awareness activities, the ANAO considers it would be practical to maintain a training register to record courses, staff participation rates and the operational areas involved.

26. The current training course has not been formally evaluated for several years. Informal discussions with participants and supervisors are the only mechanisms for eliciting feedback to evaluate the effectiveness of the training, course content and method of delivery. The ANAO considers it important that the course remains current, relevant and actively engages its participants. The completion of post-course evaluation forms and the inclusion of specific questions relating to integrity and fraud awareness in staff surveys, when analysed, would help when evaluating training effectiveness and direction.

Promoting awareness to clients and industry stakeholders

27. Customs communicates information relating to legislative requirements and responsibilities for meeting those requirements to its clients through a range of media, with booklets and fact sheets covering all areas of Customs' operations. Information is also available through the Advisory Service Centres in each region, Customs' website, e-mail facilities, Customs' Information Centres and targeted industry information seminars and campaigns. Market research is undertaken to address specific issues and client groups are surveyed.

Border controls

28. Given the sheer volumes of air and sea cargo, international passengers and postal articles arriving in Australia, it is neither feasible nor practical for Customs to examine every consignment, passenger or article. There is a complex infrastructure for screening, risk assessing, targeting and intercepting cargo and

passengers. Intelligence is an integral part of this infrastructure, with strategic, operational and tactical intelligence being collected, produced, analysed and disseminated to operational areas. Currently, 70 per cent of all air cargo consignments, 100 per cent of all postal articles and more than 85 per cent of international passengers' luggage are subject to x-ray and, if necessary, physical examination. The introduction in 2002–2003 of container x-ray technology in Brisbane, Melbourne and Sydney will significantly increase Customs' capacity to examine sea cargo containers. One hundred containers per day will be examined in Melbourne and Sydney and 60 containers per day in Brisbane.

Operational fraud strategies

29. Operational strategies incorporating fraud control, prevention and detection elements have been developed by Customs to address potential fraud risks in specific areas. These strategies included a number of import/export processes and systems, the Tourist Refund Scheme (TRS) and Passenger Movement Charge (PMC).

30. The duty drawback scheme allows exporters to obtain a 'drawback' of the import duty paid on goods that are exported. A refund involves a return of some or all of the customs duty paid. Customs has developed and implemented clear guidelines on how drawbacks and refunds will be processed. Under both systems, controls are in place to assist in the prevention and detection of fraudulent activity. Internal controls ensure that the officer verifying the claim cannot also approve the claim. Audits undertaken as part of Customs' ongoing compliance program include a review of refunds and drawbacks.

31. Duty free shops are licensed warehouses permitted to operate as retail outlets and make sales free of duty and tax to international sea and air travellers. Customs has identified as a major risk the diversion into home consumption of high duty liability goods (tobacco and spirits) designated for export as ships crew sales and ships stores. Diversion leads to the evasion of both duty and the Goods and Services Tax (GST). Joint Customs/Australian Taxation Office compliance activity has been undertaken and has had a significant impact on the dealings of a number of independent duty free shops that were found to be non-compliant. Following a number of audits, four duty free stores have either closed or gone into voluntary liquidation. Prosecutions against a number of operations are also pending.

Passenger Movement Charge

32. Customs had developed and implemented a framework to effectively administer the PMC, including mechanisms for detecting and preventing fraud. Formal arrangements outline responsibilities and procedures for remitting the

charge. Customs has systems and processes for reconciling airline remittances against passenger data and an audit program with well-defined parameters and guidelines.

Tourist Refund Scheme

33. The TRS enables both residents and non-residents departing Australia to recover the GST and Wine Equalisation Tax paid on purchases made within Australia. The TRS program was implemented within a very short timeframe in July 2000. Customs has experienced some problems with the TRS, including an allegation of internal fraud currently being investigated by the AFP. To improve the efficiency of payment services and the collection, validation and integrity of data, Customs re-developed the computer system supporting the scheme. The new TRS3 system changed the nature of payments. Cash refunds are no longer an option, reducing the potential for internal fraud.

External fraud investigations and prosecution debt management—Chapter 4

34. Customs' Investigations Branch¹³ undertakes external fraud investigations either independently or in conjunction with other government organisations and law enforcement agencies. The ANAO reviewed Customs' systems and processes for investigating external fraud. As part of this review, an indicative sample of 23 cases completed during 1998–2002 was assessed.

Referral assessment process

35. Operational areas are required to refer all matters of suspected fraud to the Investigations Branch. Referrals are assessed before being accepted as cases for investigation. In the case files reviewed by the ANAO, decisions relating to the acceptance of cases were not always clearly documented. In 12 cases it was not apparent who had authorised acceptance of the case and it was often unclear as to whether the referral source had been notified of the assessment outcome as required by Customs' guidelines.

Investigation process

36. The ANAO found that, in seven of the case files reviewed, detailed case planning was not evident and/or clearly documented. Customs advised that case planning improved with the introduction of the procedures manual and is

¹³ Under Customs' new organisational structure the Investigations Branch is part of the Border Compliance and Enforcement Division. At the time of the audit, the Branch was a separate unit reporting directly to the DCEO of Commercial Division.

now undertaken for all investigations. Improved planning was evident for the more recent cases reviewed by the ANAO, with copies of action plans and evidence matrices on the case files.

Case management system

37. The WINCAMS case management system records all investigation details. However, the ability to extract meaningful data and the number of standard reports available was limited and the query facility difficult to use. The ANAO noted some inconsistencies in a number of the reports generated by the system. Although these inconsistencies could be explained it does raise concerns about the integrity of reported data. The ANAO was advised that, because of the system's limitations, only mandatory data fields are completed and that WINCAMS is not properly used as a case analysis and management tool. The system is being reviewed as part of Customs' Client Data Management Strategy.

Evaluation and analysis

38. The ANAO found no evidence of systematic analysis of fraud trends, referral patterns or case outcomes at a national level. Customs advised that it does not undertake trend analysis as to the type of cases or fraud perpetrated upon Customs. It is considered that practices or trends, for the most part, are identified by investigators, their managers, and regional management, or nationally, during the normal course of business. The ANAO noted some instances where regions had identified control weakness and instituted changes to processes as a result of fraud investigations. However, it was not evident that the broader implications of this analysis had been considered nor that information had been disseminated to other regions so that it could be considered when developing fraud risk assessments and action plans.

Prosecution debt management and recovery

39. The FMA Act imposes a general obligation on the Chief Executive Officer of a Commonwealth agency to pursue debts unless there is a valid reason not to. Debt management, in relation to Customs' fraud investigations, involves overseeing and reporting on the enforcement of fines and penalties imposed by the various courts for prosecutions initiated by Customs.

40. The ANAO requested Customs to provide information about court-imposed fines, costs and penalties, including the following:

- total value of debts arising from Customs' prosecutions;
- payments received by Customs against debts arising from prosecution action;

- amount of debts outstanding at year-end;
- value of debts written off in each financial year; and
- copies of guidelines outlining the process for managing these debts.

41. There appears to be no standard operating procedures or system for recording or managing these debts. NSW was the only region to provide guidelines. The data sets provided were inconsistent and, in some cases incomplete, making it difficult to consolidate the available data. The ANAO found that responsibility for maintaining such records rests with the regions, with minimal corporate support and/or oversight.

Internal fraud investigations—Chapter 5

42. The Internal Affairs Unit (IAU) is responsible for investigating allegations of serious misconduct and complaints of criminality against Customs' staff. The ANAO reviewed Customs' case management framework and an indicative sample of 21 cases completed during 1998–2002.

43. The IAU does not have documented procedures supporting its operations. The IAU is a relatively small, centrally controlled business unit and relies heavily on the knowledge of its staff. To retain this corporate knowledge, assist new staff commencing in the Unit and facilitate the review of business processes, the ANAO considers that procedures should be documented and modelled on the Commonwealth's Fraud Investigation Standards Package.

44. The IAU does not participate in any formal quality assurance review process. The ANAO acknowledges concerns regarding staff privacy and confidentiality, but considers that, if the IAU implemented a quality assurance review program, it would highlight better practice and areas for improvement resulting in better outcomes. The ANAO also found no evidence of any analysis or evaluation of internal fraud trends.

Measuring the effectiveness of Customs' fraud strategies—Chapter 6

45. Customs has performance measures relating to fraud for a number of selected outputs. This results in Customs not assessing the impact of fraud control arrangements across the full range of its activities and not reporting on the effects of its Fraud Control Plan. In addition, these measures deal with activities, for example, the number of investigations and prosecutions. They do not measure the impact or effectiveness of Customs' fraud prevention, detection and control strategies. Measuring the effectiveness and impact of its fraud strategies would allow Customs to assess those strategies and the processes, systems and procedures that underpin them.

Recommendations

Set out below are the ANAO's recommendations for improving Customs' fraud control arrangements. Report paragraph references and abbreviated Customs' responses are also included. More detailed responses are shown in the body of the report. The ANAO considers the Customs should give equal priority to these recommendations.

Recommendation No. 1
Para. 2.18 To ensure reporting obligations required by the Commonwealth Fraud Control Guidelines are met, the ANAO recommends that Customs:

- (a) include details of internal fraud referrals and investigations in its annual report; and
- (b) report current identified major fraud risks and details of serious or complex fraud cases under investigation to the AFP.

Customs response: Agreed.

Recommendation No. 2
Para. 2.35 To ensure that Customs meets the Commonwealth's protective security requirements, the ANAO recommends that Customs complete outstanding security reviews as soon as practicable.

Customs response: Agreed.

Recommendation No. 3
Para. 2.56 In order to minimise the potential for fraud in managing high value contracts and improve accountability for performance, the ANAO recommends that Customs:

- (a) retain a signed and verified paper copy of the monthly reconciliation data;
- (b) incorporate an audit trail into its reconciliation processes;
- (c) develop and implement guidelines that cover all aspects of the verification, reconciliation and payment processes; and
- (d) carry out random quality assurance checks before payment approval.

Customs response: Agreed.

Recommendation No. 4
Para. 2.68 To provide adequate assurance and agency-wide monitoring of Customs' fraud control arrangements, the ANAO recommends that the Audit Committee undertake a more active oversight role of fraud control in Customs, specifically by:

- (a) including fraud control as a standing agenda item for its meetings; and
- (b) regularly reviewing, and responding to, data relating to fraud referrals, investigations and revenue impacts.

Customs response: Agreed.

Recommendation No. 5
Para. 3.13 To ensure that Customs is achieving maximum impact from its integrity and fraud awareness training, the ANAO recommends that the Internal Affairs Unit:

- (a) maintain a training register;
- (b) develop measures for assessing the effectiveness of the training, including feedback on course content and delivery; and
- (c) regularly evaluate the course to ensure its continued relevance.

Customs response: Agreed.

Recommendation No. 6
Para. 4.33 To support fraud control planning and inform management decision-making, the ANAO recommends that Customs:

- (a) routinely evaluate and analyse fraud referrals, investigations, case outcomes and trends nationally; and
- (b) disseminate this information within Customs to support the assessment of risks and the development of the fraud control plan and fraud action plans.

Customs response: Agreed.

Recommendation No. 7
Para. 4.49 To ensure consistent practices in managing and recovering debts relating to court-imposed fines, costs and penalties, the ANAO recommends that Customs:

- (a) review its processes and systems for recovering these debts;
- (b) develop and implement standard procedures for recording, monitoring and reporting of debts arising from prosecution actions;
- (c) consider drafting a Chief Executive Instruction to support this debt management process; and
- (d) consider transferring this function from the Investigations Branch to an area of the office responsible for debt management across the organisation.

Customs response: Agreed.

Recommendation No. 8
Para. 5.20 To improve Customs' case management framework for assessing and investigating internal fraud referrals, the ANAO recommends that the Internal Affairs Unit:

- (a) document its procedures and processes in accordance with the *Commonwealth Fraud Investigations Standards Package*;
- (b) categorise referrals to clearly identify the number of fraud referrals and fraud investigations;
- (c) develop and implement a quality review program; and
- (d) analyse and evaluate referred cases for fraud patterns and trends.

Customs response: Agreed.

Recommendation No. 9
Para. 6.33 The ANAO recommends that Customs build on its ongoing work to review its performance measures for preventing, detecting and controlling fraud; and to move towards developing a range of performance indicators that will:

- (a) more accurately assess the effectiveness of its fraud strategies; and
- (b) include internal and, where necessary, cross-agency quantitative and qualitative data to ensure reliability and consistency.

Customs response: Agreed.

Audit Findings and Conclusions

1. Background and Context

This chapter outlines the Commonwealth's fraud control requirements and Customs' role and responsibilities. It also sets out the objective and scope of the audit and structure of the report.

Fraud prevention and control within the Commonwealth Public Sector

1.1 Fraud imposes a significant cost on Australian society. In 1997, the Australian Institute of Criminology estimated that fraud cost the community between \$3 billion and \$3.5 billion per year. Fraud against the Commonwealth is also a major concern to the Government. Agencies must ensure that fraud is minimised and that, where fraud does occur, it is rapidly detected, effectively investigated, appropriately prosecuted and losses minimised.¹⁴

1.2 The changing environment in which the public sector is now operating has increased the opportunity for fraudulent activity. The trend towards the outsourcing of functions and greater focus on the contestability of services undertaken by the public sector increases the risks associated with fraud. The convergence of public and private sectors and the need for cooperative and/or strategic partnership arrangements have emphasised the need for accountability and sound corporate governance strategies. These strategies must clearly identify possible fraud risks and how these risks will be managed and minimised.

1.3 Increased attention has been given to potential fraud following recent corporate collapses in the private sector. A new auditing standard explicitly requires auditors to consider, document and communicate to management issues relating to fraud.¹⁵ For example, auditors are to give assurance of the existence of fraud control plans and that detected fraud is brought to the attention of management. Effective fraud control in the public sector protects Commonwealth revenue, expenditure and property and gives Parliament and the community confidence in the effectiveness and integrity of the staff and operations of public sector agencies.

1.4 Effective fraud control requires the commitment and involvement of all Commonwealth agencies, employees and external service providers. The importance of agencies establishing effective fraud control arrangements has been recognised in the *Financial Management and Accountability Act 1997* (FMA

¹⁴ Attorney-General's Department, *Commonwealth Fraud Control Guidelines*, May 2002, p. iii.

¹⁵ Barrett P.J. (AM)—Auditor-General for Australia, 2002 Senate Occasional Lecture Series, *Auditing in a Changing Governance Environment*, p. 24. Auditing Standard AUS 210 *The Auditor's Responsibility to Consider Fraud and Error in an Audit of a Financial Report*.

Act). Under Section 45 of the Act, Chief Executive Officers (CEOs) must implement a fraud control plan and report to the Portfolio Minister on fraud control within their agencies.

Commonwealth Fraud Control Guidelines

1.5 The Commonwealth Government has outlined its fraud control policy in the recently issued *Commonwealth Fraud Control Guidelines*.¹⁶ The Guidelines take account of the changing environment in which Commonwealth agencies now operate, including the introduction of the FMA Act.¹⁷ The Guidelines outline the Government's requirement that Commonwealth agencies put in place a comprehensive fraud control program that includes prevention, detection, investigation and reporting strategies.

1.6 The Guidelines, which define fraud as *dishonestly obtaining a benefit by deception or other means*—and includes both tangible and intangible benefits¹⁸ apply to:

- all agencies covered by the FMA Act; and
- bodies covered by the *Commonwealth Authorities and Companies Act 1997* (CAC Act) that receive at least 50 per cent of funding for their operating costs from the Commonwealth or a Commonwealth agency.¹⁹

1.7 In introducing the Guidelines, the Government strengthened the Commonwealth's Fraud Control Policy through:

- greater specification of fraud control arrangements for outsourcing;
- the introduction of mandatory training qualifications for fraud investigators;

¹⁶ The Government first released its Fraud Control Policy of the Commonwealth in 1987. This policy was revised in 1994 and subject to extensive review and consultation. Consultation Draft No.1 was issued in June 1999 and Consultation Draft No.2 in April 2001. The *Commonwealth Fraud Control Guidelines* were issued in May 2002.

¹⁷ The Guidelines were issued under Regulation 19 of the Financial Management and Accountability Regulations 1997 (FMAR). Regulation 19 FMAR provides for the issue of fraud control guidelines. Regulation 20 FMAR requires that officials must have regard to the guidelines issued under Regulation 19.

¹⁸ This definition includes: theft; obtaining property, a financial advantage or any other benefit by deception; causing a loss, or avoiding or creating a liability by deception; providing false or misleading information to the Commonwealth, or failing to provide information where there is an obligation to do so; making, using or possessing forged or falsified documents; bribery, corruption or abuse of office; unlawful use of Commonwealth computers, vehicles, telephones and other property or services; relevant bankruptcy offences; and any offences of a like nature to those listed above.

¹⁹ Section 28 of the CAC Act provides that the responsible Minister may, after consultation, notify the directors of a Commonwealth authority in writing of general policies of the Commonwealth that are to apply to the agency.

- improved fraud reporting to Government; and
- establishment of a Fraud Trend Information Network.

Roles and responsibilities for fraud control in the Commonwealth

1.8 Commonwealth agencies with cross-government responsibilities in relation to fraud control include the Attorney-General's Department, the Australian Federal Police (AFP) and the Commonwealth Director of Public Prosecutions (CDPP).

Attorney-General's Department

1.9 The Department advises the Minister on fraud control, including the implementation of the Commonwealth Fraud Control Guidelines, and is specifically responsible for:

- advising agencies on implementing the Fraud Control Guidelines;
- reviewing Commonwealth fraud control arrangements as directed by the Minister;
- collecting, analysing and disseminating information on the nature and extent of fraud against the Commonwealth; and
- establishing and maintaining a Fraud Trend Information Network, in conjunction with the AFP.²⁰

1.10 Agencies are required to provide the Attorney-General's Department with a report outlining fraud that has been detected within the agency. A summary report combining fraud statistics from all Commonwealth agencies is then provided to the Minister for Justice and Customs.

Australian Federal Police

1.11 The AFP is responsible for investigating serious or complex crime against Commonwealth interests. The AFP also helps Commonwealth agencies in their investigations by providing forensic and technical assistance and executing search warrants. Under the Guidelines, the AFP is also responsible for:

- providing agencies with quarterly case management reports on investigations undertaken by the AFP on agencies' behalf;

²⁰ The Commonwealth Fraud Trend Information Network is currently under development and yet to be approved by the Minister. The aim of the network is to establish a low-cost open forum fraud trend information source that will be available to all Commonwealth agencies. Information available through the network will be drawn from various sources including: the Commonwealth Fraud Liaison Forums, agencies reporting to the Attorney-General's Department and Australian Bureau of Criminal Intelligence.

- conducting quality assurance reviews of agencies' investigations;
- maintaining and reviewing Commonwealth investigation standards;
- providing a fraud control liaison and dissemination function; and
- assisting in reviewing Commonwealth fraud control arrangements in consultation with the Attorney-General's Department.

Commonwealth Director of Public Prosecutions

1.12 The CDPP prosecutes offences against Commonwealth law and conducts related criminal assets recovery. All prosecution and related decisions are based on the Prosecution Policy of the Commonwealth.

Joint Committee of Public Accounts and Audit reviews

1.13 Fraud control continues to be an area of interest for the Joint Committee of Public Accounts and Audit (JCPAA). In its report, *Review of Auditor-General's Reports 2000–2001 Second and Third Quarters*,²¹ the JCPAA suggests that agencies develop sub-categories of fraud to provide a better understanding of the nature and significance of various types of fraudulent activity. The JCPAA requested the ANAO to develop fraud sub-categories that may be used when reporting fraud. This issue will be more fully considered by the ANAO when it develops its Better Practice Guide on Fraud Control in 2003–2004 following the completion of a series of fraud audits and a second survey of fraud control arrangements in the APS.²² A list of these audits is at Appendix 1.

1.14 Following recent corporate collapses and high profile incidents of fraud both within Australia and overseas, the Committee recently completed an inquiry to explore the extent to which it may be necessary to enhance the accountability of public and private sector auditing.²³ The Committee's report made a number of recommendations relating to corporate governance, financial reporting and the auditing framework. Although aimed primarily at the private sector, these recommendations have relevance for the public sector.

²¹ Joint Committee of Public Accounts and Audit Report No.385, August 2002, *Review of Auditor-General's Reports 2000–2001 Second and Third Quarters*, p. 8. The following fraud-related audit reports were reviewed by the Committee: *Australian Taxation Office Internal Fraud Control Arrangements*; and *Fraud Control Arrangements in the Department of Defence*.

²² Audit Report No.47 1999–2000 *Survey of Fraud Control in APS Agencies*. A second survey of APS agencies is currently being undertaken.

²³ Joint Committee of Public Accounts and Audit, *Review of Independent Auditing by Registered Company Auditors*, Terms of Reference, 10 April 2002.

Australian Customs Service

1.15 Customs is a regulatory agency with three principal roles:

- to facilitate trade and the movement of people across the Australian border while protecting the community and maintaining appropriate compliance with Australian law;
- to efficiently collect customs revenue; and
- to administer industry specific schemes and trade measures.²⁴

1.16 Customs is organised into six divisions: Cargo and Trade; Border Intelligence and Passengers; Border Compliance and Enforcement; Coastwatch; Information and Office Technology; and Office of Business Systems and a governance group.²⁵ As at September 2002, Customs employed 4746 officers located in 36 Australian offices in all States and Territories and overseas posts in Bangkok, Brussels, Tokyo and Washington.

1.17 In 2001–2002, Customs:

- collected \$4.5 billion in customs duties;
- administered over \$430 million in tariff concessions and \$93 million in duty drawbacks to industry;
- cleared 4.14 million air cargo consignments and approximately 1.38 million sea cargo consignments; and
- processed over 17 million people through international airports and seaports.²⁶

Fraud control within Customs

1.18 Fraud control is an important element of Customs' regulatory responsibilities and goes beyond simply monitoring the effectiveness of financial controls. It requires developing and fostering a fraud aware environment and the highest standards of ethical behaviour.

1.19 Customs' Fraud Control Policy aims to ensure that systematic and comprehensive fraud prevention and control arrangements are in place.²⁷

²⁴ Australian Customs Service, *2001–2002 Annual Report*. Customs' legislative authority is provided through the *Customs Act 1901*, the *Customs Tariff Act 1995* and related legislation. Customs also administers legislation on behalf of other government agencies, in relation to the movement of goods and people across the Australian border.

²⁵ The governance group is made up of three non-aligned branches: Financial Services; Staffing; and Planning and International.

²⁶ Australian Customs Service, *2001–02 Annual Report*, p. 8.

²⁷ Customs relied on the *Fraud Control Policy of the Commonwealth 1994 and Consultation Draft No.1*, 1999 for guidance in developing its fraud control policy and fraud control plan.

Customs' Fraud Control Plan 2001 is designed to be the basis for ongoing monitoring and coordination of fraud control activities and is an important component of Customs' overall risk management framework.

1.20 All Customs' managers are responsible for managing fraud risks within Customs. They are expected to:

- ensure that fraud risks impacting on their area of responsibility are considered during the development of risk management plans;
- take action to ensure appropriate procedures and arrangements are in place to safeguard Commonwealth resources and revenue;
- ensure that they and their staff are aware of the Fraud Control Policy and their responsibilities in relation to this policy; and
- report all incidents of suspected fraud.

