

UNDERSTANDING THE CHAIN OF RESPONSIBILITY

20th May 2019

We are all responsible of the safe movement of international cargo

Overview

As a party in the supply chain Customs Brokers Pty Ltd (or its subsidiaries) understand that everyone in the supply chain is responsible for the safe movement of cargo both locally and internationally. It is important that all parties in the supply chain take all actions that are reasonably practicable to ensure compliance with laws and regulations that govern the safe movement of cargo. One such compliance requirement is that of the Heavy Vehicle National Law, and the Chain of Responsibility requirements.

Changes that came into effect in 2018 have brought the requirements and definitions within the obligations more in line with Workplace Health and Safety laws to facilitate better understanding of the requirements. In a prosecution the courts may consider the actions of each party in the supply chain. This includes assessment of measures in place to ensure safe practices and prevent breaches of the Heavy Vehicle National Law (HVNL) and the Chain of Responsibility (CoR) requirements.

If you are unsure of your role in the CoR a checklist outlining the roles of individuals and businesses may play in transport operations can be found here for review: <https://www.nhvr.gov.au/files/201703-0484-cor-check-list.pdf>

Our Transport Service Providers

It is important to us that our transport service providers understand their obligations under the Chain of Responsibility (referred to herein as 'the Chain') and associated legislation. We expect our service providers to acquire knowledge of potential risks to their heavy vehicle transportation or contractual arrangement tasks, taking steps to minimize or eliminate risks where possible and monitor their compliance with heavy vehicle safety.

Our Customers and Contractors

It is important that all our customers and contractors are aware of their obligations under the Chain of Responsibility and contracts that cause or encourage a driver of a heavy vehicle or a party in the chain of responsibility to break the law are illegal. What each party in the chain is required to do will be dependant on the level of safety and risk factors associated with their operations. It is important that when requesting an overseas party to load and restrain cargo in a container they are aware of Australian requirements, and the National Transport Commission (NTC) Load Restraint Guide which outlines important information in line with the CTU Code of Practice requirements and Safety of Life at Sea (SOLAS) requirements for safe container packing and restraint of cargo inside a CTU.

The parties in the Chain of Responsibility for a heavy vehicle are:*

- an employer of a driver
- a prime contractor for the driver – if the vehicle's driver is self-employed
- an operator of the vehicle
- a scheduler for the vehicle
- a loading manager for any goods in the vehicle
- a loader and/or unloader of a vehicle
- a consignor of any goods for transport by the vehicle
- a consignee of any goods in the vehicle
- a loader and/or unloader of any goods in the vehicle.

Some examples of what causes a business or party to breach the Chain of Responsibility include:

- when a party has control or influence over a transport activity and fails to manage, so far as reasonably practicable, the risk it creates
- when a party's business practices cause or encourage the driver of a heavy vehicle to exceed the speed limits
- when a party's business practices cause or encourage the driver of a heavy vehicle to breach mass, dimension, or loading requirements
- where instructions, actions or demands to parties in the supply chain cause or contribute to an offence under the HVNL.

This includes any direction, requirement or demand that is given directly or indirectly to a driver of a heavy vehicle or a party in the chain of responsibility that has an impact on compliance.

Understanding Our Obligations in the Chain

Customs Brokers Pty Ltd or related businesses will never influence or instruct drivers or any other party to breach any regulation in regard to any road laws, declared weights, correct restraints, driver regulations or other related matters that could influence the Chain of Responsibility or other related legislative requirements.

As part of our compliance requirements all shipments we have contractual arrangements to move will be required to provide a valid Container Weight Declaration (CWD) before movement on the road in Australia will occur. Further information about CWD's and SOLAS compliance can be provided separately.

Agreement and Compliance Due Diligence

Customs Brokers Pty Ltd and our employees understand our obligations under the Chain and ask that as a contractor, service provider, and/or valued customer your business and its employees are aware of your obligations and when/if requested can provide information to satisfy that the business has measures in place to ensure safe practices and prevent breaches of the HVNL occurring. The business can demonstrate all has been done that is reasonably practicable to ensure safety of all supply chain transport activities.

By agreeing to our Letter of Authority and Standards Terms and Conditions businesses are also agreeing to provide on request information and confirmation of their own compliance with the HVNL and associated Regulations. Details of requests for information will be kept in a log with this signed agreement.

The undersigned agrees that the business party has appropriate practices and safety measures in place and agrees to provide a copy to Customs Brokers before commencement of any business relationships.

Signature:

Position in Company:

Date:

References: * <https://www.nhvr.gov.au/>

Further information for Consideration

A copy of the National Transport Commission (NTC) Load Restraint Guide can be found at: <http://www.ntc.gov.au/>

Further details on the Chain of Responsibility (CoR) published by the NHVR can be found at: <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/about>