TCO & FTA Check



THE ABF IS NOT HUNTING THEORY.

IT IS HUNTING THE LINE ON THE DECLARATION.

Four files keep showing up in Australian Border Force compliance work: the tariff code, the wording of the Tariff Concession Order, the quality of the local-manufacture search, and old concessions that no longer belong on the books.

Get any one of them wrong and the duty-free claim collapses.

The agency has said so in its own numbers.

Tariff misclassification

The Compliance Monitoring Program samples Full Import Declaration lines and scores them in real time. In 2024–25 the program checked 6,434 lines. The error rate on those lines was 32 per cent. Tariff classification was the largest single contributor, at 15.8 per cent of errors. Classification detections rose from 117 in 2023–24 to 444 in 2024–25.

That is not a clerical footnote. A TCO is keyed to a heading. If the goods are mapped to the wrong tariff code, the linked concession is legally invalid even if the product description looks close. Home Affairs lists misclassification, and improper concession and FTA preference claims, among the behaviours that produced $225 million in GST understatements in the same year. Classification remains a stated CMP priority. The sample is small against the national import population. The signal is not.

Loose readings of TCO wording

ABF published guidance is unchanged: imported goods must first fall to the classification the TCO is keyed to, and they must precisely meet the description on the order. Extra features, different materials, a changed dimension or a technical add-on that the wording does not carry can take the goods outside the concession. The onus sits with the importer or the broker who enters the claim.

"Almost" is not a legal category. Post-clearance audits are built to find the gap between the goods as imported and the goods as described. Importers who inherited a TCO written for someone else's product are the usual casualty. The Gazette still carries the same warning every time an order is made: local manufacturers may seek revocation at any time.

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Flawed local-manufacture inquiries

A new TCO is not a search-engine exercise. The statutory test is whether substitutable goods were being produced in Australia in the ordinary course of business on the day the application was lodged. Applicants must show they made real inquiries.

ABF and industry guidance have long required more than a browse of consumer marketplaces. Written contact with local manufacturers, use of industry product registries, and — where used — an Industry Capability Network Victoria search that regulation recognises, are the standard the agency expects. Generic retail listings do not prove that no Australian producer can supply a substitutable good. Goods Compliance Updates have kept that file open: the quality of the applicant's research is itself auditable.

Fail the inquiry and the application is delayed or refused. Claim a TCO that should never have been granted and the problem moves from the Gazette to the demand letter.

Legacy TCO revocations

The Tariff Concessions Gazette is not a museum. Local manufacturers initiate revocations when they begin producing substitutable goods. The Comptroller-General separately lists unused orders — those not quoted on an import declaration for two years — for revocation. Recent gazettes show both streams running: industry-initiated cancellations with in-transit provisions, unused-order clean-outs, and orders revoked and reissued in narrower form.

An importer who keeps quoting a 2009 or 2011 concession because "it has always worked" is quoting a document the Gazette may already have killed. Once revoked, later entries that used it are exposed to post-warrant action for duty short-paid, subject to the in-transit rules.

The cost of being wrong

Precision is binary. The product matches the TCO or it does not.

If a post-clearance audit finds the concession was used incorrectly, the usual package is back-dated duty, interest, and — where a false or misleading statement caused a duty shortfall — penalties under the Customs Act, including the Infringement Notice Scheme. For statements that result in a loss of duty, the scheme can reach a percentage of the shortfall or a set number of penalty units, whichever is greater. The person named as owner on the declaration is the person who receives the demand.

Voluntary disclosure still exists. It is cheaper than waiting for the CMP or an audit letter. It is not a substitute for getting the heading, the wording, the local-manufacture file and the Gazette status right before the entry is lodged.

The broker can transmit the declaration. They cannot reconstruct the product against 15,000 TCO texts, a moving Gazette and a classification error rate the ABF itself put in the high teens. That work sits with the importer.

Check the heading first. Read the TCO against the goods as they arrive, not as they are sold. Confirm the order is still live. If the fit is uncertain, apply for a Tariff Advice. A current TCO and FTA check — including at tcoandftacheck — is the difference between a duty-free line and a bill that arrives years later, with interest.

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