1.21 Operational areas are responsible for preventing and detecting fraud and the Investigations Branch and Internal Affairs Unit (IAU) investigate alleged fraud. The Investigations Branch is responsible for investigating external fraud, which is fraud perpetrated by persons outside Customs. Table 1 outlines for the period 1999–2002: the total number of external fraud referrals received; the number of referrals accepted as fraud cases and the estimated value of fraud involved;²⁸ cases completed; and the revenue awarded following successful prosecution.

Table 1
External fraud referrals received for period 1999–2002

External Fraud Referrals	1999–2000	2000–2001	2001–2002
External fraud referrals received	183	185	164
External fraud referrals accepted as cases	107	94	84
Estimated value of fraud for referrals accepted ⁽¹⁾	\$51.6m	\$52.8m	\$38.9m
External fraud investigations completed	44	46	73
Revenue awarded for completed cases ⁽²⁾	\$11.86m	\$6.26m	\$19.46m

Source: Australian Customs Service

Note 1: The estimated value of the fraud refers to the customs duties evaded. This is not a mandatory field in the WINCAMS system and can be adjusted as the case progresses. The estimated value will vary each year depending on the volume of cases and the actual amount of duty involved in each case.

Note 2: Revenue awarded includes: demands; pre-court settlements; fines and penalties; reparation orders; sale of goods; and settlements processed through court and could relate to cases investigated in previous years.

²⁸ It is difficult to estimate the true 'costs' associated with fraud. The definition applied to 'costs' could include the value of the specific transaction that was fraudulent, the costs of the investigation and prosecution to bring criminal charges, the fraud costs cited in actual convictions; the fines and penalties that are awarded, investor or taxpayer losses; or some combination of these. Source: Pontell, H. 2002 *Reducing Identity Fraud in the Australian Tax System*, paper presented at the Centre for Tax System Integrity, Oct 2002.

1.22 The Investigations Branch assesses all referrals but only accepts priority cases, because it does not have the capacity to investigate all referrals received. Fraud referrals not accepted as cases are generally returned to the originating area. These areas also have the option of imposing administrative penalties under the *Customs Act 1901*.

1.23 The IAU is responsible for investigating allegations of serious misconduct and complaints of criminality against Customs' staff. All cases involving criminal activity, including fraud, are forwarded to the AFP or other law enforcement agencies for investigation when the allegation has been substantiated. The total number of allegations referred to the IAU and the number of fraud referrals passed to the AFP for the period 1999–2002 are outlined in Table 2. It is not always possible to quantify the value of fraud in these cases because some allegations such as unauthorised access to Customs' information systems may not necessarily involve a monetary value or have a value that is readily determined.

Table 2

Allegations referred to the IAU for period 1999–2002

Internal Fraud Unit Referrals	1999–2000	2000–2001	2001–2002
Referrals involving allegations of criminality	37	44	37
Referrals involving allegations of misconduct	33	34	31
Ongoing cases involving criminality	-	-	6
Ongoing cases involving misconduct	-	-	5
Total	70	78	79
Substantiated fraud allegations referred to AFP	6	6	13

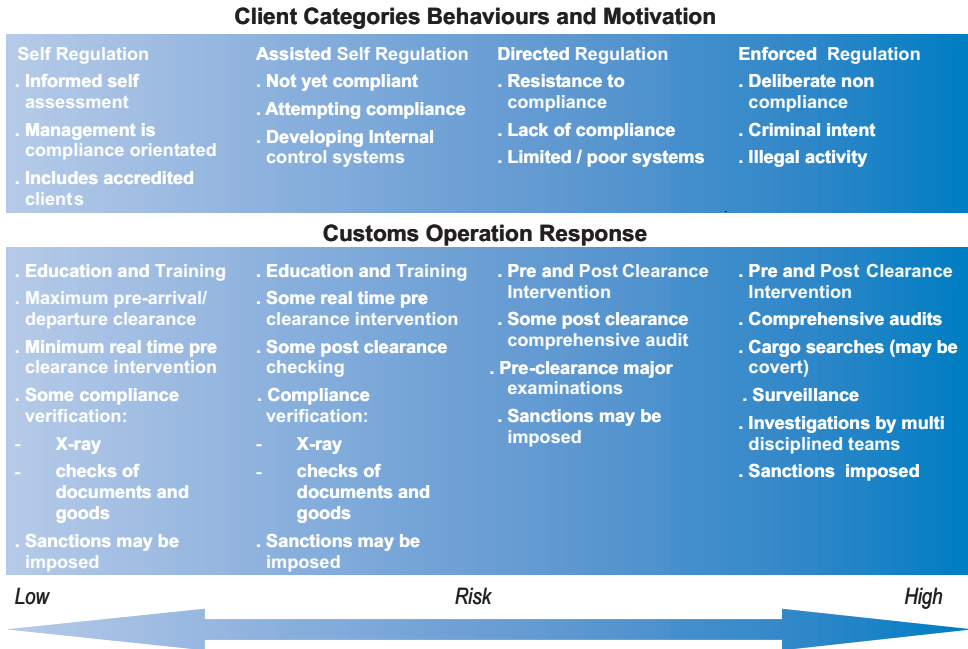
Source: Australian Customs Service

Customs' Regulatory Philosophy

1.24 Customs has a clear mandate to collect customs and other revenue and to protect the Australian community from the illegal movement of goods and people across the border. It aims to do this without impeding the flow of legitimate trade or travel. Customs' Regulatory Philosophy reflects a whole of business approach to its responsibilities. Interaction with clients balances service, facilitation and enforcement activities, which are outlined in its Compliance Continuum, illustrated in Figure 1.

Figure 1

Customs' compliance continuum



Source: Australian Customs Service

1.25 Customs' operational work is governed by its assessments of the behaviour of its clients and the risks they, or their cargo, represent. When international traders and travellers comply with the laws and regulations administered by Customs, intervention activity is minimised. Customs' response to non-compliant activity is determined by its extent and nature. Fraud falls within the client category of Enforced Regulation, and includes deliberate non-compliance, criminal intent and illegal activity.

1.26 When dealing with external fraud Customs may:

- refer a brief of evidence to the CDPP for consideration of prosecution as a criminal offence under the *Crimes Act 1914* or *Criminal Code*;
- refer a brief of evidence to the Australian Government Solicitor for civil prosecution under the *Customs Act 1901*; or
- impose an administrative penalty under the Customs Act.

1.27 Customs' administrative penalty system was introduced in 1986 to ensure that the import clearance system, which is based on self-assessment, operates with maximum integrity, and fairness for all importers. Short payment and avoidance of duty means that revenue is reduced. Of equal importance, the commercial interests of other importers competing in the same marketplace who

have paid the correct amount of duty are prejudiced. Administrative penalties are generally applied only as a 'last resort' in response to non-compliance.

1.28 The trade-modernisation legislation that took effect on 1 July 2002 introduces a new penalty scheme,²⁹ which includes a range of 'strict liability'³⁰ offences for breaches of statutory obligations. An infringement notice scheme was also introduced for a number of the strict liability offences.³¹

Fraud liaison forums

1.29 Customs participates in a number of Commonwealth fraud-related forums such as the National Fraud Liaison Forum and Action Group on the Law Enforcement Implications of Electronic Commerce. Internationally, Customs takes an active role in several World Customs Organisation committees and sub-committees, each of which deals with various aspects of fraud. Customs is also a member of the Heads of Commonwealth Law Enforcement Agencies Working Group, which is reviewing the Commonwealth Fraud Investigations Standards Package.

Audit objective, scope and methodology

Objective and scope

1.30 The audit objective was to assess:

- whether Customs has implemented appropriate fraud control arrangements consistent with the Commonwealth Fraud Control Guidelines; and
- the administrative effectiveness of these arrangements.

1.31 The audit scope included internal and external fraud and the following key elements of fraud control were reviewed:

- Customs' fraud control arrangements as part of its corporate governance framework;

²⁹ The new penalty scheme is organised on a three-level basis. Level 1: court proceedings where fault must be proved; Level 2: court proceedings to prosecute a strict liability offence (where fault is not required to be proved); and Level 3: an infringement notice instead of prosecution—this only applies to some strict liability offences.

³⁰ A strict liability offence is one where the fault element does not have to be proved. This means that, regardless of whether the person making the error has acted intentionally, recklessly or otherwise, the fact that the action occurred is sufficient to establish the offence. Where an offence is one of 'strict liability', it is specifically stated in the Customs Act.

³¹ An infringement notice means that Customs is prepared to prosecute the offence in court if the penalty in the infringement notice is not paid. Australian Customs Service, *Trade Modernisation Information Documentation*, May 2002.

- the strategies, systems and processes used by Customs to prevent and detect internal and external fraud;
- the management of internal and external fraud investigations; and
- reporting of internal and external fraud.

Methodology

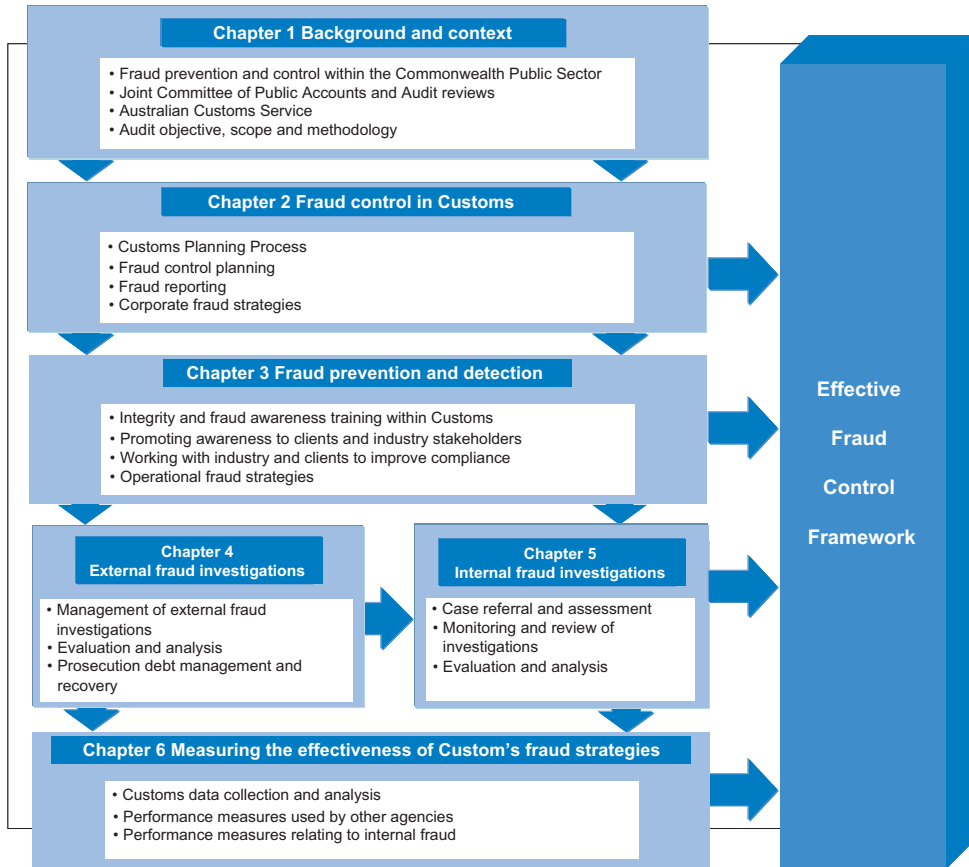
1.32 The audit methodology adopted included a combination of quantitative and qualitative analysis, file/documentation reviews and interviews with agency officers in Canberra, Sydney and Melbourne. The ANAO also consulted with several international customs administrations and other Commonwealth agencies including the Attorney-General's Department, Australian Federal Police, Director of Public Prosecutions and the Australian Government Solicitor.

1.33 To assess the management of Customs' internal and external fraud investigations, an indicative sample of 44 completed cases (21 internal fraud and 23 external fraud investigations) was reviewed. The sample included cases from all regions.

Report structure

1.34 Figure 2 illustrates the framework the ANAO used to analyse Customs' fraud control arrangements. This framework formed the basis for the structure of the report.

Figure 2
Report structure



2. Fraud Control in Customs

This chapter discusses the mechanisms and processes that Customs employs to control fraud. It examines in detail a range of Customs' corporate fraud control strategies.

Introduction

2.1 Effective fraud control has a number of components. These include a relevant legislative and regulatory framework conducive to the day-to-day management of fraud control procedures and practices.³² Fraud control also needs to be integrated into business planning processes across an organisation. This includes developing and maintaining a formal risk management strategy that incorporates fraud risks. Strategies specifically directed at minimising fraud should be developed to create a framework for fraud control at operational and technical levels.

2.2 Corporate governance arrangements also incorporate key elements of fraud control. These include corporate planning mechanisms, the development and coordination of agency-wide fraud control strategies and ongoing quality assurance about the integrity and effectiveness of systems and operations. Specific elements of corporate governance that directly relate to fraud control include an independent and effective audit committee; agency values; the promulgation of an appropriate code of ethics; and performance measurement and review.³³

2.3 The ANAO reviewed Customs' fraud control arrangements including the:

- corporate planning and risk management processes;
- development of the Fraud Control Plan;
- assessment of fraud risks and compliance with external reporting requirements;
- corporate fraud control strategies; and
- quality assurance arrangements in relation to fraud control.

³² The legislation relevant to fraud control in Customs is the *Financial Management and Accountability Act 1997*; the *Commonwealth Authorities and Companies Act 1997*; the *Public Service Act 1999*; and the *Workplace Relations Act 1996*. Legislation specific to Customs includes the *Customs Act 1901*, *Customs Administration Act 1985* and the Customs Regulations and the *International Trade Modernisation Bill 2001*. This legislation is supported by the Commonwealth Fraud Control Guidelines.

³³ Barrett P.J. (AM)—Auditor-General for Australia. 12 June 2002. *Corporate Governance—More Than a Passing Fad*.

Customs' corporate planning and risk management

2.4 Customs' corporate planning process consists of hierarchically organised plans at various levels of the organisation. An agency-wide Corporate Plan is supported by organisational unit plans for Divisions, Branches and Work Areas and individual performance agreements. Detailed business planning is undertaken through these plans and performance at all levels is assessed against the objectives set out in the respective plans.

2.5 The ANAO found that Customs' corporate planning processes were well designed. They provide a sound basis for accountability across the agency and are subject to review and regular update to ensure their continuing relevance.

Risk management

2.6 Customs' Risk Management Policy³⁴ recognises that risk management must be effective across all levels of the organisation. Other ANAO performance audits have recently examined Customs' risk management policy and practices and found that the risk management framework is generally sound and has been implemented at the strategic level. However, risk management practices need to be fully and effectively adopted in a number of operational areas.³⁵ Since these audits, work has commenced to ensure that risk management is more fully integrated with corporate planning processes and implemented across Customs' operations. Risk management processes are subject to ongoing review.

Improvements in corporate planning

2.7 Customs is developing a new corporate planning framework to better integrate risk management into business planning and improve reporting of performance. The new framework will place more emphasis on output-based planning and performance management, with the Working Corporate Plan³⁶ being replaced by an Output Action Plan. The ANAO considers that the integration of risk management into the corporate planning process will be further enhanced with the implementation of this new corporate planning framework.

³⁴ This policy requires compliance with the process and approach outlined in the Australian and New Zealand Standard for Risk Management (AS/NZS 4360:1999).

³⁵ See particularly ANAO Audit Report No.54 2001–2002, *Customs Drug Detection in Air and Containerised Sea Cargo and Small Craft*, pp. 111–113.

³⁶ The Working Corporate Plan is an internal document, derived from the Corporate Plan. It describes in more detail: the objectives Customs plans to achieve; the strategies for achieving them; and how Customs will measure its performance under its outcome and outputs framework.

Integrating fraud control in corporate planning

2.8 Assigning responsibility for fraud risk management is an important part of Customs' fraud control strategy. In May 2000, all Regional Directors and National Managers were advised that they would be expected to accept responsibility for the fraud risks that affected their particular areas. Customs' Fraud Control Plan was finalised in 2001.³⁷

2.9 The 2001 plan represents the first major review of the agency's fraud risks since 1993. It is the first plan to be issued since the 1994 Fraud Control Policy of the Commonwealth was published. The ANAO notes that efforts had been made to update the agency's fraud control arrangements in 1995.³⁸ The 2001 Fraud Control Plan integrates detailed fraud control planning with agency-wide risk management and, in turn, corporate planning processes.

Fraud Control Plan 2001

2.10 In managing fraud control, Customs must meet the Commonwealth's requirements.³⁹ Agencies need to put in place a comprehensive fraud control program that includes prevention, detection, investigation and reporting strategies.⁴⁰ Customs' Chief Executive Instruction (CEI) No.7.2 *Fraud Prevention and Control* outlines its policies relating to fraud prevention and control. It includes preparing, managing and updating a Fraud Control Plan that:

- is consistent with the Fraud Control Policy of the Commonwealth;
- reinforces responsibilities and accountabilities at all levels of the organisation;
- integrates fraud prevention policies and practices into business planning; and
- details strategies to combat current and emerging fraud risks.⁴¹

2.11 Customs developed its fraud control plan through a broad-based consultative process across operational areas. The Investigations Branch coordinated the Plan with a committee that included representatives from all

³⁷ The Chief Executive Officer approved the Plan on 26 September 2001 and a copy was provided to the Minister for Justice and Customs in December 2001. The Audit Committee is to monitor the progress in implementing actions arising from the action plans contained in the Plan.

³⁸ Customs engaged an external consultant in 1995 to review and update the 1993 Fraud Control Plan; however, the final product was not acceptable to Customs.

³⁹ The Commonwealth Fraud Control Guidelines are the main source of these requirements. Additional requirements are set out in the Commonwealth Protective Security Manual (PSM) issued by the Attorney-General's Department, which requires agencies to prepare a security plan using risk management principles.

⁴⁰ *Commonwealth Fraud Control Guidelines*—May 2002.

⁴¹ The CEI definition of fraud is that of the 1994 Fraud Control Policy of the Commonwealth.

work areas. The Committee undertook an initial identification and assessment of fraud risks. This included the potential impacts should fraud occur, and the control mechanisms in place to prevent, detect and, where appropriate, investigate fraud. The potential impacts included financial loss, damage to Customs' reputation or credibility, the loss of information or intellectual property and the impact on controls. The Committee determined a risk level and overall priority for the identified risks.

2.12 The Fraud Control Plan provides fraud risk identification analysis,⁴² controls, control strategies,⁴³ and action plans.⁴⁴ The fraud action plans outline the fraud risks (and level of risk) impacting on particular areas within Customs. The relevant Regional Director and National Manager formally acknowledge that these fraud issues will be considered when undertaking risk assessments and they must 'sign-off' on the fraud action plans. Responsibility and accountability are thereby clearly specified. The Audit Committee is responsible for monitoring the implementation of actions arising from the action plans. The Audit Committee's role and responsibilities are discussed later in this chapter.

2.13 The ANAO considers that Customs' Fraud Control Plan:

- fulfils the requirements outlined in CEI 7.2 and conforms with the Commonwealth's Guidelines;
- reinforces responsibility and accountability at all levels of the organisation; and
- contains appropriate links to the agency's Corporate Plan and the activities specified in the business and operational plans of individual work areas.

2.14 Fraud prevention policies and practices and consideration of fraud risks have been integrated into the business planning process through the action plans. The Plan gives Customs a sound basis for reviewing and updating its fraud control framework.

Fraud reporting

2.15 Under the Commonwealth's Fraud Control Guidelines, the Chief Executive Officer must certify to the Minister in the agency's annual report that fraud risk assessments and fraud control plans have been prepared and appropriate fraud prevention, detection, investigation, reporting and data

⁴² The Risk register applies a risk rating to the likelihood, consequence and risk level of various types of fraud and its impact on affected business areas.

⁴³ Fraud Control Strategies are divided into Corporate and Operational strategies identifying the area responsible, and detailing: access and awareness; update and review; and compliance activities.

⁴⁴ Fraud action plans are area-specific and identify the risk and risk level; loss of Customs resources and associated risk level; existing controls; additional action; and timetable for additional action.

collection procedures and processes are in place. Agencies must also advise the AFP annually of their current identified major fraud risks and serious or complex fraud cases under investigation.

2.16 The ANAO found that Customs largely meets its reporting requirements under the Guidelines. Customs reports in its annual report information about its fraud prevention, detection and investigation strategies for both internal and external fraud. It also reports the number of external fraud referrals received annually and the number of referrals adopted as cases and prosecution outcomes. This information is consolidated in Customs' response to the annual fraud survey undertaken by the Attorney-General's Department. However, the ANAO found that Customs has not reported its current identified major fraud risks or provided the details of its serious or complex external fraud cases to the AFP as required by the Guidelines.

2.17 Customs also does not identify those cases that specifically relate to internal fraud in its annual report. Rather, it reports the total number of complaints of serious misconduct and/or criminality and miscellaneous inquiries received by the Internal Affairs Unit. It reports the number of matters substantiated, unsubstantiated and under investigation, but does not classify these matters as relating to either misconduct or criminality, which includes fraud. Identifying, as it does for external fraud, the referrals and investigations that relate specifically to internal fraud will assist Customs in meeting its reporting obligations.

Recommendation No. 1

2.18 To ensure reporting obligations required by the Commonwealth Fraud Control Guidelines are met, the ANAO recommends that Customs:

- (a) include details of internal fraud referrals and investigations in its annual report; and
- (b) report current identified major fraud risks and details of serious or complex fraud cases under investigation to the AFP.

Customs response

2.19 Agreed. Customs undertakes to ensure its reporting obligations are met with respect to annual reporting and notification to the AFP.

Customs' corporate fraud control strategies

2.20 The Fraud Control Plan translates Customs' fraud control principles into fraud control strategies. These have been divided into 'corporate' and 'operational' strategies, which are outlined in Figure 3.

Figure 3
Customs fraud control strategies



Source: Australian Customs Service

2.21 The manner in which Customs fosters and maintains standards of ethical behaviour, the Internal Affairs Unit and operational strategies are examined in other chapters of this report.⁴⁵

Corporate coordinating bodies

2.22 Customs' Security Committee and the Information Technology (IT) Policy Committee have an important role in fraud control in relation to personnel, physical and IT security. They operate in a complementary way, with protocols for referring matters from one to the other. The Security Committee provides a forum to identify corporate IT security issues and allows for the recognition, prioritisation and referral of such issues.

Customs Security Committee

2.23 Customs' Security Committee was re-convened⁴⁶ in July 2001 in response to ANAO and internal audit reports and recommendations.⁴⁷ The role of the

⁴⁵ Chapter 3 *Fraud Prevention and Detection*, Chapter 4 *External Fraud Investigations and Debt Recovery* and Chapter 5 *Internal Fraud Investigations*.

⁴⁶ Customs Security Committee had not met since February 1997.

⁴⁷ ANAO Audit Report No.7 1999–2000, *Operations of the Classification System for Protecting Sensitive Information* and Audit Report No. 21 1997–98 *Protective Security*. Customs internal audit review *Physical Security* 2001.

