Australian Government

**Department of Immigration
and Border Protection**

12 January 2017

Ms Sophie Dunstone
Committee Secretary
Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity
Email: aclei.committee@aph.gov.au

Dear Ms Dunstone,

Thank you for the invitation to review the Department of Immigration and Border Protection's
(the Department's) first submission to the Parliamentary Joint Committee on the Australian
Commission for Law Enforcement Integrity's (ACLEI's) Inquiry into the Integrity of Australia's
Border Arrangements, submitted in October 2015 (attached).

I note that, in particular, the Committee is seeking comment on its addition to the terms of
reference:

c. *the shared work environment and the effectiveness of joint management arrangements at
Australia's seaports and airports.*

The Department would like to provide the following information in relation to the above:

- Since the last submission, the Department has implemented a posting model for
officers, which allows the ABF to meet operational demands and develop a highly
capable flexible agile workforce.

- ABF is generally the predominate agency in district / regional localities.

- Effectiveness of joint management can be constrained by commercial entity
operations – Work Health Safety (WHS), access to data and information holdings,
access to CCTV, which in part can occur due to inadequate legislative provisions
available to border agencies.

- Operating guidelines between agencies are also somewhat dictated by who has
lead jurisdiction, and national Memorandums of Understanding (MOUs) which focus
on referrals, detections, intelligence sharing, etc., rather than routine operational
activity – patrol, search, identity verification, etc.

- In relation to integrity between agencies in a shared environment, any
agency/contractor working at ABF/DIBP property is bound by the current integrity
measures (drug and alcohol, security vetting etc.). However, there are inherent risks
involved with more than one agency being involved in frontline operations at the
border, for example the Department of Agriculture and Water Resources (DAWR)
controls the biosecurity at airports and seaports. Some of these risks include
different levels of integrity controls, different management structures and issues in
day-to-day processing which can present a higher fraud/integrity risk.

- The nature of the risks, especially in a dynamic operational environment make 'policing' of these risks difficult. However, the Department and DAWR continue to engage proactively at all levels. In addition, ACLEI is the oversight body for both the Department and DAWR.

- Airports:
  - o MOU's exist between the agencies but in reality there are different policies and procedures for managing integrity in the shared environment.
  - o Recently introduced integrity governance has provided significant improvement. However, this is a continuing work in progress.

- Seaports:
  - o Maritime environment is a joint work environment in terms of jurisdiction, but has a varied and intermittent presence by other agencies with ABF normally having the largest and most frequent presence.

Update to Original Submission

While the Department's original submission remains relevant, a number of sections require updating to reflect 2015-2016 data and the passage of time.

The following paragraphs have been updated. Please refer to the below information instead of the information provided in the original submission.

Paragraph 6

In a dual role, the Commissioner has control of the operations of the Australian Border Force (ABF) and undertakes responsibility as the Comptroller-General of Customs, accountable for the enforcement of customs laws and the collection of revenue. The Commissioner has the same standing as other heads of national security and law enforcement agencies and reports to the Minister for Immigration and Border Protection directly on operational matters.

Paragraph 18

In 2015-16, the Department facilitated the movement across Australia's border of:

- 40.68 million travellers, of which:
  - o 20.42 million were travellers arriving into Australia;
  - o 20.25 million were travellers departing Australia;
- 128,550 permanent skilled migrants;
- 57,400 family migrants and 17,555 humanitarian migrants;
- 38 million air and sea cargo consignments.

Paragraph 19

Approximately 29.4 tonnes of tobacco and 43.5 million sticks, or approximately $42 million in Duty was detected in sea cargo during 2015-16. From 1 January 2016 to 30 June 2016, approximately 6.6 tonnes of tobacco and 14.4 million sticks, or approximately $12.1 million in duty, have been detected via the international mail stream.[1]

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[1] The original submission mentioned the number of illicit drugs seized. This has been removed because technically the Department does not seize drugs, they are seized by the Australian Federal Police. The number of illicit drugs that have been detected in 2015-16 is recorded in paragraph 22.

Paragraph 20

In 2015-16, the Department:

- completed 15,145 location events[2] and located 1,970 illegal workers[3]
- assisted in or managed the departure of 14,708 people from Australia.[4]

Paragraph 22

The Department conducts activities in eight major international airports and over 60 seaports. In the airport and seaport environment through 2015-16, the Department:

- processed 54,833 international vessel movements[5]
- Inspected 1.96 million and examined 79,966 air cargo consignments resulting in 2,220 detections
- Inspected 96,637 and examined 12,738 sea cargo Trade Equivalent Units (TEUs[6]) resulting in 423 detections
- inspected 57.3 million and examined 211,774 mail items resulting in 67,537 detections
- made 18,222 detections of major drugs, precursors and New Psychoactive Substances (NPS) totalling 5,069.58 Kgs
- made 1,751 detections of undeclared conventional firearms and firearm parts, accessories and magazines.

Paragraph 23

The major challenges to Australia's border in the current operating environment are:

- an increasing volume of trade and passenger movements:
    - international air and sea passengers and crew forecast to increase by 20 per cent by 2019-20;
    - imported sea cargo reports forecast to increase by 13 per cent by 2019-20;
    - imported air cargo consignments forecast to increase by 28 per cent by 2019-20;
- increasing complexity of supply chains and travel routes;
- greater geographical dispersion of entry and exit points - both physical and electronic;
- a continuing need to manage the stay in, settlement in and/or departure from Australia of non-citizens, and the departure and re-entry of citizens;
- a continuing need to provide support and services to refugees and people in humanitarian need.