Committee is to inform senior management, to improve compliance and to enhance Customs' overall performance in the security area. The Committee endorsed Customs' Security Plan in July 2001.

Customs IT Policy Committee

2.24 Customs' IT Policy Committee is responsible for approving:

- IT security policies and changes to these policies, to ensure the continued protection of IT information holdings and resources; and
- guidelines and procedures to facilitate the implementation of these policies.

2.25 Outcomes from, or decisions made by, the Committee are circulated with agenda papers for Security Committee meetings. The ANAO supports the close liaison between the IT Policy and Security Committees. It allows issues to be raised and addressed in a more coordinated manner.

Chief Executive Instructions

2.26 The FMA Act, Regulations and Orders establish the legislative framework for financial management across Commonwealth agencies. The Chief Executive Instructions (CEIs) determine the procedures that apply within agencies. Customs has 51 CEIs, effective from March 1999, that address a number of matters including: delegations and authorisations; taxation and records; care and custody of public money; spending public money; debt management; managing risk and internal accountability; and other miscellaneous areas such as advertising and legal services.

2.27 Customs' CEIs, which are an integral part of its fraud control strategy, are subject to periodic review and updating by the Financial Management Branch. The most recent review was completed in July 2002. All Customs' staff have ready access to the CEIs.⁴⁸ Their importance is promoted through staff induction training. Staff are advised of updates through 'all staff' e-mail messages.

Protective security

2.28 Protective security is essential for effective fraud control and encompasses three areas: physical, personnel, and IT. Physical security involves property, assets and resources. Personnel security should ensure that all staff and/or contractors have the appropriate level of security clearance before they are authorised to access Customs' facilities and sensitive classified information. IT security covers the systems and networks storing, processing and transmitting official information.

⁴⁸ Access to the CEIs is available through the Customs' Intranet site and copies are available to each Business group and all SES officers.

2.29 The activities of these areas are brought together in Customs' Security Plan. The plan outlines the responsibilities of branches and regions for implementing the operational treatments of identified security risks, which are incorporated in branch and regional work area plans. The Security Plan is to be revised on a regular basis or when risks or circumstances change significantly.⁴⁹ A review of the plan was to commence by 31 May 2002 and incorporate the annual work area security risk reviews (area reviews). Customs advised that this review commenced in February 2003.

Physical security

2.30 Agencies must ensure that they provide a physical environment that protects the integrity, availability and confidentiality of official information.⁵⁰ Customs undertook an internal audit of Premises Security in June 2002. The audit concluded that Customs had complied with, or was addressing, the majority of the requirements detailed in the Protective Security Manual (PSM). The audit report noted the need for site security plans to be prepared for all sites and for protective security risk reviews (PSRRs) and work area risk reviews to be appropriately prioritised. Site security plans for Central and regional offices are in progress and plans for other offices are to be completed by 30 June 2003.

Protective security reviews

2.31 PSRRs are undertaken within a three-year cycle unless required earlier, for example to review the security of new premises. Their purpose is to identify threats, examine existing physical countermeasures and security procedures, and to recommend improvements. Customs has 242 premises, including 62 offices, 111 special purpose areas (i.e. dog units), and 69 section 19 areas (i.e. small cargo inspection areas). Of these premises, the 62 offices and 25 special purpose and section 19 premises are included in the PSRR schedule.

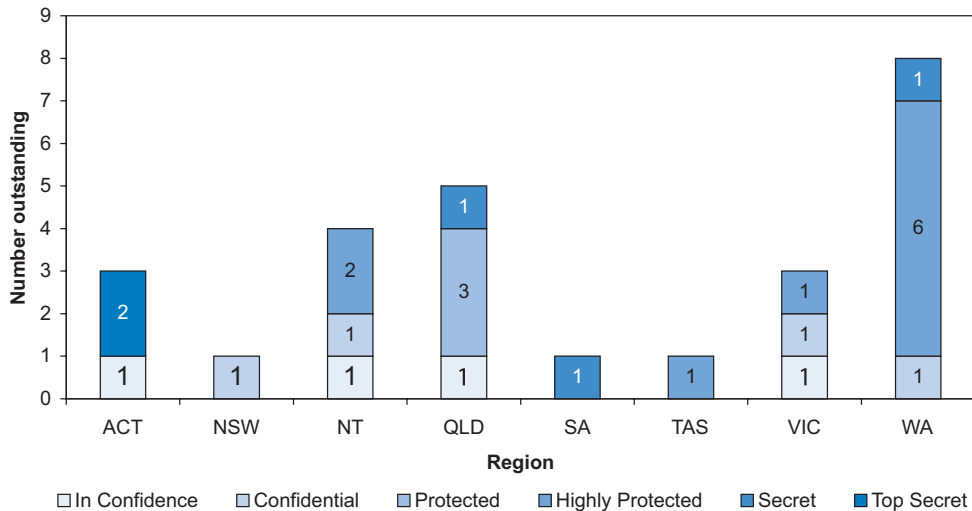
2.32 As at October 2002, 26 'security-rated' sites⁵¹ were either due, or overdue, for review. Figure 4 illustrates the regions due for protective reviews, by the classification of the highest rated material held on the premises. One 'highly protected' site in Western Australia was last reviewed in 1996 and 16 sites have yet to have an initial PSRR. The ANAO strongly suggests that Customs complete outstanding protective security risk reviews as soon as possible.

⁴⁹ *Commonwealth Protective Security Manual*, 2000, p. B13.

⁵⁰ *Commonwealth Protective Security Manual*, 2000, p. E5.

⁵¹ A further three sites are due for review but these have a nil security rating.

Figure 4
Protective Security Risk Reviews



Source: Australian Customs Service Protective Security Risk Review data.

Work area security risk reviews

2.33 National and Regional offices undertake work area security risk reviews annually to review the security risks identified in existing branch/regional risk plans.⁵² Details of action taken in the work area to address these risks are reported to Central Office Security Section.

Conclusion

2.34 The work area and protective reviews of Customs’ owned and contracted premises facilitate the maintenance and review of physical security requirements and regular updating of Customs’ Security Plan. Until outstanding reviews are completed, Customs is not able to meet the requirements outlined in the PSM. That is, until a security risk review has been completed, it is unable to determine the appropriate physical environment.⁵³ As a consequence, potential fraud risks may not have been identified.

⁵² The review checklist includes: classified containers; IT systems; staff security procedures and clearances and a security incident report.

⁵³ *Commonwealth Protective Security Manual*, 2000 p. E20.

Recommendation No. 2

2.35 To ensure that Customs meets the Commonwealth's protective security requirements, the ANAO recommends that Customs complete outstanding security reviews as soon as practicable.

Customs response

2.36 Agreed.

Personnel security

2.37 The integrity of Customs' employees is paramount to the effectiveness of its fraud control strategies. Customs initially assessed the risk of a loss of confidence in its employees as rare to moderate, given current security measures. However, noting the consequences associated with a loss of confidence, the rating was increased to significant. Personnel security is an important component of any strategy to manage internal fraud.

2.38 The ANAO considers that Customs maintains and enforces what could be said to be 'a controlled environment'. Customs undertakes to assess and security clear all employees,⁵⁴ contractors and government workers to 'protected' level before issuing an identity card and allowing access to Customs' systems and buildings.⁵⁵ Access to buildings and the various work areas is unique to each region and controlled by pass access. Visitors are to be escorted while in restricted (non-public) areas and security guards monitor access to Customs' buildings. The Computerised Vetting Register (CVR) records security clearance information for all Customs' employees, contractors and consultants.⁵⁶ The CVR was upgraded in September 2002 to better manage the security vetting process and to provide access to regional security staff.

Information technology security

2.39 IT supports many of Customs' business processes. It is therefore essential that the availability, integrity and confidentiality of its network and applications be maintained at the highest level. It is important that controls are in place to

⁵⁴ Employment with Customs is subject to security clearance.

⁵⁵ Australian Customs Service Security Guideline 2001/1 *Personnel Security Standards* outlines the personnel clearance system to be used by Customs.

⁵⁶ Information recorded on the CVR includes: the date clearance action commences; the level of clearance required; status of employment; the date clearance is granted; and the date of review. The CVR has three levels of access: administrator; supervisor (read/write); and read only.

minimise fraudulent activity, or unauthorised access to Customs' computer applications.⁵⁷

IT security policy

2.40 Customs has developed an IT Security Policy,⁵⁸ to ensure there are appropriate safeguards and procedures to protect Customs' information holdings and IT resources. It is designed so that staff, consultants and contractors are aware of and understand their responsibility and accountability for the effective operation of these safeguards.⁵⁹ While the IT policy assigns responsibility for IT security to the designated 'owner' of a system, the IT Security Section is responsible in an overall sense for protecting the integrity, availability and confidentiality of Customs' IT assets from both intentional and unintentional harm.

IT access arrangements

2.41 The designated 'owner' of the system determines the appropriate level of classification and access control arrangements. The ANAO's 2001–02 financial statement audit found that access to the Customs' IT systems and information is restricted through defined user access profiles. These profiles are user-specific, reflecting specific job roles and approval is required before access is granted. Physical access to Customs' IT infrastructure is also restricted to only authorised staff. Access to the network by users requires that they successfully complete the personnel security vetting process. The audit found that Customs has in place security monitoring and review activities including user access management, system event logs and privileged system access. These are performed at both the application and system-wide levels to varying degrees providing assurance that access control arrangements are enforced.⁶⁰

IT architecture and structure

2.42 In June 2001, Customs undertook a review of its IT Security Policy and Logical and Conceptual Security Architecture. The review involved a number of phases including:

- a threat and risk assessment in October 2001;

⁵⁷ Mandatory government requirements relating to IT, including protection, intrusion detection measures and response processes are set down in: the PSM; a series of Australian Communications-Electronic Instructions (ACSI's); the Gateway Certification guide, and documentation relating to Public Key Infrastructure issued by the National Office for the Information Economy (NOIE). These apply equally to Commonwealth agencies and to non-government service providers.

⁵⁸ The most recent version of the IT Security Policy was produced in 2000.

⁵⁹ Australian Customs Service IT security Policy (2000).

⁶⁰ Australian Customs Service Financial Statement Audit 2001–02, Interim Management Letter.

- a gap analysis to examine the current policy and security architecture against the requirements and guidelines; and
- update of the security policy and architecture.

2.43 Customs advised that the gap analysis report was completed in October 2002. The IT Security Policy (2000) has been reviewed and is currently being redrafted. A number of IT security architecture documents⁶¹ have been updated and were subsequently endorsed by the IT Architecture Committee.

IT audit strategy

2.44 An IT audit strategy is being developed to ensure safeguards are in place to effectively monitor and detect inappropriate use of IT resources. Customs advised that a draft statement of work had been prepared and negotiations were currently underway for the allocation of resources. The ANAO supports this initiative as a crucial element in Customs' fraud control strategies. However, if the IT audit capability is to be maximised, the lines of accountability including reporting, particularly strategic data reporting, must be clearly defined and incorporated into the strategy. The IT Policy Committee should monitor the implementation of recommendations resulting from these audits, with periodic reporting through the Committee to the Security Committee.

IT strategic planning

2.45 Customs are currently developing an IT Strategic Plan (2003-2008) that will take into account Customs' business needs and IT system requirements. Workshops will be held to ensure that the plan is linked to IT business directions. A final document is expected early 2003.

Conclusion

2.46 IT security will continue to present significant risks for Customs. The ANAO found that Customs is undertaking extensive work to address these risks. It is crucial that an overarching IT Security Policy and independent IT audit strategy underpin this work. Priority should be given to completing the policy and developing, resourcing and implementing the audit strategy. Progress in completing this work should be closely monitored and supported by the IT Policy and Security Committees.

⁶¹ These documents include: *Physical Security Architecture LAN/WAN* (draft May 2002); *Customs Enterprise Security Architecture—Conceptual and Logical Target Architecture* (February 2001); *Physical Security Architecture: Application* (draft May 2002); *Physical Security Architecture: Enterprise Platform* (draft March 2002) and the *Security Architecture Overview* (June 2002).

Outsourcing and contract management

2.47 The Commonwealth Fraud Control Guidelines require agencies to ensure that outsourcing does not compromise the agency's fraud control arrangements. Agencies should also consider the potential for conflict of interest where the service provider is a client of, or provides other services to, the agency.⁶²

2.48 The ANAO reviewed the fraud control arrangements for four major contracts identified in Customs' Fraud Control Plan relating to IT services, Coastwatch surveillance activities⁶³ and internal audit. The internal audit contract is for a fixed price and the other three contract arrangements are reconciled either fortnightly or monthly. The Information Technology Branch (ITB) manages the contract for IT services. Particular emphasis was given to the controls in place to minimise the potential for fraud, performance measures, monitoring and payment arrangements.

Arrangements for developing and managing contracts

2.49 The ANAO found that Customs' Accredited Purchasing Unit (APU) provides policy direction and assistance with complex purchasing.⁶⁴ The Unit seeks to ensure that Customs' purchasing activities, especially major acquisitions, meet CEI and Commonwealth requirements.⁶⁵ A number of CEIs are specific to the management of contracts and outsourcing. For example, CEI 4.3 sets out the policies to be applied when Customs enters into, and manages, contracts, agreements and arrangements. CEI 4.2 outlines the policies covering the procurement of goods and services to ensure that expenditures are made in accordance with Commonwealth requirements and deliver value for money.

Contract monitoring

2.50 The ANAO found that all contracts included an access clause and specified reporting requirements. Two contracts had a conflict of interest clause. Where fortnightly and monthly payments are made, invoices are subject to a number of checks. These include reconciling Customs' own monitored data against reports supplied by the contractor. The procedures for verifying the accuracy of invoices are satisfactory and provide adequate controls. Payments are processed

⁶² *Commonwealth Fraud Control Guidelines*, 2002 p. 19.

⁶³ Surveillance activities are covered under two contracts.

⁶⁴ The APU has developed a number of templates to assist with tender evaluation and contract management. These include: a contract management plan; tender evaluation guidelines; evaluation guidelines; and a procurement plan incorporating a tender evaluation plan.

⁶⁵ The APU provides assistance with: approval for the method of procurement; procurement plans; evaluation methodologies; gazettal of business opportunities and contracts over \$2000; identifies procurement risks; drafting requests for offer documents; advice regarding asset disposal options; closing and registering tender; evaluating offers and debriefing suppliers; interpreting the CEIs and purchasing policy awareness training.

electronically through the National Pay and Accounts Centre, separate to the area validating the invoices.⁶⁶

2.51 Coastwatch and ITB use computer spreadsheets to reconcile their fortnightly and monthly invoices. The spreadsheet maintained by ITB is locked at the end of each month's review to prevent further editing. The spreadsheet used by Coastwatch covers a full financial year with cumulative totals, and is updated fortnightly. It is stored on the responsible Section's shared drive, accessed by approximately six officers. Although the spreadsheets are password protected, they do not have an audit trail;⁶⁷ and no paper copy is retained for management and accountability purposes.

2.52 The ANAO noted evidence of regular discussion and/or negotiation with the various contractors regarding invoices. Performance measures and targets were monitored and bonuses and/or sanctions applied by Customs. However, there are no guidelines covering the verification/reconciliation process for the Coastwatch contracts. ITB developed and implemented guidelines covering its invoice reconciliation process during the audit.

2.53 The ANAO found that, although there are quality control mechanisms in place, neither Coastwatch or ITB have a systematic quality assurance⁶⁸ program for their invoice reconciliation process. Quality assurance could be provided by regularly checking a random sample of the invoices.

Conclusion

2.54 The ANAO found that Customs has a number of safeguards in place to limit the potential for fraudulent activity in relation to contractual arrangements. These include: the work of the APU; a multi-layered approach to verifying and reconciling invoices; the separation of payment from authorisation; and negotiated contracts with a clear understanding of performance measures, bonuses and sanctions. It would be in Customs' interest, when re-negotiating contracts, to ensure that a 'conflict of interest' clause is included.

2.55 The processes in place for reconciling invoices include a number of fraud prevention elements. However, the ANAO also identified control weaknesses

⁶⁶ Customs CEI No.4.4 outlines the policies relating to the payment of accounts.

⁶⁷ A complete audit trail is a key output control. The audit trail is a set of processing references, data, reports or logic documentation that enables the tracking of transaction processing from its source to inclusion in the organisation's records or tracing of any result of processing back to its origin. The audit trail should allow tracing in both directions. Source: The Institute of Internal Auditors Research Foundation Module 2 Audit Control Environment.

⁶⁸ Quality control is a system of procedures in normal production to check quality on a day-to-day basis. Quality assurance is the independent assessment that the quality control system is effective and consistent.

that need to be addressed to further reduce any potential for fraud. There are limited authorised access control arrangements in place for the payment summary spreadsheets. These have no audit trails. Verified copies of these spreadsheets are also not retained. In addition, Coastwatch does not have guidelines covering its invoice verification/reconciliation process. Introducing quality assurance processes would provide further assurance that system controls are working effectively.

Recommendation No. 3

2.56 In order to minimise the potential for fraud in managing high value contracts and improve accountability for performance, the ANAO recommends that Customs:

- (a) retain a signed and verified paper copy of the monthly reconciliation data;
- (b) incorporate an audit trail into its reconciliation processes;
- (c) develop and implement guidelines that cover all aspects of the verification, reconciliation and payment processes; and
- (d) carry out random quality assurance checks before payment approval.

Customs response

2.57 Agreed.

Quality assurance in fraud control

2.58 Customs' Audit Committee and internal audit activities are key mechanisms for providing assurance about the integrity and effectiveness of its operations, systems and fraud control strategies.

Internal Audit

2.59 Customs outsourced its internal audit function in 1995. The role of internal audit is formalised through an Audit Charter and contractual arrangements.⁶⁹ The Director is a full-time contract consultant and the Unit employs two permanent Customs' officers and additional specialist contract staff as required. The Unit is a sub-component of, and reports directly to the National Manager, Planning and International Branch. The Director also reports monthly to the Deputy CEOs and, if necessary, has direct access to the CEO.

⁶⁹ The contractual arrangements include service level agreements and key performance indicators.

2.60 The Unit has a role in assisting management to identify, assess and, where possible, reduce risks, including fraud risks. Following consultation with senior managers, the Unit prepares a program of proposed audits, which are risk-rated and prioritised. The audit program is submitted to the Audit Committee for in-principle approval.⁷⁰ Internal audit reports are included as an agenda item for Committee meetings and progress in implementing audit recommendations is monitored by the Committee.⁷¹ In 2001–02, the Unit completed 42 reviews.

Systems under development

2.61 The Unit is also involved in ‘systems under development’ (SUD) projects. These include all new systems as well as any major enhancements to existing systems. The Unit, through its involvement in the relevant steering committee, provides input from project start-up through to system sign-off and implementation. The Unit provides status reports to the Audit Committee on all major projects and may undertake post implementation reviews. In 2001–02, the Unit completed 20 SUD reviews.

2.62 The ANAO considers that the internal audit function is an important element of Customs’ fraud strategies. Better practice models suggest that the internal audit function should operate as a discrete organisational unit with no direct involvement in day-to-day operations, and that it should have a direct functional relationship with the chief executive and/or governing body. These arrangements promote an independent perspective, which, in turn, fosters unbiased appraisal.⁷² The ANAO considers that the internal audit arrangements in Customs correspond with these requirements for organisational independence. The reviews and audits undertaken by the Unit incorporate an assessment of risks and provide an opportunity to detect fraudulent activity and identify control weaknesses. The Unit’s involvement in SUD projects ensures potential risks, including those relating to fraud, are properly considered.

Customs Audit Committee

2.63 Customs’ Audit Committee has a key role in providing advice on all matters relating to audit, evaluation, risk management and fraud control.⁷³ The

⁷⁰ Approval in principle gives some flexibility to the work program and allows for the addition of other reviews if required.

⁷¹ The report to the Committee includes a summary of reviews/audits including the date of issue, review title, number of original actions/recommendations and the status of these, highlighting those of particular concern, for example those recommendations twelve months or older.

⁷² ANAO 1998 Better Practice Guide *New Directions for Internal Audit*.

⁷³ Under Chief Executive Instruction No.7.7 Customs Audit Committee is to be established and maintained, as required by section 46 of the FMA Act, to provide management with a level of independent assurance on internal controls and systems, business risk management and compliance legislation.

Audit Charter confirms the objectives, responsibilities and authority of the Audit Committee, particularly in respect to its relationship with internal audit. The Committee's role includes preserving good management in Customs by monitoring the health of significant systems and processes.⁷⁴

2.64 The Audit Committee was required, under the Commonwealth's Fraud Control Policy, to oversee the process of developing and implementing Customs' Fraud Control Plan. Committee minutes noted discussion during 2001 relating to the development of the Plan.⁷⁵ However, fraud control is not a standing agenda item at Committee meetings and the topic was not discussed again until July 2002. At that meeting, a fraud control report noting four outstanding action items was included in the quarterly Committee report. Committee minutes do not reflect any regular reporting of internal or external fraud issues or cases.

2.65 Preparing fraud-related data for the Audit Committee would provide the opportunity to identify any emerging issues, risks, control weaknesses and outstanding actions. Fraud prevention and detection strategies could then be targeted to address specific issues or problem areas.

Conclusion

2.66 The Investigations Branch coordinated the Fraud Control Plan. The Audit Committee is responsible for monitoring progress against fraud action plans. External fraud matters are reported primarily to Regional Directors and internal fraud referrals are forwarded directly to the Deputy CEO. However, there is no agency-wide coordination or reporting of internal and external fraud to provide assurance that fraud control arrangements are effective and being properly implemented.

2.67 The Audit Committee is an active and influential element of Customs' corporate governance framework and is responsible for providing overall assurance on internal controls and systems. The Committee is also in a position to monitor coordination issues that may arise between the Fraud Control Plan and the Security Plan. The ANAO considers that the Audit Committee could take a more active coordination and oversight role in relation to fraud by:

- including fraud control as a standing action item in its meeting agenda;
- reviewing reports on internal and external fraud referrals, including serious and/or complex cases and AFP quality assurance reviews;

⁷⁴ Customs Audit Charter 2002.

⁷⁵ April, July and August 2001 Audit Committee meetings.

- reviewing reports from the Security Committee, which would also include relevant information from the IT Policy Committee; and
- monitoring estimates of revenue leakage and revenue collections.

Recommendation No. 4

2.68 To provide adequate assurance and agency-wide monitoring of Customs' fraud control arrangements, the ANAO recommends that the Audit Committee undertake a more active oversight role of fraud control in Customs, specifically by:

- (a) including fraud control as a standing agenda item for its meetings; and
- (b) regularly reviewing, and responding to, data relating to fraud referrals, investigations and revenue impacts.

Customs response

2.69 Agreed.

3. Fraud Prevention and Detection

This chapter reviews Customs' fraud control environment and fraud prevention and detection strategies. Customs' compliance programs and operational fraud strategies are also discussed.

Introduction

3.1 Effective fraud prevention and detection strategies provide assurance that an agency's integrity, assets and revenue are protected and that perpetrators will be identified and prosecuted. A robust control environment, effective compliance programs and comprehensive training and education should underpin these strategies. Fraud control goes beyond simply monitoring the effectiveness of financial controls and requires the commitment of staff and the cooperation of clients and other stakeholders.

3.2 In assessing the effectiveness of Customs' fraud prevention and detection strategies, the ANAO examined whether Customs had:

- communicated the standards of conduct and ethics expected of its officers;
- communicated to clients and industry stakeholders their legislative requirements, responsibilities for meeting those requirements, and the consequences of fraudulent behaviour; and
- established a control environment aimed at preventing and detecting fraud.

3.3 Customs' Fraud Control Plan identified potential fraud risks that could impact on revenue and the management of internal resources. Corporate and operational strategies incorporating fraud control, prevention and detection mechanisms were developed to mitigate these risks. The ANAO reviewed the effectiveness of these strategies. This chapter addresses operational strategies. Corporate strategies are discussed in other chapters in this report.⁷⁶

Establishing and communicating standards of conduct

3.4 Under the FMA Act, Chief Executive Officers must promote efficient, effective and ethical use of Commonwealth resources and compliance with legislative requirements.⁷⁷ Customs' Chief Executive Instructions (CEIs),

⁷⁶ Chapters 2 *Fraud Control in Customs* and Chapter 5 *Internal Fraud Investigations*.

⁷⁷ Legislation includes Guidelines on *Official Conduct for Commonwealth Public Servants* and the *Public Service Act 1999—APS Values and APS Code of Conduct*. Attorney-General's Department, *Fraud Control Guidelines*, May 2002, pp. 5–6.

Corporate Plan and Fraud Control Plan emphasise to staff the importance of displaying the highest ethical and behavioural standards in performing their official duties. This includes their responsibilities regarding fraud control and their role in protecting Commonwealth resources and information. CEIs are readily accessible to staff through the Customs' Intranet facility.

3.5 Customs has developed appropriate guidelines to address conflict of interest issues. Senior Executive Service (SES) officers are required to register with the CEO financial and private interests that may conflict with their employment. Non-SES staff must also declare any conflicts of interest.⁷⁸ Customs' Assignment and Career Management Policy requires that probity and ethical considerations are taken into account when deploying staff.

Integrity and fraud awareness training within Customs

3.6 The Manager, Internal Affairs Unit (IAU) conducts training and awareness on ethics, probity, conduct, integrity and fraud. Presentations are given to Customs' trainees, graduates, National Marine Unit officers, and investigators. An on-line induction program automatically advises the Manager when individual officers commence employment.⁷⁹ Development courses also incorporate awareness training and managers can request additional training/presentations for specific groups or areas at any time.

3.7 The integrity and fraud awareness presentation includes: an explanation of the role of the IAU; what constitutes fraud against the Commonwealth; the officers' responsibilities in relation to fraud; and the action to take if they suspect misconduct or criminality within the workplace. The ANAO considers the course content is comprehensive. It outlines legislative requirements, expectations of behaviour, gives examples and exercises and provides details on where information relating to integrity and fraud may be located. Customs' trainees and graduates are formally assessed against the Public Service Education Training Authority competencies to uphold the Values and Principles of Public Service and compliance with Public Sector legislation. Individual performance agreements also include an assessment against these competencies.

3.8 Fourteen fraud awareness-training presentations were delivered in 1999–2000 and 24 presentations in 2000–2001. Details of the number, employment type and area of participating officers were not recorded before 2001–02. During 2001–02, 39 presentations were given to 642 Customs officers. There is no systematic recording of these presentations. Information is kept in the IAU

⁷⁸ Customs' *Ethics and Conduct* booklet outlines examples of possible conflicts of interest and the action to be taken in these circumstances.

⁷⁹ Training is provided by the IAU Manager on a one-to-one basis for these officers.

manager's personal diary. To support the planning and review of future integrity and fraud awareness activities, the ANAO considers it would be more practical to maintain a training register to record courses, staff participation rates and the operational areas involved. This could also facilitate any review and/or evaluation activity.

3.9 The ANAO found that the current training course has not been formally evaluated for several years. Informal discussions with participants and supervisors are the only mechanisms for eliciting feedback to evaluate the effectiveness of the training, course content and method of delivery. It is important that the course remains current, relevant and actively engages its participants. The completion of post-course evaluation forms and the inclusion of specific questions relating to integrity and fraud awareness in staff surveys, when analysed, would help when evaluating training effectiveness and direction.

3.10 Analysing internal fraud referrals (i.e. are referrals increasing) would further support an assessment of the effectiveness of the training and assist in targeting training. For example, higher instances of internal fraud referrals in certain Customs' areas may indicate the need for increased fraud awareness training. Examining fraud awareness programs provided by other agencies, as part of the evaluation process, may highlight elements of better practice that could be applied to Customs.

Technical training in fraud awareness

3.11 Customs developed the Commercial Education Program (CEP) to support its changing operational focus. Customs recognised that staff must have a balanced mix of skills and knowledge relating not only to Customs' technical requirements, but also to the broader commercial and business environment. Customs developed the program in partnership with the University of Canberra.⁸⁰ During 2001–2002, 62 courses were delivered to 858 staff, covering 23 subjects. The CEP has now been included in the Customs Development Program (CDP). The CDP is developing an additional unit (*Customs Commercial Fraud Awareness*) that will provide a basic understanding of fraud-related activity in the commercial environment.

Conclusion

3.12 Customs is committed to ensuring a high standard of conduct from its officers. Staff are made aware of and have access to the fraud control policy and the Fraud Control Plan. Appropriate arrangements are in place to manage

⁸⁰ The Program includes units that cover: audit techniques; accounting practices; legal principles; information technology; and business systems.

situations where conflicts of interest may arise. Officers are given the necessary skills to detect fraudulent activity. Information on APS values, ethical conduct and fraud awareness is included in training and development courses. The ANAO suggests that Customs review its integrity and fraud awareness-training course to ensure it remains relevant and is meeting the needs of officers. Maintaining a training register and developing formal feedback mechanisms would assist evaluation and future planning.

Recommendation No. 5

3.13 To ensure that Customs is achieving maximum impact from its integrity and fraud awareness training, the ANAO recommends that the Internal Affairs Unit:

- (a) maintain a training register;
- (b) develop measures for assessing the effectiveness of the training, including feedback on course content and delivery; and
- (c) regularly evaluate the course to ensure its continued relevance.

Customs response

3.14 Agreed. Training records are now being recorded in an electronic database. Post evaluation forms have been introduced as recommended. Customs will continue to evaluate courses for relevance by reviewing training programs from other agencies and attending Fraud Forums and Anti-Corruption seminars and conferences.

Promoting awareness to clients and industry stakeholders

3.15 Customs relies on its clients to provide accurate and timely information. It therefore has an interest in improving the compliance levels of its clients and fostering an environment where it works cooperatively with them to achieve this. Customs' regulatory philosophy is based on risk management techniques, with compliance activity escalating as the level of compliance decreases.

3.16 Customs' compliance improvement philosophy is part of a fraud prevention strategy aimed at raising awareness of the responsibilities of industry and clients and includes a number of key elements: responsible and informed self-assessment; partnership with industry; client education and services; appropriate development and support for Customs' staff; and clear legislative and administrative requirements.

3.17 Customs communicates information relating to legislative requirements and responsibilities for meeting those requirements to its clients through a range of media, with booklets and fact sheets covering all areas of Customs' operations. Information is also available through the Advisory Service Centres in each region, Customs' website, e-mail facilities, Customs' Information Centres and targeted industry information seminars and campaigns. Market research is undertaken to address specific issues. For example, Customs implemented a successful communication and information strategy for the Trade Modernisation legislation and changes to the Customs Act, which took effect on 1 July 2002.

3.18 Customs has recently initiated a Client Survey Program whereby client groups are surveyed every two to three years. International travellers and the import/export community are currently being surveyed as part of this program. Communication methods and the information provided to clients are constantly being reviewed and updated.

3.19 The ANAO considers that Customs has invested significant resources to make its client population aware of its legislative requirements and responsibilities through a range of communication media and methods. This ongoing education supports Customs' compliance activities and regulatory philosophy.

Working with industry and clients to improve compliance

3.20 Compliance programs support education and training strategies. Compliance and audit-related activities provide the opportunity for Customs to give 'one-on-one' training to clients when non-compliant practices are identified. Compliance activities may also highlight particular areas of concern or information gaps across industry sectors. Education strategies can then be developed to address these deficiencies.

Community participation

3.21 Customs recognises that community participation is an important part of its fraud prevention and detection strategies. It has developed the Community Participation Programs of *Frontline* and *Customs Watch*. *Frontline* is a partnership between Customs and international trading and transport industries, formalised through a Memorandum of Understanding. *Frontline* members are encouraged to notify Customs of suspicious activity and unauthorised, prohibited or restricted goods entering or leaving Australia. *Customs Watch* encompasses the wider Australian community, who are encouraged to report unusual or

suspicious land, sea or air activities to Customs. In 2001–2002, Customs advised there were 114 positive results⁸¹ from Frontline and 36 from Customs Watch.

3.22 An Industry Referral System also encourages industry to report suspected non-compliant activities. This information is investigated by Customs and can assist in identifying areas of industry that present a risk in terms of, for example, the misuse of tariff classifications or misdescription of goods. In 2001–02, 83 industry referrals were investigated.

Compliance programs

National Compliance Improvement Plan

3.23 For the past six years Customs has had in place a National Compliance Improvement Plan (NCIP) to underpin its compliance improvement strategy. As part of the NCIP, National Business Centres (NBCs) were established, concentrating on particular industry sectors to better manage risk and develop compliance programs.⁸² Compliance audit groups also had an industry specific focus that gave clients a single point of contact for all compliance issues. The NBCs coordinated the compliance activities of the regional audit groups. The NCIP has recently been replaced by Customs' Compliance Assurance (CCA) Strategy, which is in the process of being implemented.

Customs' Compliance Assurance Strategy

3.24 The CCA strategy is based on the principle of self-assessment, with activities aimed at encouraging compliance. Customs undertakes compliance activities in the international cargo environment in a manner that reflects how cargo moves, the nature of the consignment, who has responsibility for that cargo, and the way clients interact with Customs in the transaction. In adopting this approach, the international cargo environment is broken into the following four segments:

- owner (importers and exporters, including accredited clients);
- service provider (brokers, cargo reporters and freight forwarders);
- cargo handlers (stevedores, depot, bond and warehouse operators, and airport and sea port owners); and
- carriers (shipping lines and airlines).

⁸¹ A positive result is where information leads to the detection of a breach of regulatory legislation, for example, the Customs Act or Quarantine Act.

⁸² There were five NBCs, located in different regions: service providers (air couriers, brokers, freight forwarders); tobacco, alcohol, and petroleum; general business; textile, clothing and footwear; and automotive and transport.

3.25 These segments are the basis for risk assessing clients and consignments, designing and planning compliance activity, and delivering compliance programs in the regions. Compliance encompasses monitoring, response and enforcement activities,⁸³ that are delivered via integrated, nationally managed and planned programs. The 2002–03 program will include 150 statistically sampled audits covering 50 importers, 50 exporters and 50 service providers. The program also includes program analysis and evaluation, a quality assurance program and joint compliance activities with the ATO. The strategy and regional plans will be reviewed quarterly as part of a rolling program.

3.26 Under the CCA strategy, Centres of Expertise (CoEs) are being considered, as concepts to replace NBCs. CoEs would have a similar industry focus. The aim of the CoEs is to allow Customs to maintain a level of knowledge and understanding about a particular industry sector; provide a point of contact or reference for industry nationally; and to focus on a particular high-risk sector or commodity.

Appropriate use of sanctions

3.27 Customs uses sanctions (or penalties) in situations of identified non-compliance and where the use of that sanction is seen as encouraging future compliance. It is recognised that not all errors are the result of careless, reckless or intentional behaviour. They may result from other factors, for example, a poor understanding of Customs' administrative and legislative requirements or deficiencies in a client's own systems, procedures or internal controls. The application of a sanction is not automatic. Consideration is given to whether, in the individual circumstance, a sanction is the best means of achieving future compliance. The administrative penalty system was replaced by an infringement notice scheme for strict liability offences on 1 July 2002.

3.28 The responsibility for imposing sanctions has been delegated to Regional Managers. Under the Customs Act, a fixed penalty of 200 per cent of the customs duty shortfall was applied when a person knowingly, recklessly or otherwise made a statement, which was false or misleading.⁸⁴ At the time the penalty was served, there was no ability to vary this amount. The owner of the goods may apply for a remission for all or part of the penalty imposed. National office

⁸³ Monitoring includes: computer-based and documentary checks; goods examination; premises checks; and limited audits. Response activities include: education visits; monitoring programs; imposition of stricter licence provisions and/or movement permissions; more frequent transaction checks and examinations; warnings; discussions with company management; extensive and/or focused audit activity; and cargo release restrictions. Enforcement activities include surveillance, cargo searches, comprehensive audits, imposition of sanctions, and prosecutions.

⁸⁴ Section 243T of the Customs Act—Administrative Penalty.

decides what proportion of the remission will be granted, having regard to factors outlined in the Act.⁸⁵

3.29 Unpaid penalties are regarded as a debt to the Commonwealth and pursued in accordance with Customs’ CEIs.⁸⁶ Table 3 outlines the number and value of administrative penalties imposed, remissions granted and penalties collected for the period 1999–2002.

Table 3

Administrative penalties and remissions for period 1999–2002

Administrative Penalties			Remissions				Penalties collected
Period	No	Penalty Imposed	No	Penalty claimed for Remission	Remission granted	Proportion of remission granted	
		\$		\$	\$	%	\$
1999–2000	155	1 008 954	118	926 137	717 889	78	299 373
2000–2001	160	574 617	115	568 665	463 441	81	234 881
2001–2002	131	1 076 006	115	1 022 049	815 096	80	190 251

Source: Australian Customs Service

New infringement notice scheme

3.30 The trade modernisation legislation, which was effective from 1 July 2002, introduced a new penalty scheme that includes a range of ‘strict liability’ offences⁸⁷ for breaches of statutory obligations. The scheme is based on the following levels:

- Level 1: court proceedings where fault must be proved;
- Level 2: court proceedings to prosecute a strict liability offence (where fault is not required to be proved); and
- Level 3: an infringement notice instead of prosecution—this only applies to strict liability offences.

3.31 Customs views its penalty scheme as a mechanism of ‘last resort’. Only specific senior officers are delegated to issue infringement notices and guidelines and processes ensure that penalties are only applied on a case-by-case basis

⁸⁵ Factors include: whether the false or misleading statement had been voluntarily disclosed; the risk to the revenue; the capacity of the person or their agent to avoid making the false statement and the extent to which that capacity was exercised; and the history of the person or their agent in relation to penalties or convictions for false statements.

⁸⁶ *Recovery of Debts (CEI 6.1); the Repayment of Debts by Instalments and Deferral of Repayments of Debts (CEI 6.2); Waiver of Recovery of Debts Due to the Commonwealth (CEI 6.3); and the Non-Recovery of Debts (CEI 6.4).*

⁸⁷ A **strict liability** offence is one where the fault element does not have to be proved. This means that, regardless of whether the person making the error has acted intentionally, recklessly or otherwise, the fact that the action occurred is sufficient to establish the offence. Where an offence is one of ‘strict liability’, it is specifically stated in the Customs Act.

after careful consideration of all relevant facts. If a person served with an infringement notice pays the penalty stated in the notice, no conviction for the offence will be recorded and no prosecution action initiated. If the penalty is not paid, Customs will prosecute the offence and, if proved, the court will impose a penalty. This penalty could be up to five times that in the infringement notice. To date, no infringement notices have been issued.

Conclusion

3.32 The ANAO considers that the NCIP and CCA strategy to be well-structured compliance programs that incorporate control elements and fraud prevention, detection and enforcement strategies. The emphasis on improving compliance is supported by the ongoing assessment of risks, targeted compliance activity, education programs and, where necessary, enforcement action.

Border controls

3.33 Customs employs a number of fraud prevention and detection strategies as part of managing the integrity of Australia's border. Border protection strategies, which have been implemented in the cargo, passenger and postal environments, are designed to detect fraudulent activity; reduce the potential for fraud; and act as a deterrent to non-compliant behaviour.

3.34 Given the sheer volumes of air and sea cargo, international passengers⁸⁸ and postal articles arriving in Australia, it is neither feasible nor practical for Customs to examine every consignment, passenger or article. Customs adopts a risk management approach, reliant upon the provision of accurate and timely information from its clients. There is a complex infrastructure for screening, risk assessing, targeting and intercepting cargo and passengers. Intelligence is an integral part of this infrastructure, with strategic, operational and tactical intelligence being collected, produced, analysed and disseminated to operational areas.⁸⁹ The ANAO found that Customs works very closely with all Commonwealth and State law enforcement agencies and has developed and implemented effective strategies and protocols for sharing information and intelligence.

3.35 Sea and air cargo, postal articles, passengers and their luggage may be subject to x-ray or physical examination or both if specifically targeted by

⁸⁸ Includes air and sea arrivals.

⁸⁹ Strategic intelligence assessments are primarily to assist management decision-making; contribute to policy development and resource planning. Operational intelligence supports national and regional managers of line areas. Tactical intelligence supports case-specific action to achieve compliance or enforcement objectives.

Customs as a potential risk or as part of its compliance assurance programs. Detector dogs may also be used in examinations. Currently, 70 per cent of all air cargo consignments, 100 per cent of all postal articles, and more than 85 per cent of international passengers' luggage⁹⁰ are subject to x-ray and, if necessary, physical examination. The introduction in 2002–2003 of container x-ray technology in Brisbane, Melbourne and Sydney will significantly increase Customs' capacity to examine sea cargo containers. One hundred containers per day will be examined in Melbourne and Sydney and 60 containers per day in Brisbane. Customs anticipates that the new facilities will increase:

- its ability to detect prohibited and illicit goods concealed within sea cargo;
- revenue due to more frequent detections of misreported consignments, revenue evasion and tobacco smuggling; and
- the level of voluntary compliance as a result of improved education and marketing of Customs' requirements.

3.36 The ANAO considers that Customs has in place effective controls and has implemented a number of fraud prevention and detection strategies as part of its border management responsibilities. Intelligence drives Customs' risk assessment and targeting processes to identify high-risk consignments and passengers. The increased emphasis given to x-raying and examining cargo, luggage and postal articles supports these processes and enhances existing prevention and detection capabilities.

Operational fraud strategies

3.37 Operational strategies incorporating fraud control, prevention and detection elements have been developed by Customs to address potential fraud risks in specific areas. These strategies include a number of import/export processes and systems, the Tourist Refund Scheme (TRS) and Passenger Movement Charge (PMC).

Imports/Exports

3.38 Import/export functions that were identified by Customs as presenting a potential fraud risk included the drawback scheme, refunds of customs duty, licensed depots and warehouses, and Customs stores.

⁹⁰ The higher intervention rates for passengers are a result of the Improved Quarantine Intervention strategies that have been developed in relation to possible foot and mouth disease outbreaks.

Drawback scheme

3.39 The duty drawback scheme allows exporters to obtain a ‘drawback’ of the import duty paid on goods that are exported.⁹¹ In 2001–02, there were 10 143 drawback claims paid, totalling \$93.5 million. To claim a drawback, clients must register with Customs⁹² and payments are made by Electronic Funds Transfer direct to the claimant’s account. All drawbacks are self-assessed, making claimants responsible for assessing their drawback entitlement. Although documentation does not have to be lodged with the claim, it is a condition of claiming a drawback that all claim records are retained for five years from the date of the claim.

3.40 Customs adopts a risk management approach to drawbacks with profiles in the drawback system identifying those claims (red-line claims) that need to be verified. Documentation is requested to substantiate the claim or the validity of the claim will be verified through a desktop, field, or post-payment audit. Nationally, 3 506 desk audits, 404 field audits and 109 post-payment audits were completed in 2001–02.

Case study No. 1

An example of drawback fraud

Over a two-year period, a company imported Korean liquor into Australia on three occasions. The company then declared the goods for export, claiming drawback. A drawback was claimed and paid for two separate shipments. A third drawback was claimed for a further shipment, which was almost double that of the first two claims. The discrepancy in the amounts claimed attracted Customs’ interest. A container in the third export shipment was opened and found to contain mineral water, not the declared alcohol. It is probable that the first two shipments did not contain alcohol either. The fraud is estimated to have been worth over \$285 000.

Source: Australian Customs Service, Strategic Assessment No.7/01 *Revenue Implications of Export Diversion*

Refund of customs duty

3.41 A refund involves a return of some or all of the customs duty paid. In 2001–2002, \$243.5 million was paid in refunds (4.95 per cent of customs duty). Refunds are lodged electronically and risk profiles within the COMPILE system identify the level of risk associated with the entry. The system advises users whether the refund has been processed ‘green-line’ or ‘red-line’. If the refund

⁹¹ Drawback is payable on goods that are: exported in the same condition as imported; subjected to process or treatment and then exported; and incorporated into other goods and then exported.

⁹² Claims can only be made after the goods have been exported and claimants have 12 months in which to lodge their claim.

has been routed 'green line' the refund will be approved and payment is made without intervention. If the refund has been routed 'red-line' documentation to support the application must be verified before payment is approved and paid electronically.

3.42 The ANAO found that Customs has developed and implemented clear guidelines on how drawbacks and refunds will be processed. Under both systems, controls are in place to assist in the prevention and detection of fraudulent activity. Internal controls ensure that the officer verifying the claim cannot also approve the claim. Audits undertaken as part of Customs' ongoing compliance program include a review of refunds and drawbacks.

Licensing of depots and warehouses

3.43 Depots, where imported goods are moved to, must be licensed under section 77G of the Customs Act. This licence directs the depot's operations and enforces requirements for dealing with imported goods. Licences are granted after assessing the physical security of premises, completing probity checks for key personnel, examining the company's financial records and verifying the company's ability to comply with legislative requirements. Customs has extensive powers to stop, question and detain persons and cargo at these premises. Depots are required to report shortages and surpluses to Customs and to ensure that no cargo is delivered until released by Customs. It is a requirement that the records maintained for Customs' purposes provide a clear audit trail of all incoming and outgoing goods.

3.44 Customs provides industry with a duty deferral facility by allowing owners of imported goods to store these goods in licensed warehouses. The goods are held under Customs' control until the owner is ready to enter them for home consumption and pay the duty or export them. These warehouses are privately owned and must be licensed under section 79 of the Customs Act. The process for applying and renewing a warehouse licence is the same as a section 77G depot licence. The licence holder is responsible for all goods stored in the warehouse and is liable for the duty on any goods that cannot be accounted for. Licences are renewed annually and further checks will be undertaken if there are changes in personnel or location and/or problems with compliance. Depots and warehouses are risk-assessed and audited as part of the compliance program.

Customs control over duty free shops

3.45 Duty free shops are licensed warehouses permitted to operate as retail outlets and make sales free of duty and tax to international sea and air travellers. Duty free shops must maintain physical and documentary control over goods subject to Customs or Excise legislation. Customs is responsible for ensuring

that these controls are sufficient to protect duty and any relevant Goods and Services Tax. All warehouses must have a recording system sufficiently detailed to show the relationship between the recording of goods into a warehouse, the location of the goods, their subsequent movement and final acquittal.⁹³ All documentation relating to the warehouse and goods in the warehouse must be retained for five years. Duty free shops are also subject to compliance audits.