Paragraph 35

To manage the risk of fraud in high volume processes, the Department has implemented two key mechanisms:

- Measures that establish and support a high performance and professional culture resistant to corruption.

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[2] The original submission referred to the number of unlawful non-citizens. This letter refers to the number of location events because it better reflects the amount of work completed by departmental staff.
[3] Some non-citizens may have been located more than once in the programme year. Each location event is counted.
[4] Figures include the voluntary departure of people from the community, the removal (voluntary and involuntary) of non-citizens held in immigration detention (including IMAs), and the return of transferees from Regional Processing Centres.
[5] Annual report 2015-16
6 Twenty-foot equivalent container. Sea cargo containers can be 20 foot or 40-foot long. One TEU is an agreed international standard that refers to the storage capacity of a 20-foot sea cargo container. A 40-foot sea cargo container is counted as two TEU.

- Quality assurance mechanisms, including risk based sampling that includes fraud and corruption risk detection.

Paragraph 36

Based largely on the experiences of the former Australian Customs and Border Protection Service (ACBPS) through its internal reform programme, the Department has established an Integrity Framework based on a suite of inter-dependent policies, including:

- employee suitability screening[7]
- requiring all officers to have and maintain a baseline national security clearance
- requiring officers to declare any changes in circumstances and associations
- requiring officers to report serious misconduct, corrupt conduct or criminal activity
- maintaining an alcohol free workplace and zero tolerance for the use of prohibited drugs
- integrity testing
- restricting certain outside (secondary) employment and volunteer activities
- requiring conflict of interests to be declared and appropriate mitigation strategies put in place
- requiring the responsible use of social media and corporate electronic communication.

Paragraph 37

Several provisions of the ABF Act and the *Customs and Other Legislation Amendment (Australian Border Force) Act 2015* (Amendment Act) support the new integrity related measures applicable to Immigration and Border Protection (IBP) workers, including:

- provisions that allow for drug and alcohol testing and screening
- mandatory reporting of serious misconduct, corrupt conduct or criminal activity involving IBP workers
- determining essential qualifications or requirements, for example holding a baseline national security clearance and employment suitability screening.

After Paragraph 40, the following additional information should be inserted regarding the extent to which the Department is able to prevent and investigate corruption at the Australian border:

- The *Customs Act 1901* (Customs Act) requires individuals and companies:
  - applying for a licence for a depot, warehouse or customs broker,
  - handling cargo, or
  - operating a cargo terminal,
  - to be 'fit and proper'.

- The Comptroller-General of Customs (or delegate) decides whether an individual or a company is fit and proper for a licence for a depot, warehouse or customs broker. However, a cargo terminal operator / cargo handler is required to take all reasonable steps to ensure that the operator / handler is a fit and proper person and, if the operator / handler is a body corporate, each executive officer of the body corporate is a fit and proper person.

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[7] Implemented through a risk-based priority model

- While the Customs Act provides for a number of specific issues that must be considered when determining whether someone is fit and proper, it does not provide a definition.

Paragraph 43

The Risk and Assurance Branch is now referred to as the Audit and Assurance Branch. The rest of the paragraph remains current.

Paragraph 44

The Integrity and Professional Standards Branch within the Integrity, Security and Assurance (ISA) Division conducts integrity-related enquiries and investigations as tasked by an (internal) Integrity Assessment Committee. Tasks can be initiated through a range of mechanisms, including: mandatory reporting, Public Interest Disclosures or other agency referrals. Given the allegations and the unstructured way in which they may present, a triaging model has been implemented to ensure appropriate action is taken against each allegation. Any allegation which raises a corruption issue is notified to ACLEI. Where information relates to another Department, which is also within the jurisdiction of ACLEI, the Department refers matters to ACLEI.

Paragraph 46

The Branch's Special Investigations Unit (SIU) is responsible for complex integrity investigations and joint integrity and corruption operations with ACLEI and other law enforcement agencies.

Paragraph 53

The functions and operational activities that fall under ACLEI's scrutiny reflect the complexity of border management and the interactions required to facilitate the passage of people and goods across Australia's border continuum.

Paragraph 56

An appropriation of Departmental funds is provided to ACLEI in the current and forward years. The Department would be supportive for ACLEI to be funded directly in future budget appropriations to limit any perception of bias or undue influence from agencies coming under ACLEI's jurisdiction, and maintain a sustained degree of independence.

Paragraph 59

As part of international collaboration on integrity related matters, the Portfolio continues to engage through the B5 and the World Customs Organization to share and learn how partners use, or are planning to use, their organisational culture and emerging technologies to help minimise integrity risks to their respective organisations. The Portfolio contributed to the B5 2015-16 Integrity Paper which was published by the B5 Integrity Network in July 2016. The report provided an overview of the current B5 integrity initiatives including personal security screening, insider threat training, integrity and ethics training and the review of a number of integrity processes.

The B5 2016-17 Workplan also identifies 'promoting the implementation of internal organisation integrity programs and workforce well-being' as one of the six key areas of collaboration amongst the B5 partners with the B5 Integrity Network continuing to share best practice. B5 Heads, including ABF Commissioner, are meeting in late February 2017 for a 'deep dive' into a number of key priority areas for collaboration including Integrity and Wellbeing.

Thank you for the opportunity to review our original submission and to provide input to the additional terms of reference.

Yours sincerely

Janet Connell
Chief Operating Officer
Deputy Secretary, Corporate