3.46 Customs has identified as a major risk the diversion into home consumption of high duty liability goods (tobacco and spirits) designated for export as ships crew sales and ships stores. This leads to the evasion of both duty and the Goods and Services Tax (GST). Joint Customs/ATO compliance activity has been undertaken and has had a significant impact on the dealings of a number of independent duty free shops that were found to be non-compliant. Following a number of audits, four duty free stores have either closed or gone into voluntary liquidation. Prosecutions against a number of operations are also pending.

3.47 The ANAO considers that Customs has developed and implemented various control mechanisms to assist in preventing and detecting fraud within licensed depots, warehouses and duty free shops. The ANAO views the ongoing assessment of risks and directed compliance activity as positive, proactive measures that enhance Customs' ability to prevent and detect fraud.

Case study No. 2

An example of substituted fraud

In 2000, a New South Wales duty free store transported over one million cigarettes from its bond store to a freight depot as the first step in exporting to Barbados. At the freight depot, most of the cigarettes were diverted and telephone books substituted, leaving a shortfall of over 800 000 cigarettes. The fraud is estimated to have been worth over \$155 000. This was the first reported export for this company.

Source: Australian Customs Service Strategic Assessment No. 7/01 *Revenue Implications of Export Diversion*

Customs stores

3.48 The primary function of the Customs' stores is to provide secure storage for detained, seized or forfeited goods in a Customs' controlled environment.⁹⁴

⁹³ As a minimum licensees should retain: a bond register that records the movement of all goods in and out of the licensed premises; a perpetual stock control system capable of providing a precise tally of all stock at any time; and records relating to the purchase, receipt and sale of any goods moving into or out of the licensed premises.

⁹⁴ Goods that may be stored include: detained goods; goods detained pending payment of duty; goods requiring identification and security checks; goods awaiting provision of Customs documentation or import permission; seized/forfeited goods; abandoned goods; and goods awaiting advice or permits.

Following changes to firearms legislation and internal audit reviews, Customs recently completed a national review of its Stores and Temporary Storage Facilities. A risk management plan for the Stores was developed and a series of recommendations put forward to address significant issues.⁹⁵ Special attention has been given to the adequate storage and security of firearms. These recommendations are being progressively implemented. Inspections undertaken during the ANAO's visits to the regions showed that controls are in place for receiving, storing, releasing and destroying detained goods.

Passenger Movement Charge (PMC)

3.49 The PMC⁹⁶ was introduced in July 1995 and is currently levied at \$38 per passenger departing Australia.⁹⁷ In 2001–02, Customs collected \$283.6 million in PMC. The charge is payable by all passengers (air and sea) other than those who fall within the exemption categories.⁹⁸ Customs administers the PMC legislation through arrangements with carriers and these are standardised for each type of carrier.⁹⁹

3.50 Customs has entered into a formal arrangement with the majority of airlines.¹⁰⁰ Under these arrangements, airlines self-assess their PMC liability on a monthly (or bi-monthly) basis and remit the charge according to an agreed schedule of payment dates. Customs reconciles payments with its own estimate of the payment due.¹⁰¹ Customs advised that 98 per cent of airline payments are accurate. Arrangements are also in place for collecting PMC from shipping companies and cruise operators. The arrangements include strict payment conditions, with penalties for late or short-payment. If no payment is forthcoming after the due date, debt recovery action is initiated.

3.51 Audits of selected airlines are undertaken as part of Customs' compliance strategy. These audits are based on an annual rotational audit program prepared by the PMC Unit or when an airline has been identified as a risk, with three to four audits being completed each year.

⁹⁵ These recommendations cover the procedures, security, record-keeping and performance measures relevant to the storage facilities.

⁹⁶ The ANAO has undertaken two audits of the Passenger Movement Charge: Audit Report No.1 1996–97 *Passenger Movement Charge* and Audit Report No.12 2000–01 *Passenger Movement Charge—Follow-up Audit*.

⁹⁷ The PMC is levied under the *Passenger Movement Charge Act 1978* and collected under the *Passenger Movement Charge Collection Act 1978*.

⁹⁸ Most exemptions provided are for diplomats and children under 12 years of age.

⁹⁹ Carriers include Regular Public Transport (RPTs), cruise operators, air charter operators and shipping companies.

¹⁰⁰ Customs currently has arrangements with 44 airlines. The latest arrangements cover the period from 1 July 2001 to 30 June 2004.

¹⁰¹ This estimate is derived from data downloaded daily from the Passenger Analysis Clearance and Evaluation (PACE) system and diplomatic data received from DIMIA on a monthly basis.

3.52 The ANAO found that Customs has developed and implemented a framework to effectively administer the PMC, including mechanisms for detecting and preventing fraud. Formal arrangements outline responsibilities and procedures for remitting the charge. Customs has systems and processes for reconciling airline remittances against passenger data and an audit program with well-defined parameters and guidelines.

Tourist Refund Scheme (TRS)

3.53 The TRS enables both residents and non-residents departing Australia to recover the GST and Wine Equalisation Tax paid on purchases made within Australia.¹⁰² Customs' responsibilities for managing and administering the TRS are outlined in a Memorandum of Understanding with the Australian Taxation Office (ATO). In 2001–2002, there were 337 059 refund claims and the total refund value of approved claims was \$42 279 715.

3.54 The TRS program was implemented within a very short timeframe in July 2000. Customs has experienced some problems with the TRS, including an allegation of internal fraud currently being investigated by the AFP. To improve the efficiency of payment services and the collection, validation and integrity of data, Customs re-developed the computer system supporting the scheme. The new TRS3 system changed the nature of payments. Cash refunds are no longer an option, reducing the potential for internal fraud. Claimant and payment information is also passed electronically to the Payment Service Provider.

3.55 The TRS3 system interfaces with the Passenger Analysis Clearance and Evaluation (PACE) system to improve data integrity, customer validation, reduce data capture effort and the potential for fraud. All claimants' passport numbers and flight details are validated by the PACE system. Other features include encrypting payment details and electronic data transmissions and validating Australian Business Numbers and credit card numbers. The ANAO considers that the new system will improve administrative processes and minimise fraudulent activity.

¹⁰² The refund will be paid on goods costing \$300 (GST inclusive) or more, bought from the same store, no more than 30 days before departure. Goods may be purchased from several stores, provided each store's tax invoice totals at least \$300 (GST inclusive).

4. External Fraud Investigations and Prosecution Debt Management

This chapter discusses Customs' management of external fraud investigations by the Investigations Branch. The recovery of court imposed fines, costs, and penalties is also reviewed.

Introduction

4.1 External fraud perpetrated against Customs may include the evasion of duty, deliberate misdescription of the nature of the transaction and/or making false statements.¹⁰³ Under the Commonwealth Fraud Control Guidelines, Customs is able to investigate offences, gather evidence and prepare briefs of evidence for the Commonwealth Department of Public Prosecutions (CDPP) or Australian Government Solicitor (AGS).¹⁰⁴ Customs' Investigations Branch¹⁰⁵ undertakes external fraud investigations either independently or in conjunction with operational areas, other government organisations and law enforcement agencies.¹⁰⁶ Investigations must comply with the Commonwealth's Fraud Investigation Standards Package (CFISP).

4.2 The ANAO reviewed Customs' systems and processes for investigating external fraud. As part of this review, an indicative sample of 23 cases completed during 1998–2002 was assessed, with particular emphasis on the following areas:

- referral assessment process;
- investigations process;
- preparation of prosecution briefs;
- quality review mechanisms;
- evaluation and analysis; and
- debt management.

¹⁰³ Examples of fraud also include: deliberate failure to disclose or conceal certain elements of a transaction; hidden payments; an indication of an organised scheme to reduce excise/duty liability or to increase a benefit; and deliberate misdescription of the nature of goods, quantity, origin and tariff classification. Australian Customs Service, *Commercial Compliance Manual Volume 23*, pp. 6–10.

¹⁰⁴ *Commonwealth Fraud Control Guidelines 2002*, p. 15.

¹⁰⁵ At the time of the audit, the Investigations Branch was a separate unit reporting directly to the CEO of Commercial Division. Under Customs' new organisational structure, Investigations is part of Investigations and Enforcement Operations within the Border Compliance and Enforcement Division.

¹⁰⁶ There is a Memorandum of Understanding on Working Relationships between the AFP and Customs with regard to the investigation and prosecution of offences against the laws of the Commonwealth, except those related to the investigation and prosecution of narcotic related matters.

Customs' Investigation Branch

4.3 The Investigations Branch employs 140 officers in operational and non-operational roles, with 132 of these officers located in regional offices, predominately in NSW and Victoria. National Office is responsible for administration, policy development, and standards training and review.

Investigator training

4.4 The appropriateness and quality of fraud investigations depends, to a large extent, upon the expertise and professionalism of the investigating officers. The Commonwealth Fraud Control Guidelines introduced mandatory training qualifications for fraud investigators.¹⁰⁷ The majority (86.5 per cent) of Customs' investigations staff have acquired these qualifications or are undertaking training to achieve them. The remaining staff do not undertake investigations.

4.5 Customs developed its Qualifying Customs Investigator Course (QCIC) in cooperation with the AFP. The course involves distance learning, a residential component at the AFP College and workplace application. Customs advised that the course has been reviewed in response to participant feedback from the 2001 course. The AFP supported the recent changes to the course and noted that its involvement in investigator training encouraged a sound operational working relationship between the two agencies.

Management of external fraud investigations

4.6 The ANAO found that Customs has developed a case management process for investigating serious and/or complex allegations of fraud against the Commonwealth. A procedures manual was introduced in February 2002 to support operations and guide investigators.¹⁰⁸ The WINCAMS case management system records all investigation details. Appendix 2 illustrates the investigation process from the initial referral of a matter through to prosecution and case review.

¹⁰⁷ Guideline 6 of the *Commonwealth Fraud Control Guidelines 2002* requires that: relevant employees are required to gain the Certificate IV in Government (Fraud Control Investigation) qualification by 30 June 2003. Relevant employees are required to gain the Diploma of Government (Fraud Control Investigation) qualification by 30 June 2004.

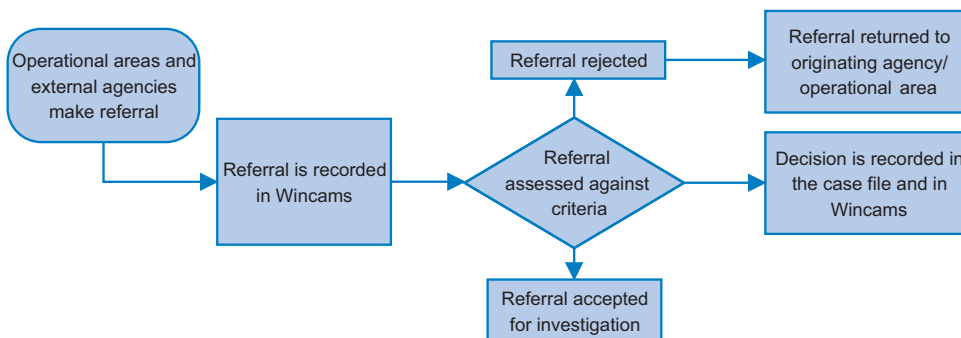
¹⁰⁸ *The Australian Customs Service Manual—Volumes 18 and 19*. The procedures manual provides guidance to investigators on how to conduct an investigation from the receipt of the referral through to the preparation of a prosecution brief and enforcement of fines and penalties.

Referral assessment process

4.7 Operational areas are required to refer all matters of suspected fraud to the Investigations Branch.¹⁰⁹ All referrals are assessed but only priority cases are adopted, as the Branch does not have the capacity to investigate all referrals received. Fraud referrals not accepted as cases may be returned to the originating area. These areas have the option of imposing administrative penalties under the *Customs Act 1901*. Figure 5 outlines the referral assessment process.

Figure 5

The referral assessment process



Source: ANAO analysis of Customs data

4.8 Table 4 summarises for the three-year period 1999 to 2002: the total number of referrals received; the number of referrals accepted as investigations and the estimated value of the fraud involved; and referrals not accepted. In 1999–2000, there was a decrease in major fraud cases undertaken by Customs as the responsibility for excise and fuel substitution transferred to the Australian Taxation Office in July 1999.

¹⁰⁹ *Australian Customs Service Manual Volumes 18 D3/S2* p. 1.

Table 4**Summary of referrals received for the period 1999–2002**

Referrals	1999–2000	2000–2001	2001–2002
Total referrals received	782	1685	2041
Community Protection referrals received	599	1500	1877
Fraud referrals received	183	185	164
Number of fraud referrals accepted by the Investigations Branch	107	94	84
Estimated value of fraud referrals accepted ⁽²⁾	\$51.6m	\$52.8m	\$38.9m
Number of fraud referrals not accepted and returned to operational areas	0 ⁽¹⁾	4	19
Number of fraud referrals not accepted as cases ⁽³⁾	76	87	61

Source: Australian Customs Service

Note 1: No referrals were recorded in WINCAMS as having been transferred to other operational areas.

Note 2: The estimated value of the fraud refers to the customs duties evaded. This is not a mandatory field in the WINCAMS system and can be adjusted as the case progresses. The estimated value will vary each year depending on the volume of cases and the actual amount of duty involved in each case.

Note 3: Reasons for non-acceptance of cases may include insufficient evidence, no breach detected, resource restrictions or referred to other agencies.

4.9 The estimated value of the potential fraud¹¹⁰ involved in these referrals ranged from less than \$1000 to in excess of \$500 000. Thirty-five per cent of referrals accepted as cases in the last three years involved more than \$100 000 and 18 per cent were in excess of \$500 000.

Referral assessment, prioritisation and selection

4.10 Customs advised that, when selecting referrals for investigation, it tries to maintain a balance between fraud prevention strategies and the materiality of the revenue loss. Referrals of a relatively low value may be accepted as cases to demonstrate Customs' commitment to detecting and prosecuting fraudulent behaviour. These cases are seen as a deterrent to potential offenders and can communicate a message to a particular industry sector.

4.11 In October 2001, an internal review recommended implementing nationally a model for referring and assessing cases. Customs' procedures manual outlines the processes and criteria for assessing fraud referrals.¹¹¹ In most regions, an investigation team is responsible for assessing all referrals. Sufficient information is obtained to support an informed decision, and a recommendation is made as to whether a case should be investigated. The decision to accept or reject a referral is made by the Regional Manager Investigations. Some referrals

¹¹⁰ The estimated value of the potential fraud is the customs duty evaded.

¹¹¹ Issues which are considered during the assessment process include likelihood of a successful outcome (prosecution), materiality/value of the fraud loss to the Commonwealth, nature of the offence, first time or repeat offence, and capacity of the Region to investigate the case.

are automatically accepted as an investigation. This generally occurs when the examination of a cargo container exposes illegal and/or undervalued goods, such as alcohol and tobacco products.

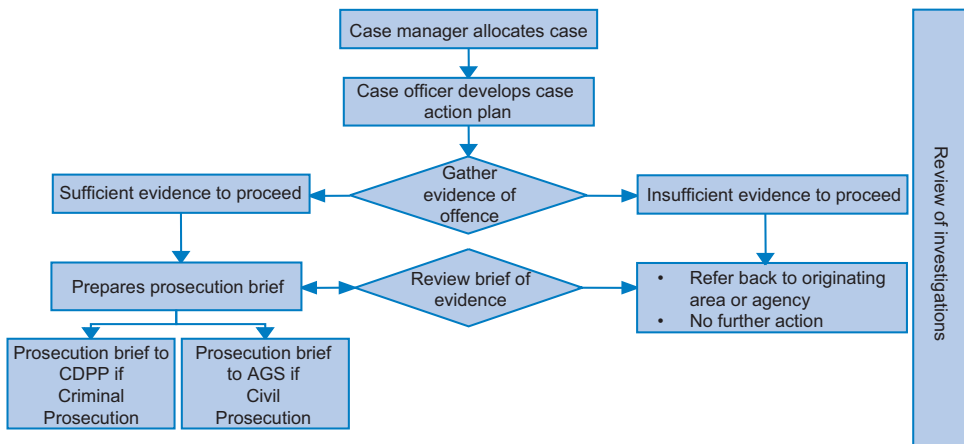
4.12 The ANAO found in the case files reviewed that:

- decisions relating to the acceptance of cases were not always clearly documented;
- in 12 cases, it was not apparent who had authorised acceptance of the case; and
- it was often unclear as to whether the referral source had been notified of the assessment outcome as required by Customs’ guidelines.

Investigation process

4.13 When a referral is accepted, case officers and case managers follow the case management process outlined in the procedures manual, as illustrated in Figure 6.

Figure 6
The Investigation Process



Source: ANAO analysis of Customs data

Case planning

4.14 The investigating officer/team is required to develop a case action plan outlining what tasks need to be undertaken, who should do them and when they are to be completed. The ANAO found that, in seven of the case files reviewed, detailed case planning was not evident and/or clearly documented. Customs advised that case planning improved with the introduction of the

procedures manual and is now undertaken for all investigations. Improved planning was evident for the more recent cases reviewed by the ANAO, with copies of action plans and evidence matrices on the case files.

4.15 Effective case management requires important decisions taken during the course of an investigation be recorded. The ANAO found that case decision records were generally on the case files reviewed. The ANAO also noted that case running sheets were included in a number of the files. A case running sheet provides a concise history of the case, and supports the effective transfer of files between investigators and case review. Customs advised that case running sheets are now mandatory for all investigations.

Evidence gathering

4.16 The collection of reliable, complete and accurate evidence is essential for a successful prosecution. Customs has developed and implemented an evidence matrix to determine what evidence is required to prove the offence, where the evidence may be located and the process for collection. Customs advised that, following the implementation of the procedures manual, an evidence matrix is used as a standard investigation tool. The ANAO found in the cases reviewed that five of the more recent cases had used this matrix.

4.17 The AGS and CDPP advised that they view their early involvement in investigations as advantageous. This involvement ensures that appropriate evidence is collected and that the rules of evidence are applied. The ANAO noted that the CDPP and/or AGS had been involved during the initial stages of the investigation for a number of the cases reviewed.

Review of investigations

4.18 Case officers and managers are to review the progress of cases at critical stages of an investigation, in addition to a routine monthly review. Case managers are responsible for recording an investigation's progress, status and budget information in WINCAMS. This supports management's ability to monitor the progress of cases, allocate resources, and assess the viability of continuing an investigation. The ANAO found that the ongoing monitoring and review of cases varied across regions. In most cases, the status of investigations was formally reviewed each month and weekly meetings were held between the case officer and manager. The ANAO noted that the level of review tended to depend on the complexity and sensitivity of the case and experience of the case officer.

4.19 Each region reports monthly to the Regional Director and details of any warrant action are advised to the National Manager. The report prepared by the NSW Region is more comprehensive than other regions and outlines the status and age of cases, new referrals, cases terminated and reasons for termination,

warrant and prosecution action, significant events, and other administrative matters. The report focuses attention on the age and status of cases, including details of the number of cases more than two years old, with no prosecution brief prepared, and cases over 120 days where charges have not been laid. The ANAO considers that adopting this format across all regions would provide managers with a good overview of investigations and identify where more timely action may be necessary.

Case management system

4.20 The recording of all referrals and case information in WINCAMS is mandatory. Information is updated at key points during an investigation, for example, recording the decision to prosecute. WINCAMS supports management's ability to monitor the status of referrals, budgets and investigations and to evaluate the performance of the Branch and individual regions.

4.21 Customs advised that WINCAMS is largely a management-reporting tool. A number of staff interviewed by the ANAO considered the system to be cumbersome, slow and not particularly user-friendly. The ANAO found that the ability to extract meaningful data and the number of standard reports available was limited and the query facility difficult to use. The ANAO noted some inconsistencies in a number of the reports generated by the system. Although these inconsistencies could be explained, it does raise concerns about the integrity of reported data. The ANAO was advised that, because of the system's limitations, only mandatory data fields are completed and that WINCAMS is not properly used as a case analysis and management tool. The system is being reviewed as part of Customs' Client Data Management Strategy.¹¹² This review will explore replacing WINCAMS with a system that provides greater functionality and aligns with Customs' corporate approach to the collection and storage of data.

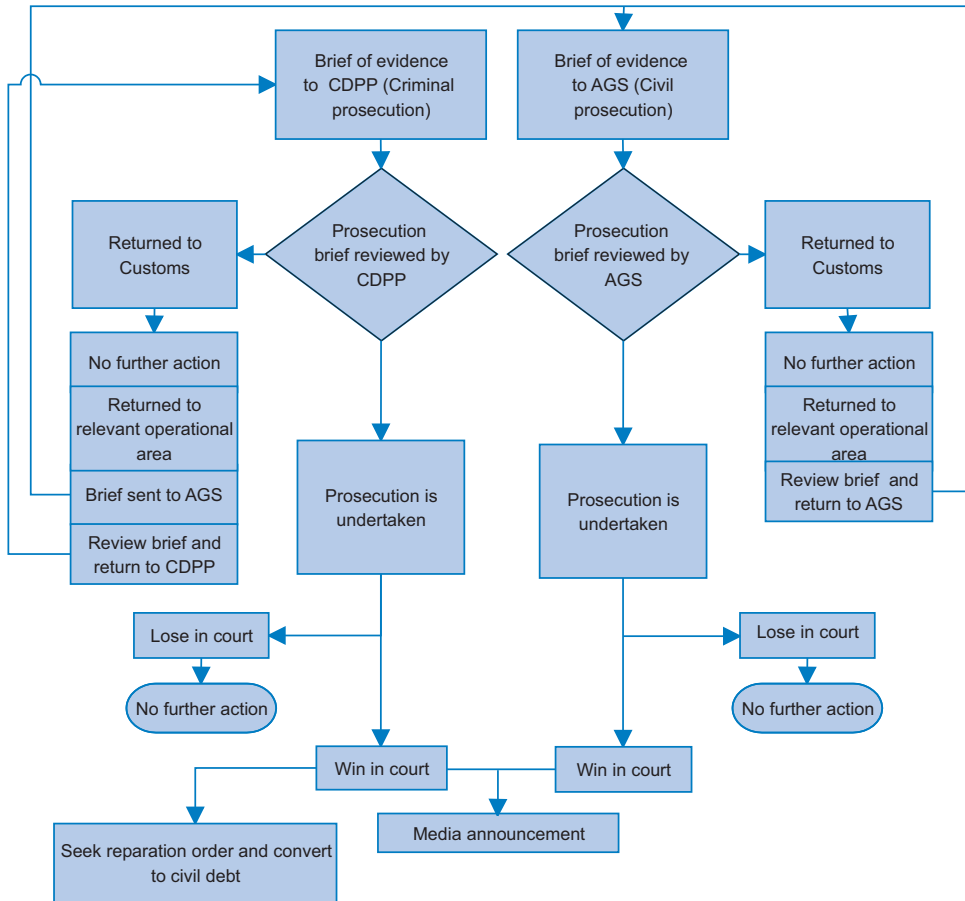
Preparation of prosecution briefs

4.22 Customs may refer a brief of evidence to the CDPP for prosecution as a criminal offence under the *Crimes Act 1914* or *Criminal Code*. Alternatively, it can refer the brief to the AGS for prosecution under the *Customs Act 1901*. Prosecutions under the Customs Act are civil offences and punishable by a penalty, whereas criminal prosecutions are punishable by a fine and/or

¹¹² The Client Data Management Strategy (CDMS) is focusing on those systems that are not included in Customs' Cargo Management Re-Engineering project. The WINCAMS system is one of these. The Strategy takes a 'client view' of transaction management systems so that a client's transaction history can be used for risk-based decisions, at many levels, based on a predefined corporate approach to structured data sets. The CDMS is not intended to deliver a single information system, but rather a cohesive 'system of systems'.

imprisonment. If a prosecution brief is not accepted as a case by the CDPP, Customs may prosecute the matter as a civil action under the provisions of the *Customs Act 1901*. Figure 7 outlines this process.

Figure 7
The prosecution process



Source: ANAO analysis of Customs data

4.23 For the period 1999–2002, Customs prepared and forwarded 86 briefs of evidence to the AGS and/or CDPP.¹¹³ During this period, 75 briefs were accepted. Table 5 outlines the number of briefs accepted by the CDPP and AGS and prosecution outcomes. The number of successful prosecutions exceeds the number of briefs accepted because of the timing of prosecution action (some cases may take several years) and includes individuals and companies. The number of briefs accepted by the CDPP for 1999–2000 is not known, as this information was not recorded in WINCAMS.

¹¹³ Customs prepared 34 briefs in 1999–2000, 26 in 2000–2001 and 26 in 2001–2002.

Table 5**Briefs accepted by the AGS and CDPP and prosecution outcomes**

	1999–2000			2000–2001			2001–2002		
	AGS	CDPP	AGS and CDPP	AGS	CDPP	AGS and CDPP	AGS	CDPP	AGS and CDPP
Briefs accepted	16	7	1	21	8	1	19	7	0
Successful prosecutions	34	12	-(1)	17	8	-(1)	26	8	-

Source: Australian Customs Service

Note 1: The successful prosecution of these cases has been included in AGS and DPP statistics as each agency successfully prosecuted specific offences relating to the cases.

Quality of prosecution briefs

4.24 The ANAO consulted with the CDPP and AGS for their views on the quality of prosecution briefs prepared by Customs' investigators. Overall, the AGS was satisfied with the briefs of evidence provided to them. However, the CDPP in some regions, considered there was scope for improvement, particularly in relation to the admissibility of evidence.

4.25 Customs acknowledges there have been shortcomings in some of its prosecution briefs. The CDPP liaison officer addresses trainees on [Commonwealth] prosecution policy, criminal proceedings and court demeanour as part of Customs' training program. The ANAO suggests that this presentation be extended to include the preparation of prosecution briefs and the evidentiary requirements necessary to support a successful prosecution.

4.26 To ensure that all investigators are aware of any issues relating to briefs of evidence and other emerging legal issues, the CDPP could undertake regular training seminars or workshops in each region. This would provide a forum for the CDPP to highlight any problem areas and for investigators to discuss issues and raise concerns. Customs and the CDPP have expressed their support for this suggestion. The workshops/seminars would be in addition to the current quarterly tripartite management meeting between Customs, AGS and CDPP and feedback provided to individual case officers and managers.

Quality review mechanisms

4.27 A program of Quality Assurance Reviews (QARs) by Customs and the AFP to achieve and maintain better practice underpins the performance of the Investigations Branch. All regional offices are subject to Customs' continuous QAR program. An officer from National Office and a peer officer from another region undertake the review. Although the Branch aims to complete six internal QARs annually, none was completed in 2001–02 because QAR resources were

used to develop the QCIC program. The QAR program is currently under review. It is envisaged that the revised program will involve an in-depth analysis of one component of the case management process, for example the preparation of a prosecution brief. The same issue will be examined in each region to identify better practice or shortcomings, which will then be addressed from a national perspective.

AFP review of Customs' investigations

4.28 Under the Commonwealth Fraud Control Guidelines, the AFP is responsible for carrying out QARs of agencies' investigations. The review covers the agency and the investigator and is generally undertaken on reasonably sized completed cases. The AFP completed three Customs' QARs (each involving one case) in late 1998, October 2001 and May 2002. The QARs resulted in some minor changes being recommended, and confirmed that Customs' investigations meet required standards. The AFP advised that recommendations resulting from these reviews had been implemented. Customs have requested the AFP to undertake two QARs annually.

Evaluation and analysis

4.29 The internal review of the case referral management process recommended the formal analysis of trends in referral assessment and acceptance, and case results. The ANAO found no evidence of systematic analysis of fraud trends, referral patterns or case outcomes at a national level. Customs advised that it does not undertake trend analysis as to the type of cases or fraud perpetrated upon Customs. It is considered that practices or trends, for the most part, are identified by investigators, their managers, and regional management, or nationally, during the normal course of business.

4.30 The ANAO noted some instances where regions had identified control weakness and instituted changes to processes as a result of fraud investigations. However, it was not evident that the broader implications of this analysis had been considered nor that information had been disseminated to other regions so that it could be considered when developing fraud risk assessments and action plans. Customs advised that feedback on specific investigations to the Commercial Compliance Risk Analysis Section and Intelligence Branch has resulted in successful targeting and interdiction of illicit goods.

4.31 If Customs is to have a robust and consistent continuous improvement program, the ANAO considers fraud related activities and investigation processes should be evaluated on a regular basis and coordinated nationally. The analysis of fraud related trends are important for the ongoing planning of

fraud prevention and detection strategies. National trend and data analysis would also assist Customs to estimate fraud leakage and loss of Commonwealth revenue, identify system control weaknesses and current and emerging fraud risks.

Conclusion

4.32 Customs has developed and implemented a sound case management framework for assessing and investigating allegations of external fraud. Investigation practices improved following the implementation of a procedures manual in February 2002. However, the ANAO considers that Customs should regularly evaluate and analyse fraud referrals, investigations and case outcomes, particularly from a national perspective. To develop an effective and comprehensive fraud control program, Customs needs to understand its environment and have the capability to identify and react to emerging fraud trends, risks and system weaknesses. The nature and complexity of fraud is increasing with advances in technology. The ability to effectively target fraud control activities is becoming increasingly important. The development of Customs' Fraud Control Plan should be supported and informed by a comprehensive analysis of fraud referrals, investigation trends, case outcomes and system controls.

Recommendation No. 6

4.33 To support fraud control planning and inform management decision-making, the ANAO recommends that Customs:

- (a) routinely evaluate and analyse fraud referrals, investigations, case outcomes and trends nationally; and
- (b) disseminate this information within Customs to support the assessment of risks and the development of the fraud control plan and fraud action plans.

Customs response

4.34 Agreed. Customs undertakes to review the analysis and dissemination of information relating to fraud referrals, investigations, case outcomes and trends.

Prosecution debt management and recovery

4.35 The FMA Act imposes a general obligation on the Chief Executive Officer of a Commonwealth agency to pursue debts unless there is a valid reason not to. Debt management, in relation to Customs' fraud investigations, involves

overseeing and reporting on the enforcement of fines and penalties imposed by the various courts for prosecutions initiated by Customs. It also involves recovering debts owing to the Commonwealth. The fines, penalties and costs that are remitted to Customs are paid into administered revenue.

Criminal prosecution under the Crimes Act

4.36 The CDPP is responsible for pursuing fines and costs relating to criminal prosecutions on behalf of the Commonwealth through section 15A of the *Crimes Act 1914*. Offenders have 28 days to pay fines and/or costs. If the debt is not paid within this period, the matter is referred to the relevant State agency to recover the debt.¹¹⁴

Reparation orders under the Crimes Act

4.37 The Crimes Act allows reparation orders to be made for any loss suffered or expense incurred by the Commonwealth. For example, if a fraud involves customs duty, on conviction of the Customs' offences, an application can be made to the courts for a reparation order to recover the revenue lost (i.e. the duty). If goods have been seized, a reparation order cannot be sought. The CDPP is not responsible for enforcing reparation orders made under the Crimes Act. Customs must take legal action to convert the reparation order to a civil debt.

Civil prosecutions under the Customs Act

4.38 Procedures for enforcing civil penalties and costs imposed in a Customs' prosecution vary depending on the Court in which the prosecution action was initiated and the individual State's or Territory's administrative arrangements. In Queensland, Northern Territory, Western Australia and South Australia the relevant courts enforce penalties and costs.¹¹⁵ However, in NSW, enforcement of penalties resulting from prosecutions in either the District or Supreme courts will only proceed if Customs initiates further legal action such as obtaining writs of execution¹¹⁶ or referring the matter to the State Debt Recovery Office.¹¹⁷ In Victoria, Customs instructs the AGS recovery team to initiate debt recovery action

¹¹⁴ This function is carried out by the State Debt Recovery Office in New South Wales; Sheriffs Office in Victoria; State Penalties Enforcement Registry in Queensland; Fines Enforcement Register in Western Australia; and the Fines Recovery Unit in Northern Territory and South Australia.

¹¹⁵ This is not an automatic process and in some States may require Customs instructing AGS or a contract legal service provider, to refer the outstanding debt to the appropriate State agency or seek an enforcement order where the court has not set a default date or final date for payment.

¹¹⁶ Penalties and related costs imposed by courts of summary jurisdiction (local/magistrate courts) will normally be enforced by either the courts themselves or referred to State agencies.

¹¹⁷ The SDRO have indicated that if a matter from a superior court is place on the General Local Court (GLC) computer system they can undertake recovery action.

for penalties imposed by the County and Supreme Courts and for reparation orders.¹¹⁸

4.39 The process adopted by the State agencies to recover penalties generally involves an escalation of enforcement options. Although there are differences in the types of options employed by these agencies, they generally include sending letters of demand, cancellation of driver's licence and car registration, garnishee of wages and bank accounts, seizure of goods, land and property, community service orders, and imprisonment. However, in practice, these options are not always exercised. For example, in NSW, enforcement is limited to a letter of demand and the cancellation of driver's licence and car registration. Customs also has no influence on the priority given to its outstanding debts by the State agencies.

Customs monitoring processes

4.40 The obligation to seek the recovery of debts and reparation orders under the Crimes Act¹¹⁹ and penalties and duties under the Customs Act¹²⁰ is governed by the FMA Act. It is equally important that the time, effort and resources devoted to fraud investigations and prosecutions are not wasted nor the credibility of Customs enforcement strategies undermined. At the time of the audit, the Investigations Branch's Legal Support area in each region was responsible for monitoring the recovery of these debts.

4.41 Each region records the outcome of prosecutions and the fines, costs and penalties awarded by the courts. Where payments are defaulted, the total outstanding debt is generally reported each month to the regional Financial Management Branch for inclusion in the financial statements. Debts may also be written off.

4.42 The ANAO requested Customs to provide information about court-imposed fines, costs and penalties, including the following:

- total value of debts arising from Customs prosecutions;
- payments received by Customs against debts arising from prosecution action;
- amount of debts outstanding at year-end;
- value of debts written off in each financial year; and

¹¹⁸ In Victoria, the initiation and pursuit of civil enforcement procedures rests with the person in whose favour the reparation order is made, namely Customs.

¹¹⁹ Section 21B of the *Crimes Act 1914*.

¹²⁰ The principal debt recovery provisions of the Customs Act are section 35A (duty in respect of customable good not accounted for), section 153 (all duties are Crown debts recoverable at any time in any court of competent jurisdiction) and section 165 (duty short levied).

- copies of guidelines outlining the process for managing these debts.

4.43 There appears to be no standard operating procedures or system for recording or managing these debts. NSW was the only region to provide guidelines. The data sets provided were inconsistent and, in some cases incomplete, making it difficult to consolidate the available data. The ANAO found that responsibility for maintaining such records rests with the regions, with minimal corporate support and/or oversight. Table 6 outlines revenue awarded to Customs as fines, costs and penalties, revenue received and amounts written-off during the period 1999–2002.¹²¹ This data has been compiled from regional responses.

Table 6

Revenue awarded to Customs, revenue received and amounts written-off for the period 1999–2002

	1999–2000 \$m	2000–2001 \$m	2001–2002 \$m
Revenue awarded ⁽¹⁾	5.81	2.78	5.65
Revenue received ⁽²⁾	3.51	0.7	2.16
Outstanding debt as at 30 June ⁽³⁾	6.40	6.62	7.77
Debt written off	2.76	Nil	3.00

Source: ANAO analysis of Customs data

Note 1: Includes fines, penalties and reparation orders as recorded in WINCAMS.

Note 2: Includes in-part revenue received as payment of demands and settlements imposed in previous years.

Note 3: Includes amounts outstanding from demands issued by some regions.

4.44 Customs has developed a number of CEIs that cover: the *Recovery of Debts* (CEI 6.1); *Repayment of Debts by Instalments and Deferral of Repayments of Debts* (CEI 6.2); *Waiver of Recovery of Debts Due to the Commonwealth* (CEI 6.3); *Non-Recovery of Debts* (CEI 6.4); and *Loss and Recovery of Public Money* (CEI 3.5). However, these instructions do not outline the process to be followed for court-imposed fines, costs and penalties.

4.45 Historically, these debts have been written-off by the Regional Manager, Investigations Branch who held a delegation of up to \$500 000.¹²² This delegation was withdrawn in July 2002 when the new CEIs relating to debt recovery were issued. Delegation in the regions is now held by the Regional Director and has been reduced to \$250 000. The ANAO found that the period before a debt is written off varies across regions. The longest period a debt has been outstanding

¹²¹ Includes amounts related to Customs' prosecutions for both fraud and community protection. However, the majority relates to fraud cases.

¹²² Delegations varied across the regions.

is approximately 16 years, however, during this time Customs actively sought payment of the debt.¹²³

4.46 The ANAO understands that there have been discussions within Customs relating to the transfer of debt recovery responsibilities to the Financial Management Branch. The view is that the work of the Investigations Branch is completed when the court has made an order. Under the new organisational arrangements, the Legal Support areas within the Investigations Branch have been transferred to new Sanctions Groups within Regional Compliance areas. The ANAO understands that the Sanctions Groups will be responsible for enforcing administrative penalties and infringement notices introduced under the new penalty regime.

Conclusion

4.47 Customs has a responsibility to recover court-imposed debts owing to the Commonwealth. However, it is constrained by its inability to influence the State/Territory agencies responsible for enforcing these fines, costs and penalties. The exception to this is where debts relating to penalties imposed by the County and Supreme courts and reparation orders can be followed-up by the AGS recovery teams or other contract legal service providers.¹²⁴ Although there are constraints on Customs recovering this revenue, it should ensure that accurate records are maintained and the actions taken by other agencies are monitored. The lack of documented procedures and CEI outlining the process to be followed for recovering and writing off this type of debt have introduced inconsistent practices across regions. It also raises concerns about the accuracy of the debts being recorded.

4.48 The transfer of the Legal Support area to the Sanctions Groups also means that the Investigations Branch will no longer have the resources and expertise to monitor and, where possible, recover these debts. The ANAO considers it would be sensible to transfer the function of recording, monitoring and recovering court-imposed fines, costs and penalties to the Sanctions Groups. The Group could be a central coordinating area for managing and recovering court-imposed debts and administrative penalties. The ANAO considers that the systems and processes supporting the recording, monitoring, writing off and reporting of debts arising from prosecution action should be reviewed. Whilst acknowledging regional variations, standard procedures (and CEI) should be developed and implemented nationally.

¹²³ The longest period until debts are written-off varies across the regions. In Queensland it was ten years with ongoing recovery action, NSW 16 years with ongoing recovery action, Victoria three to four years, South Australia three to five years and Western Australia 18 months.

¹²⁴ Victoria has confirmed AGS follows-up outstanding debts. In NSW and SA the AGS monitor action taken by State Recovery Agencies.

Recommendation No. 7

4.49 To ensure consistent practices in managing and recovering debts relating to court-imposed fines, costs and penalties, the ANAO recommends that Customs:

- (a) review its processes and systems for recovering these debts;
- (b) develop and implement standard procedures for recording, monitoring and reporting of debts arising from prosecution actions;
- (c) consider drafting a Chief Executive Instruction to support this debt management process; and
- (d) consider transferring this function from the Investigations Branch to an area of the office responsible for debt management across the organisation.

Customs response

4.50 Agreed. Practices for the recovery of debts will be reviewed with processes and procedures updated accordingly. Customs are looking to review debt management processes across the organisation, and will discuss proposed solutions with the ANAO.

5. Internal Fraud Investigations

This chapter discusses the management of internal fraud allegations and investigations by Customs' Internal Affairs Unit.

Introduction

5.1 Agencies are responsible for investigating routine or minor instances of fraud against them or their programs, and disciplinary matters.¹²⁵ It is important that investigations are undertaken in a timely and effective manner to ensure confidence in an agency's internal control systems is maintained. Invariably, this will be linked to factors such as resourcing, adequate policies and procedures, staff knowledge and training. The Internal Affairs Unit (IAU) is responsible for investigating allegations of serious misconduct and complaints of criminality against Customs' staff.¹²⁶

5.2 The purpose of the ANAO's examination was to provide assurance that Customs has developed and implemented adequate systems and processes for investigating allegations of internal fraud. The ANAO reviewed Customs' case management framework and an indicative sample of 21 cases completed during the period 1998 to 2002.¹²⁷ This review included:

- case referral and assessment;
- monitoring and review of investigations;
- quality assurance reviews; and
- evaluation and analysis.

Customs' Internal Affairs Unit

5.3 The IAU is a separate business unit with the Manager reporting directly to the Deputy Chief Executive Officer (DCEO). Customs' Fraud Control Plan states that the main objectives of the IAU are to:

¹²⁵ This is generally referred to as internal fraud, and could include theft, abuse of office and unlawful use of Commonwealth property or services. Further details are outlined in Guideline 2 of the *Commonwealth Fraud Control Guidelines 2002*.

¹²⁶ The IAU investigates breaches of the APS Code of Conduct in accordance with the *Public Service Act 1997*.

¹²⁷ The sample of cases included: six from NSW; five from Victoria; four from the Northern Territory; two from Queensland and South Australia, and one each from Western Australia and the Australian Capital Territory.

- perform the initial investigation of allegations of criminal offences and, where appropriate, refer such matters to the AFP or other appropriate law enforcement agency;
- report on any dishonest practices, activities and procedures with a potential to diminish the integrity of Customs' officers; and
- maintain a central register of all internal frauds in accordance with the requirements of the Fraud Control Policy of the Commonwealth and report these to the Commonwealth Law Enforcement Board as required.¹²⁸

Investigator training

5.4 Under the *Commonwealth Fraud Investigation Standards Package* (CFISP) and the more recent *Commonwealth Fraud Control Guidelines 2002*, officers undertaking investigations are required to attain investigator qualifications.¹²⁹ The IAU has positions for nine officers located in the Australian Capital Territory, NSW and Victoria. At the time of the audit, one position was vacant. Five officers have obtained the Certificate IV in Government (Fraud Control Investigation) qualification. The IAU manager and another officer have a background in Commonwealth law enforcement and the office manager is not required to undertake investigations.

Case referral and assessment

5.5 The IAU receives referrals from various sources including members of the public, Customs' staff and external agencies. The Unit has developed a case management process for the investigation of serious complaints and allegations against Customs' officers. Following the receipt of a referral and preliminary assessment by IAU, approval is sought from the DCEO (or delegate) to undertake an investigation to test the veracity of the referral information. An investigation may involve a suspected criminal offence, a breach of the APS Code of Conduct or both.¹³⁰

5.6 Table 7 outlines the number of referrals received for the period 1999–2002 and the outcomes of these cases. Twenty-five cases have been referred to the

¹²⁸ The Fraud Control Policy was replaced by the Fraud Control Guidelines in May 2002 and the Attorney-General's Department is now carrying out the functions ascribed to CLEB. See Chapter 1 for further details.

¹²⁹ Guideline 6 states that relevant employees are required to gain the Certificate IV in Government (Fraud Control Investigation) qualification by 30 June 2003. Relevant employees are required to gain the Diploma of Government (Fraud Control Investigation) qualification by 30 June 2004.

¹³⁰ Where both are involved, investigation of the criminal matter will take precedence, with the Code of Conduct investigation being held over until the criminal investigation is completed. Each area is assessed on its individual merit.

AFP since 1999. Customs advised that 11 cases related to fraud and the other matters involving criminality included allegations such as stealing from other Customs' officers and community protection issues pertaining to illicit drugs and prohibited items. Substantiated cases of misconduct are generally referred to the relevant operational area for disciplinary action, counselling or other action.

Table 7

Referrals received by IAU since 1999–2000 to 2001–2002

	Cases involving allegations of criminality		Cases involving misconduct		
	Unsubstantiated	Substantiated	Unsubstantiated	Substantiated	Total Cases
1999–2000	25	12	17	16	70
2000–2001	28	16	21	13	78
2001–2002	26	11	15	16	79 ⁽¹⁾

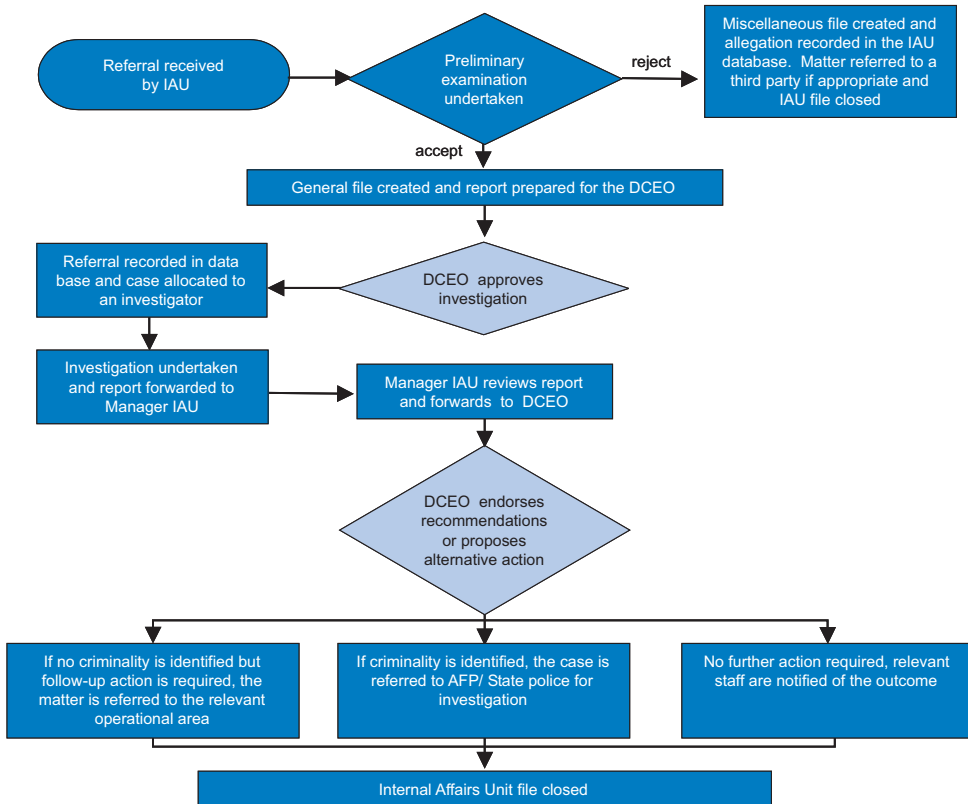
Source: Customs Internal Affairs Unit

Note 1: Includes 11 ongoing cases (six involving criminality and five involving misconduct).

Note 2: Cases referred to AFP may have been received by Customs in the previous year.

5.7 On completion of an investigation, the case file is forwarded to the Manager IAU for review. A final report is then forwarded to the DCEO for consideration and endorsement of any proposed recommendations. The recommended actions are noted on the case file and in the IAU database. The IAU's role is considered finalised when its inquiries are completed and the findings are forwarded to the DCEO. All substantiated cases involving criminal activity are forwarded to the AFP or other law enforcement agency. Customs' managers are responsible for implementing any remedial action for breaches of the APS Code of Conduct. Customs further advised that, as part of its investigations, the IAU reviews Customs' procedures, systems and processes and changes are recommended to prevent re-occurrence. Figure 8 outlines the IAU's case management process.

Figure 8
Internal Affairs Unit's case management framework



Source: ANAO analysis of Customs data

ANAO review of cases

5.8 Despite the absence of Customs-specific procedures for investigating internal fraud, the ANAO found a high level of consistency in the practices adopted by the IAU. For example, it was clearly evidenced that the DCEO was informed at key points during an investigation. There was also evidence on the case files of decisions at important stages of the investigations, with the reasons for these decisions documented. The ANAO found that most cases were resolved within three weeks to seven months, with an average time of approximately 17 weeks.

5.9 The distribution of operational areas involved in the allegations was also considered by the ANAO. Passenger Processing had the highest number of allegations followed by Border and non-aligned areas. Operational area information is not routinely recorded in the case file or the IAU database. The ANAO considers that this information could be useful when evaluating internal fraud referrals, including possible fraud trends and breaches of the APS Code

of Conduct. Access to this information may also assist in the targeting of fraud awareness training.

5.10 The ANAO found that case details are not entered into the database until the investigation is completed. Comparisons between the case file and IAU database were sound. The CFISP model procedures suggest the use of running sheets as part of activity recording by managers and investigators. The addition of a case running sheet on the IAU case file would provide a concise history of the case. The running sheet would also support the effective transfer of files between staff, IAU database records and case reviews. Customs' Investigations Branch and other law enforcement agencies have adopted this practice.

Operational guidelines

5.11 The CFISP outlines procedures that each agency should have in place to undertake an efficient and effective investigation. The ANAO found that the IAU does not have documented procedures supporting its operations. The IAU is a relatively small, centrally controlled business unit and relies heavily on the knowledge of its staff. To retain this corporate knowledge, assist new staff commencing in the Unit and facilitate the review of business processes, the ANAO considers that procedures should be documented and modelled on the CFISP. The Investigation Branch's Manual—Volume 18, would be an appropriate starting point when drafting IAU procedures.

Monitoring and review of investigations

5.12 Ongoing case review ensures the investigation remains valid and investigation activity focused. Customs advised that, because of the size of the IAU, the Manager is able to maintain close liaison with all staff and informally monitors the status of cases on an ongoing basis. The Manager formally reviews all cases before forwarding to the DCEO for sign off. Data recorded in the IAU database is also reviewed each month to identify outstanding matters.

Quality assurance review

5.13 The ANAO found that the IAU does not participate in any formal quality assurance review process. The ANAO acknowledges concerns regarding staff privacy and confidentiality. However, if the IAU implemented a quality assurance review program, it would highlight better practice and areas for improvement resulting in better outcomes. One option may be for the AFP to undertake a quality assurance review in line with the Commonwealth Fraud Control Guidelines. Alternatively, an experienced investigator from the Investigations Branch could review a sample of completed case files.

Evaluation and analysis

5.14 The analysis of trends in internal fraud referrals and investigations supports continuous improvement and provides input into ongoing fraud prevention, detection and investigation strategies. Information collected in the IAU database does not allow Customs to evaluate trends or identify patterns relating to internal fraud. The ANAO found no evidence of any systematic analysis or evaluation of internal fraud trends.

5.15 The IAU reports monthly to the DCEO and CEO on high profile matters. Information about IAU investigations is reported in Customs' response to the annual fraud survey undertaken by the Attorney-General's Department and Customs' annual report. However, unlike external fraud, the annual report does not include the number of cases of internal fraud. Rather, it focuses on the number of miscellaneous matters considered, the total number of referrals received, and the number of referrals investigated as cases.¹³¹ The ANAO considers that, categorising referrals to clearly differentiate between miscellaneous matters, fraud referrals and fraud investigations, will assist Customs in meeting its reporting requirements under the Commonwealth Fraud Control Guidelines.

IAU database (information system)

5.16 The IAU's database is a standalone single-user Microsoft Access database that was developed in 1996. Although the database was initially used as an indexing system, it has been enhanced over time to capture additional case details, assist with statistical reporting and monitor outstanding matters. The office manager in Central Office undertakes data input and systems maintenance.

5.17 The ANAO found that, although the database is used as a management tool, its functionality and supporting controls could be enhanced. For example, the current database allows for the deletion and/or modification of records, without maintaining a history or audit trail.¹³² This could have implications for data integrity and security. Further, the database is developed and maintained by staff within the IAU, but it is not supported by a user manual, data dictionary or record of system changes. Customs has advised that a user manual is currently being developed.

5.18 Given the limitations of the current system and the need to maintain up-to-date and accurate records to comply with the Commonwealth's reporting requirements, the ANAO suggests the IAU considers upgrading to a case

¹³¹ *Customs Annual Report 2000–01* p. 86.

¹³² An automated record of all system access and changes, including: system modifications, creation, deletion and/or modification of database entries. This information is linked to an individual's user id/logon.

management system. Although moving towards a real-time multi-user environment would enhance ongoing case management, the ANAO recognises that the costs and benefits of such an upgrade would need to be evaluated. Consideration could be given to including the IAU in Customs' Client Data Management Strategy.¹³³ This would allow the IAU's functional requirements to be aligned with Customs' corporate approach to the collection and storage of data.

Conclusion

5.19 Customs has developed and implemented a sound framework for the assessment and investigation of allegations of internal fraud. The direct line of accountability to the DCEO highlights Customs' commitment to the resolution of internal fraud matters. However, the ANAO considers that Customs could improve its case management processes by documenting its processes and procedures; developing and implementing a quality review program; and evaluating trends relating to internal fraud referrals. These improvements would further engender a culture of continuous improvement in the IAU and support the targeting of fraud prevention and awareness activities.

Recommendation No. 8

5.20 To improve Customs' case management framework for assessing and investigating internal fraud referrals, the ANAO recommends that the Internal Affairs Unit:

- (a) document its procedures and processes in accordance with the *Commonwealth Fraud Investigations Standards Package*;
- (b) categorise referrals to clearly identify the number of fraud referrals and fraud investigations;
- (c) develop and implement a quality review program; and
- (d) analyse and evaluate referred cases for fraud patterns and trends.

Customs response

5.21 Agreed.

¹³³ The Client Data Management Strategy is focusing on those systems that are not included in Customs' Cargo Management Engineering project. The Strategy takes a 'client view' of transaction management systems so that a client's transaction history can be used for risk-based decisions, at many levels, based on a predefined corporate approach to structured data sets. The CDM Strategy shall not deliver a single information system. But shall aim to deliver a cohesive 'system of systems'.

6. Measuring the Effectiveness of Customs' Fraud Strategies

This chapter discusses the adequacy of Customs' fraud-related performance measures and the work undertaken by other agencies to measure potential fraud.

Introduction

6.1 The effectiveness of Customs' fraud control activity has a strong bearing on the outcomes it delivers. It is therefore important that Customs has a sound performance management system that can monitor and assess the effectiveness and progress of its fraud control strategies. Effective performance measures also facilitate internal management and lay a basis for generating continuous improvement.

6.2 Other chapters of this report have examined the extensive arrangements Customs has in place to control the risk of fraud. If Customs is to assess the effectiveness of these efforts, the actual impact of its fraud prevention, detection and control strategies need to be measured. In doing so, it will be important to distinguish between the policy, strategies and procedures adopted by Customs, on the one hand, and their impact, on the other.

6.3 The ANAO reviewed the performance data collected by Customs and the adequacy of Customs' performance information to measure the effectiveness of its fraud strategies. To enable some comparison, the examination included a review of the strategies used by other agencies known to have made special efforts to measure potential fraud.

Fraud data collection and analysis in Customs

6.4 Collecting fraud-related performance data is an important investment decision for any organisation. Doing it well is a costly process and the data collected and analysed should provide a well-informed picture of the organisation and its fraud strategies. It is important to ensure when developing collection mechanisms that actions are not equated with, or mistaken for, achievement of outcomes and data collection for analysis.

6.5 Customs collects a range of data, which it reports internally and externally, including a quarterly statistical bulletin that provides an overview of its activities and changes occurring in the operating environment.¹³⁴ Customs regularly

¹³⁴ *Customs Figures: Australian Customs Service Statistical Bulletin*, Issue 27, data to June Quarter 2002.

reports to the Australian Bureau of Statistics (ABS) on commodities entering Australia, by value, quantity, classification, and country of origin. Customs also:

- undertakes an ongoing compliance program that provides valuable information, for example, reports on particular industry sectors;
- engages in internal and/or external investigations of fraud, providing valuable current and trend-related information; and
- undertakes strategic intelligence assessments that provide details and data analysis for specific operational issues and areas, for example, tobacco fraud in commercial cargo.

Commercial Compliance Program benchmarking pilot study

6.6 In March 2001, Customs identified the need to estimate the level of compliance relating to imports. As a result, part of the Commercial Compliance Program for 2001–02 was a pilot benchmarking study focussing on imports. The objective of the study was to measure or estimate revenue leakage, data integrity errors and error rates using a stratified sampling technique. The sample included the top 500 importers, responsible for 54 per cent of all imports by value. The importers were divided into industry sectors, with each sector sampled.

6.7 The study concluded that the intended sampling method was promising and delivered its objectives in most areas. In others, such as the alcohol and tobacco sectors, the initial pilot version of this technique proved inappropriate. This will be examined more closely in next year's cycle. Estimated duty leakage at 1.15 per cent was assessed as quite moderate. However, nearly all of these results came from the general business sector, rather than the sectors traditionally considered a higher risk. The pilot study proved useful and the lessons learned have influenced the 2002–03 sampling methodology. The ANAO considers that an important achievement of the study is that it has given Customs initial baseline data that can be used to review fraud and compliance risks in the future. The ANAO encourages the continuation and expansion of this work.

Strategic intelligence assessments

6.8 Strategic assessments provide an analysis of issues that have national implications or are of national significance, usually in relation to Customs' border or revenue responsibilities. The purpose of such assessments is to assist management decision-making, contribute to policy development and enhance resource planning. The ANAO reviewed a number of strategic assessments relating to fraudulent activity. The assessments attempted to measure such matters as:

- the size of the gap between revenue theoretically due to the Commonwealth on all tobacco consumed in Australia and revenue actually collected;
- extent of revenue loss to illicit tobacco manufacture;
- the effect of fraud on particular sectors;¹³⁵
- threats posed by criminal syndicates involved in tobacco fraud in Australia;¹³⁶
- the types of export diversion, the characteristics of exporters involved and estimates of the revenue loss from export diversion;¹³⁷ and
- revenue implications for Customs of the non-collection of duty on ‘virtual products’.¹³⁸

6.9 Customs identified and used a number of sources of information to compile these assessments.¹³⁹ The information and analysis contained in these assessments can complement the findings of the fraud leakage benchmarking study. For example, the knowledge gained through targeting specific industry sectors may highlight control weaknesses and the need for changes to prevention and detection strategies. They may also point to other fraud-related issues.

Customs’ outcome and output framework in relation to fraud

6.10 Government policy requires Commonwealth agencies to follow the outcomes/outputs framework in implementing external accountability obligations.¹⁴⁰ The policy also encourages the framework to be used for performance management within agencies where possible.¹⁴¹ This framework

¹³⁵ Australian Customs Service Strategic Assessment No.7/98 *Tobacco Revenue Avoidance and Evasion*, November 1998.

¹³⁶ Australian Customs Service Strategic Assessment No.02/02 *Tobacco Fraud in Commercial Cargo*, April 2002.

¹³⁷ Australian Customs Service Strategic Assessment No.7/01 *Revenue Implication of Export Diversion*, December 2001.

¹³⁸ Australian Customs Service Strategic Assessment No.05/02 *Revenue Implications for Custom of Virtual Products*, June 2002.

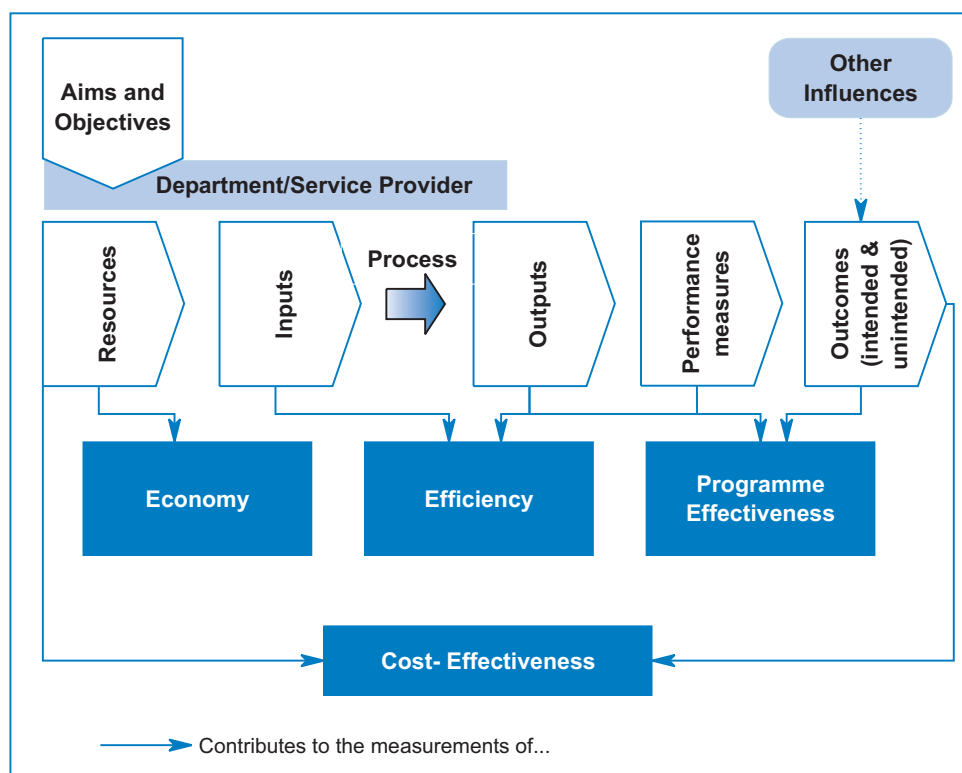
¹³⁹ Sources of information included: the Australian Bureau of Statistics; the Australian Bureau of Agriculture; Resource Economics reports; the Bureau of Transport and Communication Economics reports; the Australian Taxation Office; Customs’ Information Network To Enhance Response Control Enforcement and Preventative Techniques; and Her Majesties Customs & Excise (United Kingdom).

¹⁴⁰ An *Outcome* is the impact sought or expected by government, the focus is on change and consequences. *Outputs* are the actual deliverables, goods and services that agencies produce to generate the desired outcomes.

¹⁴¹ Australian National Audit Office, *Performance Information in Portfolio Budget Statements Better Practice Guide*, May 2002, p. 1.

provides a coherent matrix in which to position the agency's fraud control activities and to consider optimum measures to assess their effectiveness. Mapping the relationship between inputs, outputs and outcomes may clarify what agencies are attempting to achieve by their programs and assist in defining data requirements. Figure 9 illustrates this relationship.

Figure 9
Relationship between inputs, outputs and outcomes



Source: United Kingdom National Audit Office adapted by ANAO

Customs' outcome/output framework

6.11 Customs reports on one outcome and five outputs. There is no specific output relating to fraud control. Output Four, 'Customs' administration of customs duty and indirect taxes, other border-related revenue collections and import/export statistics' includes indicators that relate to fraud performance.¹⁴²

¹⁴² The two indicators in Output Four are the number of fraud evasion cases adopted for investigation; and the number of fraud evasion cases adopted for prosecution.

Output One includes indicators relating to goods seizures.¹⁴³ Appendix 3 sets out Customs' outputs and performance measures for 2001–2002, as published in its Annual Report.¹⁴⁴ The following fraud-related activities are also included in the Annual Report:

- Customs conducted a fraud-risk assessment and in September 2001 the Customs' Fraud Control Plan was issued;
- a pamphlet outlining Customs' fraud control policy was issued to all staff and Australian Customs Notice number 2002/29 was released in June 2002 to industry representatives, the public, customs brokers, importers and exporters;
- working with the AFP to enable Customs staff to achieve the Certificate IV in Government (Fraud Control Investigations);
- the number of audits/reviews undertaken by internal audit;
- the number of complaints of serious misconduct and/or criminality and miscellaneous inquiries investigated by the Internal Affairs Unit; and
- the number of external fraud referrals received by the Investigations Branch, cases adopted, court prosecutions and cases where prosecution briefs were completed.¹⁴⁵

6.12 The ANAO notes that, while Output Four is likely to be the area generating the most obvious cases of fraud in the visible and financial sense, none of the Customs outputs is immune from fraud. All bear potential fraud risks—for example, internal fraud is not referred to in any of the present performance indicators in the output structure, yet it can affect the delivery of any of the agency's outputs.

6.13 The ANAO considers that Customs' current performance measures track and quantify key activities rather than addressing the impact or effectiveness of its fraud strategies. It is not suggested that each output necessarily needs to contain performance indicators relating expressly to fraud control. However, the partial application of fraud-related measures to a selection of them may not give proper weight to Customs' actual efforts in implementing the Fraud Control Plan. Given the high degree of fraud risk in Customs' operations, an alternative or additional approach may be to include a generic fraud control performance measure relating, for example, to the implementation of the Fraud Control Plan.

¹⁴³ The three relevant indicators in Output One are: the weight and number of drug seizures by significance of offence; the weight of drugs seized by mode of importation; and the number of detection and/or seizures of other prohibited imports.

¹⁴⁴ These are the same as those included in Customs' Portfolio Budget Statements (PBS) for 2002–03. *Portfolio Budget Statements 2002–2003*, Attorney-General's Portfolio, Budget Related Paper 1.2 p. 331.

¹⁴⁵ Australian Customs Service, *Annual Report 2001–02*, pp. 34–36, 115.

Performance measures used by other agencies

6.14 In view of the complexity of the potential fraud environment in which Customs operates, the ANAO acknowledges that there are significant difficulties in taking fraud control performance measurement beyond collecting data on activity numbers and program interventions. The ANAO identified some examples of agencies that are known to have developed higher-level methodologies in fraud data collection and measurement, which may assist Customs. The Customs service in the United Kingdom, Her Majesty's Customs and Excise (HMC&E) and, in Australia, the NSW State Rail Authority (SRA) are two such agencies that face extensive fraud risks in different ways. Both of these organisations have undertaken work to measure levels of fraud risk and the impact of agency activities on those risks. Once a clear approach to the analysis of issues involved is established, relevant and useful performance measures can be determined and required information collected.

Her Majesty's Customs and Excise

6.15 In 1999, the UK Government undertook an independent evaluation of HMC&E's strategy to counter tobacco smuggling. The study led to the introduction of a new strategic approach to address the problem. This meant moving from a tactical approach, where success was defined in terms of 'outputs', such as increased numbers of seizures, to a strategic approach based on the achievement of outcomes that have a direct and measurable impact on the incidence of tobacco smuggling.¹⁴⁶

6.16 The new approach to minimising fraud has six key components: estimating the size of the problem; analysing the problem, that is, establishing the nature and economics of fraud through the analysis of intelligence; determining appropriate operational responses; establishing desired outcomes; strengthening controls; and monitoring the delivery of outcomes.¹⁴⁷

6.17 HMC&E has developed quantitative assessments of the extent of fraud and avoidance for packed cigarettes, spirits, wine and beer, oils (diesel and petrol) and Value Added Tax (VAT).¹⁴⁸ HMC&E identified two possible approaches for producing excise fraud estimates—top down and bottom up:

top down—by comparing levels of total consumption of the product in question with known legitimate purchases and assuming that the difference represents fraudulent consumption. This is commonly referred to as 'gap analysis'; or

¹⁴⁶ Her Majesty's Customs and Excise, *Tackling Indirect Tax Fraud*, November 2001, pp. 3–4.

¹⁴⁷ Appendix 4 describes these components in more detail.

¹⁴⁸ Her Majesty's Customs and Excise November 2001 *Measuring Indirect Fraud* p. 3.

bottom up—by obtaining direct measures of levels of fraud and smuggling by various methods and routes, such as targeted surveys and the use of Customs’ administrative data.

6.18 HMC&E produce fraud assessments by combining aspects of both approaches, and attempt to find independent corroboration of statistical estimates from administrative, operational and/or other sources. This has meant close collaboration with other UK Government agencies. For most excise products, the ‘gap analysis’ methodology includes: estimating total consumption; estimating UK duty paid consumption; and calculating non-UK duty paid consumption.¹⁴⁹ Estimates of revenue losses from fraud are calculated using a number of different methodologies and data sources. Most of the estimates of total fraud come from a ‘gap’ analysis.

6.19 HMC&E has applied the new strategy to cigarette smuggling. Key targets were set for each year up to 2003–04 to limit and then reduce the proportion of the total cigarette market made up by smuggled cigarettes. Already by the second year of the system (2002–2003), the outcome has been to slowly stabilise and then reverse the growth in smuggling. The details of the program are set out in Case Study No.3, with details of the first year’s targets and results.

¹⁴⁹ *ibid.*

Case study No. 3

Her Majesty's Customs and Excise—tobacco smuggling performance measurement

A tobacco smuggling model

The UK's customs service, HM Customs and Excise (HMC&E) developed a model of tobacco smuggling. This enabled the agency to estimate the level of smuggling and the future growth of the problem, allowing it to predict the level of activity needed to reverse the trend. The estimate of overall tobacco consumption used in the model is the same as that used by the UK's Department of Health. Consumption figures were drawn from the General Household Survey and supplemented by data from the monthly Omnibus survey. These figures were then compared against data for legal supplies of tobacco, made up of UK duty-paid supplies, taken from the agency's own statistics and data on the level of legal cross-border shopping.

Performance measurement

HMC&E replaced a performance measurement approach, which had measured the revenue value of seized cigarettes with a 2001-04 target. This target required it to reverse the then-current trend in tobacco smuggling so that by 2004-05, smuggled cigarettes represented no more than 18 per cent of the market.

The first year's targets and results (2000–01)

Target—*To limit the market penetration of smuggled cigarettes to 21 per cent rather than the predicted level of 25 per cent in the absence of the strategy.*

Result – HMC&E achieved their key target to hold the market share of smuggled cigarettes to 21 per cent.

Target—*As part of the strategy, HMC&E set up a number of lower level operational output targets designed to measure progress. These targets included breaking up 55 major excise smuggling operations.*

Result—HMC&E investigators broke up 56 major smuggling gangs, 43 of them involved in large-scale smuggling and supply of cigarettes.

Target—*Seize 2 billion cigarettes.*

Result—HMC&E seized 2.8 billion cigarettes in the UK and 0.9 billion en-route to the UK through joint operations with overseas agencies. The new strategy provided a means of measuring the impact of the C&E programmes. HMC&E has stated that it recognises that no model will ever be completely reliable and that the model will need refining and adjusting over time to reflect actual results achieved.

Source: National Audit Office (UK), 2001, *Measuring the Performance of Government Departments* and Her Majesty's Customs and Excise, November 2001, *Tackling Indirect Tax Fraud*

NSW State Rail Authority

6.20 Another agency, the NSW State Rail Authority (SRA) has established a fraud control performance management system, which may offer useful benchmarking opportunities for Customs. The system was reviewed in a 1998 NSW Audit Office performance report.¹⁵⁰

6.21 Research conducted in 1996–97 enabled the Authority to determine that its loss through the fraudulent evasion of fares was approximately \$9 million per annum. The research and subsequent changes to performance measurements enabled the SRA to reduce fare evasion. The nature of the work undertaken by SRA allowed for monitoring and evaluation of its fraud control strategies. Case study No.4 describes the steps taken by SRA.

Case study No. 4

The NSW State Rail Authority

One area of fraud risk for the NSW State Rail Authority (SRA) is fare evasion. In order to assess risk and determine appropriate management strategies, it is necessary to accurately measure the level of risk.

To this end a passenger movement model of the *CityRail* system has been created and appropriate sampling techniques developed to obtain accurate representation of the actual system (by line, by peak versus off-peak and by weekday versus weekend).

Passengers on selected trains are checked for correct ticketing and supporting documentation (eg. concession entitlements), and the results fed back into the predictive model. Sample sizes are large enough to give confidence that estimated unticketed rates are within one percent of actual rates. Through this scientific method, the SRA has developed an informed assessment that its loss through fare evasion is approximately \$9 million per annum.

Within this context of accurate measurement it should be noted that:

- the monitoring process has shown that a significant reduction in fare evasion has occurred over the last three years;
- *CityRail's* unticketed rate, at less than three per cent, is good by comparison with other rail systems; and
- strategies are in place to reduce this further.

Strategies to reduce fare evasion must be cost effective, with the reduction in revenue foregone more than offsetting the costs of implementation. State Rail's measurement systems allow the effectiveness of fraud reduction strategies to be readily assessed.

Source: The Audit Office of NSW, 1998 Performance Audit Report, *Fraud Control: Status report on the implementation of fraud control strategies*

¹⁵⁰ The Audit Office of NSW, *Status Report on the Implementation of Fraud Control Activities*, 1998.

Lessons to be learnt

6.22 Despite the difficulties in estimating and measuring fraud-related activities, measures and estimates such as these are critical to understanding the nature and size of fraudulent activity. The methodology used by the SRA, and particularly by the HMC&E, could be useful to Customs when refining its compliance benchmarking study parameters. Both of these external agencies recognised the importance of collecting across-agency data, and the need to review and refine their strategies.

6.23 The challenge for Customs appears to be to identify, collate and analyse the range of information that may be available and to use as leverage the work already being undertaken both within it and other agencies. Consideration should be given to directly using data collected by other agencies such as the AFP, the ATO and the ABS.¹⁵¹ Such collaboration would require mechanisms being devised and negotiated with other agencies to identify and capture this performance data.

Performance measures relating to internal fraud

6.24 Customs reported information relating to internal fraud in its 2001–02 Annual Report.¹⁵² The information included:

- the number of complaints of serious misconduct and/or criminality;
- number of allegations substantiated, not-substantiated or under investigation; and
- miscellaneous enquiries made to the Internal Affairs Unit.

6.25 Measuring internal fraud faces a similar range of difficulties as those applied to the measurement of external fraud. The criminologists Graycar and Smith identified fraud as a product of a number of factors: motivation; somebody willing to offend; the presence of a prospective victim or target; and the absence of a capable guardian.¹⁵³ They went on further to say that, in many cases, offenders have worked within financial institutions or corporations themselves and been privy to the operation of the security system in question. Case study No.5 illustrates this point.

¹⁵¹ In Australia, comparison of cross-jurisdictional data and analysis is often difficult because different agencies collate and analyse similar information differently.

¹⁵² Australian Customs Service *Annual Report 2001–02*, p. 36.

¹⁵³ Adam Graycar and Russell Smith, *Identifying and Responding to Corporate Fraud in the 21st Century*, speech to the Australian Institute of Management 20 March 2002 p. 1.

Case study No. 5

The fraudulent transfer of funds

A financial consultant contracted to the Department of Finance and Administration was convicted of defrauding the Commonwealth by transferring \$8 735 692 electronically to private companies in which he held an interest. He did this by logging on to the Department's network using another person's name and password. He was also able to obscure an audit trail by the use of other employee's logon codes and passwords. The ACT Supreme Court sentenced him to seven and a half years imprisonment.

Source: Adam Graycar and Russell Smith, *Identifying and Responding to Corporate Fraud in the 21st Century*, speech to the Australian Institute of Management 20 March 2002

6.26 A recent KPMG forensic analysis of fraud in large public and private sector organisations in New Zealand and Australia found that internal personnel (management and non-management employees) perpetrated 73 per cent of the largest single frauds. The survey also found the overriding of internal controls was the most important contributing factor to major fraud. In more than one-third of major fraud cases, early warning signs were either ignored or not acted upon quickly enough.¹⁵⁴

6.27 The ANAO recognises that internal fraud may not always result in a monetary gain so measures cannot be based solely on revenue lost. However, the current performance measures reported against by Customs for internal fraud do not determine the effectiveness of its internal fraud strategies. Customs needs to develop alternative measures that report on results and identify trends and areas for improvement.

6.28 Customs could consider using its staff survey to collect additional data. Although it would not be a definitive measure, data generated systematically from Customs' own officers could make a valuable contribution to the agency's understanding of developments in the fraud area. The current survey does not include questions covering fraud-related activities. The addition of questions such as the usefulness of information provided by the fraud awareness training programs, and details of any unreported fraudulent activity, may provide some insight into the effectiveness of its internal fraud control strategies. Customs advised the ANAO during the audit that a simple question on fraud awareness and the relevance of the Fraud Control Plan would be included in the staff survey. It is understood that, depending on the results, these may be followed up in more detail.

¹⁵⁴ KPMG Forensic Fraud Survey 2002.

Conclusion

6.29 Customs has performance measures relating to fraud for a number of selected outputs. This results in Customs not assessing the impact of fraud control arrangements across the full range of its activities and not reporting on the effects of its Fraud Control Plan. In addition, these measures deal with activities, for example, the number of investigations and prosecutions. They do not measure the impact or effectiveness of Customs' fraud prevention, detection and control strategies.

6.30 The ANAO acknowledges the difficulty in determining performance measures that will accurately reflect outcomes and changes to internal and external fraudulent activity through Customs' strategies. The ANAO also acknowledges the work Customs has undertaken attempting to measure fraud leakage, including analysis of its compliance data and the strategic assessments undertaken in specific areas. This work will be particularly useful in assisting Customs to further develop its performance measures.

6.31 The ANAO considers that it is important, particularly in the longer-term, for Customs to take steps to review its existing fraud-related performance measures and move towards developing a set of measures that will help determine the effectiveness of its fraud strategies across its range of outputs. Performance measures should allow:

- reporting on results and interpreting the information to identify areas for targeting and improvement;
- revising of relevant benchmarks and/or data collection strategies; and
- identifying the crucial areas of performance in terms of desired results and means of achieving them.

6.32 Measuring the effectiveness and impact of its fraud strategies would allow Customs to assess those strategies and the processes, systems and procedures that underpin them.

Recommendation No. 9

6.33 The ANAO recommends that Customs build on its ongoing work to review its performance measures for preventing, detecting and controlling fraud; and to move towards developing a range of performance indicators that will:

- (a) more accurately assess the effectiveness of its fraud strategies; and
- (b) include internal and, where necessary, cross-agency quantitative and qualitative data to ensure validity, reliability and consistency.

Customs response

6.34 Agreed. Customs has incorporated the responsibility for updating the Fraud Control Plan into its Corporate Planning section. This will provide a continued focus on fraud risks and performance throughout the Corporate Planning Framework.

Canberra ACT
26 March 2003



Oliver Winder
Acting Auditor-General

Appendices

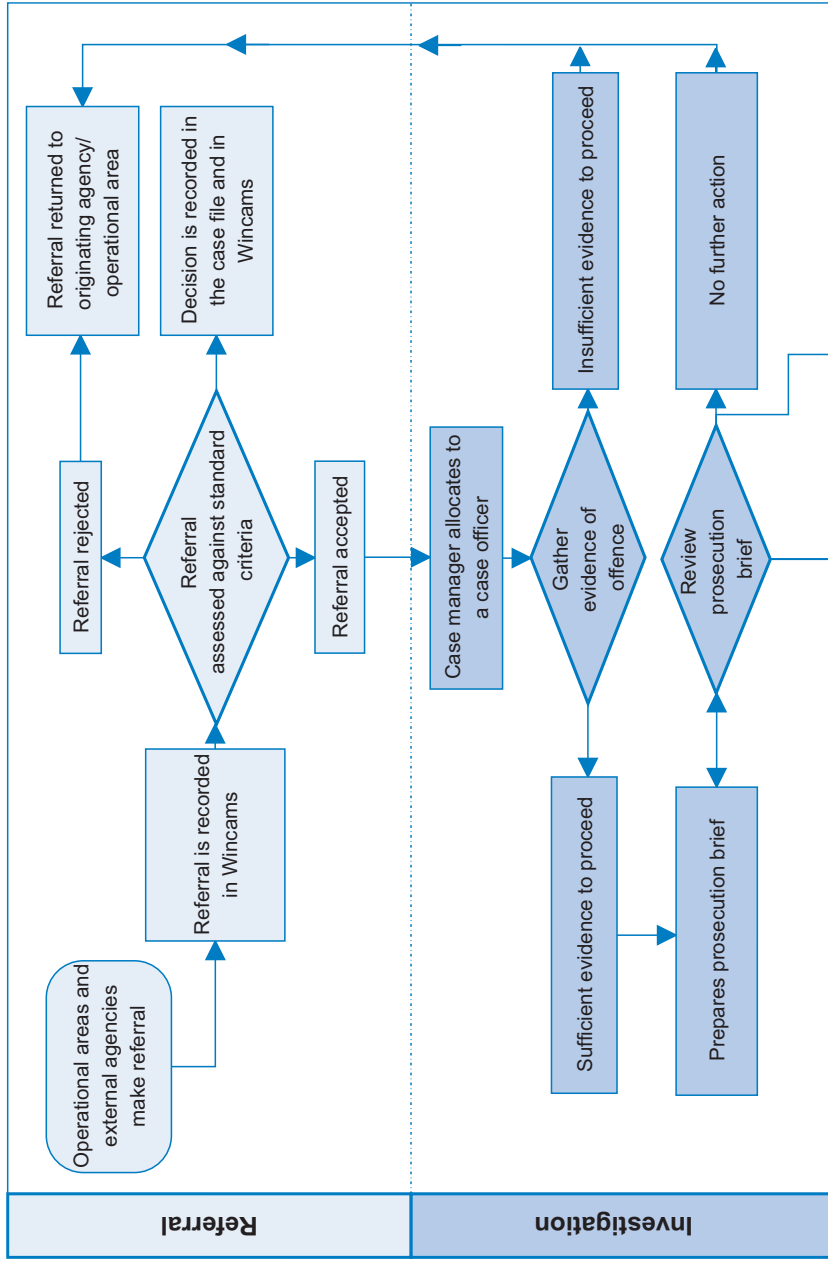
Appendix 1

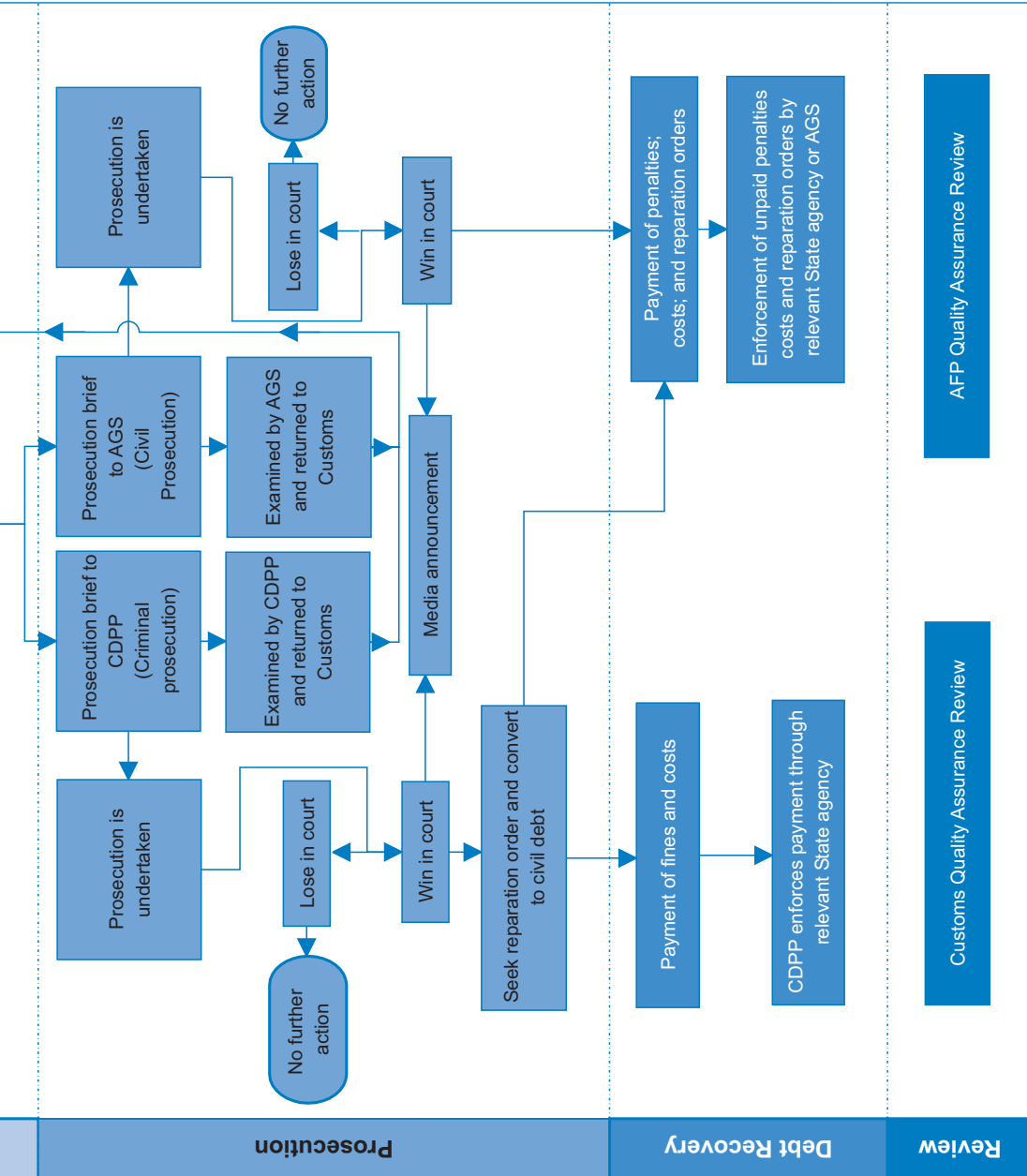
Previous ANAO Performance Audits on Agency Fraud Control Arrangements

- Audit Report No.25, 1990–91, *Efficiency and Effectiveness of Fraud Investigations*, Australian Federal Police
- Audit Report No.15, 1991–92, *Procedures for Dealing with Fraud on the Commonwealth*, Department of Defence
- Audit Report No.40, 1991–92, *Systems for the Detection of Overpayments and the Investigation of Fraud*, Department of Social Security
- Audit Report No.11, 1992–93, *Procedures for Dealing with Fraud on the Commonwealth*, Department of Administrative Services
- Auditor General’s Report No.4, 1999–2000, *Fraud Control Arrangements in the Department of Education, Training and Youth Affairs*
- Auditor General’s Report No.47, 1999–2000, *Survey of Fraud Control Arrangements in APS Agencies*
- Auditor General’s Report No.5, 2000–01, *Fraud Control Arrangements in the Department of Industry, Science and Resources*
- Auditor General’s Report No.6, 2000–01, *Fraud Control Arrangements in the Department of Health and Aged Care*
- Auditor General’s Report No.16, 2000–01, *Internal Fraud Control Arrangements in the Australian Taxation Office*
- Auditor General’s Report No.22, 2000–01, *Fraud Control Arrangements in the Department of Defence*
- Auditor General’s Report No.45, 2000–01, *Fraud Control Arrangements in the Department of Family and Community Services*
- Auditor General’s Report No.20, 2001–02, *Fraud Control Arrangements in the Department of Agriculture, Fisheries and Forestry – Australia*
- Auditor General’s Report No.26, 2001–02, *Management of Fraud and Incorrect Payments in Centrelink*
- Auditor General’s Report No.6, 2002–03, *Fraud Control Arrangements in the Department of Veterans’ Affairs*

Appendix 2

External Fraud Investigation Process





Source: ANAO analysis of Customs data

Appendix 3

Customs' Outputs and Fraud-Related Performance Measures

Number	Output	Possible fraud related performance measures
One	Facilitation of the legitimate movement of goods across the border, while intercepting prohibited and restricted imports and exports.	<p>Quality:</p> <ul style="list-style-type: none"> • Proportion of electronically lodged import entries where an authority to deal is transmitted within 15 minutes of receipt of a complete and accurate entry • Electronic cargo systems — availability to Customs clients (availability against typical work day) • Weight of drug seizures by mode of importation • Weight and number of drug seizures by significance of offence • Number of detections and/or seizures of other prohibited imports from international air passengers <p>Quantity:</p> <ul style="list-style-type: none"> • Number of air waybills reported • Number of sea cargo manifest lines reported • Number of international aircraft • Number of vessel arrivals • Number of customs import entries lodged • Number of export entries lodged
Two	Facilitation of the legitimate movement of people across the border, while identifying illegal movements.	<p>Quality:</p> <ul style="list-style-type: none"> • Proportion of arriving international air passengers processed through the entry control point within 30 minutes • Percentage of arriving passengers processed via Advance Passenger Processing • Number of air passenger referrals <p>Quantity:</p> <ul style="list-style-type: none"> • Number of international passengers • Number of international crew (arrivals plus departures)
Three	Civil maritime surveillance and response.	<p>Quality:</p> <ul style="list-style-type: none"> • Number of aerial surveillance sightings of interest to Customs and client agencies • Number of apprehensions of suspect illegal entrant vessels • Number of suspect unlawful non-citizens (SUNCs) intercepted by sea (including ships crew) • Number of interceptions of foreign fishing vessels <p>Quantity:</p> <ul style="list-style-type: none"> • Aerial surveillance coverage • Aerial surveillance flying hours • Number of marine taskings requested • Marine surveillance coverage

<p>Four</p>	<p>Administration of customs duty and indirect taxes, other border-related revenue collections, and import/export statistics.</p> <p>Quality:</p> <ul style="list-style-type: none"> • Electronic systems availability to Customs clients (availability as a proportion of prime time) • Total revenue subjected to compliance audit and KPI monitoring activity as a proportion of total revenue responsibility • Proportion of drawback and refunds delivered in accordance with standards • Proportion of concessional arrangements for importers and exporters delivered in accordance with standards • Average number of unacquitted export clearance numbers at the end of the month • Number of fraud/evasion cases adopted for prosecution <p>Quantity:</p> <ul style="list-style-type: none"> • Number of customs import entries lodged • Number of export entries lodged • Number of air cargo screened free consignments • Number of requests for licences • Number of external appeals against decisions • Number of drawback applications • Number of refund applications • Number of fraud/evasion cases adopted for investigation • Tourist Refund Scheme
<p>Five</p>	<p>Anti-Dumping and countervailing administration.</p> <p>Quality:</p> <ul style="list-style-type: none"> • Proportion of anti-dumping/countervailing cases and reviews completed within 155 days <p>Quantity:</p> <ul style="list-style-type: none"> • Number of anti-dumping/countervailing cases • Number of anti-dumping/countervailing reviews • Appeals to the Federal Court

Source: Australian Customs Service, *Annual Report 2001–2002*

Note: Highlighted areas identify fraud-related performance measurements

Appendix 4

Key Components of Her Majesty's Customs and Excise Fraud Strategy

A STRATEGIC APPROACH TO TACKLING FRAUD

Her Majesty's Customs and Excise's new approach to tackling fraud has the following six key components:

- 1. Estimating the size of the problem:** Measuring the size of illicit activity is inherently difficult, but where possible, the Government has developed estimates for the size of fraud across a range of indirect taxes, which it believes to be the most accurate available. These estimates will be published routinely on an annual basis, and revised if significant new information emerges. However, the Government sees no value in publishing estimates which are not robust, and which would therefore give an inaccurate baseline against which to measure fraud trends, or the performance of anti-fraud strategies.
- 2. Analysing the problem:** Establishing the nature and economics of the fraud through the analysis of intelligence, largely gathered during individual investigations, is crucial to the development of well-targeted anti-fraud strategies. The nature of the fraud and any trends in its development need to be carefully understood before Customs can develop and deploy appropriate operational responses.
- 3. Operational responses:** Customs' operational response to fraud is rooted in a careful analysis of the nature of the fraud, and the resulting assessment of the most efficient and effective means of tackling it. This can often involve a simultaneous strengthening of the enforcement effort to ensure maximum pressure at all different levels of the fraud network, from additional staff designed to improve front-line detection, to tougher penalties targeted at those involved in the supply chain.
- 4. Establishing outcomes:** The Government's new strategic approach to tackling fraud is based on the establishment and delivery of ambitious outcomes, such as stopping and reversing the growth of a fraud. Each of Customs' anti-fraud strategies is designed to achieve a clear and measurable outcome in terms of its impact on the problem being tackled.
- 5. Strengthening controls:** Fraud often flourishes by exploiting weaknesses in the control regime for a tax. Underpinning the operational response to each fraud is therefore an assessment of any changes required to strengthen the control regime and prevent its exploitation by fraudsters. This is essential if additional

resources designed to tackle fraud are to be deployed effectively: increased numbers of staff will achieve little if there are fundamental weaknesses in the revenue control regime.

6. Monitoring and delivery: Customs' performance against their key outcomes is central to measuring the effectiveness of each anti-fraud strategy, and thereby to monitoring their delivery of the Government's high-level objectives. However, Customs also set lower level operational output targets (for example, relating to the number of seizures or criminal gangs disrupted), which are important indicators of whether their performance is on track to deliver the key outcome. Once established, these outcomes and targets are monitored through Customs' Public Service Agreement and the supporting Service Delivery Agreement.

Source: Her Majesty's Customs and Excise, November 2001, *Tackling Indirect Tax Fraud*.

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