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## NEWSLETTER 2014/5

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### SUMMIT TO DESIGN 'BORDER OF THE FUTURE'

The inaugural Industry Summit held on 18 August signalled the commitment of the Australian Customs and Border Protection Service to collaboration and consultation with border management agencies and industry stakeholders across the travel and trade environments according to ACBPS Chief Executive Officer, Mike Pezullo. The Industry Summit was the realisation of his commitment to industry and international partners, as outlined in the ACBPS Blueprint for Reform to establish issue and initiative-focussed forums to consult and engage with partners at the border. The Minister for Immigration and Border Protection, the Hon. Scott Morrison MP and Mr Pezullo hosted twenty top traders and peak industry bodies at breakfast to discuss immigration and border protection policy and implications for border operations. That was followed by Assistant Minister for Immigration and Border Protection, Senator the Hon. Michaelia Cash addressing Summit delegates on the Government's support for enhancing trade and travel facilitation to boost economic competitiveness. Senator Cash said the Government was committed to reducing the regulatory burden and taking the cost out of doing business. Secretary of the Department of Immigration and Border Protection, Martin Bowles and Mike Pezullo then spoke on the consolidation of the two agencies, the creation of the Australian Border Force and what these changes will mean for industry in the future. Following the morning's keynote sessions, delegates had the

opportunity to attend and contribute to a variety of panel sessions for discussions on: Trusted Trader, Future Traveller Environment, Border Technology, Free Trade Agreements, Reform and Consolidation, Industry Engagement, Service Delivery and the Australian Border Force.

### SEA AND AIR CARGO CLEARED FASTER THAN EVER BEFORE

The Australian Customs and Border Protection Service (ACBPS) delivered significant improvements in clearance times for sea and air cargo in 2013. The most recent ACBPS Time Release Study (TRS) measured clearance performance for air and sea cargo entering Australia in the week of 24-30 September 2013. It is the seventh annual study of its kind conducted by the Service. For the first time, sea cargo consignments were cleared nearly two and a half hours prior to arrival, an improvement of more than six hours compared to previous years. Similarly, air cargo consignments were cleared for entry approximately three and a half hours after arrival, a five hour improvement from 2012 and the biggest improvement since 2007. These improved clearance outcomes were largely made possible by early reporting by industry. Early reporting means that cargo can be released more rapidly with 71 per cent of cargo now released by the time it is physically available. The study also found a substantial increase in air cargo and sea cargo volumes in 2013, continuing an upward trend in cargo volumes since 2007.

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## AUSTRALIAN, NZ AND ASEAN TRADE RULES TO BE EASED

Trade and customs rules will be eased to the benefit of importers, exporters and forwarders who do business in New Zealand and South-east Asia after a new high-level political deal. ASEAN, Australian and New Zealand trade ministers have closed the deal to amend the ASEAN-Australia-New Zealand Free Trade Area agreement (AANZFTA). A new protocol will make it easier to do business by amending a variety of customs, trade-in-goods, origin and certification rules. "Australian industry came to the government with concerns that a number of administrative requirements in AANZFTA discouraged its use because they required some businesses to provide commercially-sensitive information. The protocol addresses these concerns and modernises the presentation of the agreement's rules of origin. This should reduce costs and make doing business under AANZFTA easier," said Australian Minister for Trade and Investment, Andrew Robb.

The first protocol will:

- reduce the information requirements on a business when completing origin documentations;
- consolidate the rules of origin into one annex;
- simplify presentation of the rules of origin by removing a set of product specific rules;
- streamline the administration process for amending the AANZFTA in the future; and
- remove the free-on-board value requirement from certificates of origin.

The proposed agreement will enter into force 30 days after Australia, New Zealand and at least four ASEAN member countries have notified the others that they have ratified the protocol. AANZFTA countries are Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam, Australia and New Zealand.

## CUSTOMS DELIVERS DUTY PAIN WITH NEW NOTICE

The Australian Customs and Border Protection Service ACN 2014/36 advised of the revocation of ACN 2000/30. ACN 2000/30 represented Customs' view from the year 2000 on the interaction between the relevant Incoterms and liability for customs duty. Specifically, ACN 2000/30 clarified the previous position of Customs as to who the owner of imported goods was for Customs entry purposes, and who the importer was for Goods and Services Tax ("GST") purposes in regards to Delivery Duty Paid ("DDP") and Delivery Duty Unpaid ("DDU") transactions. In regards to DDP transactions, ACN 2000/30 stated that the overseas supplier is the owner for Customs

purposes and the importer for GST purposes. This meant that the overseas supplier was liable to pay duty, duty short-paid or erroneously refunded, any penalty imposed and retain commercial documents. In regards to DDU transactions, ACN 2000/30 also stated that whichever party was nominated to take responsibility for Customs clearance and acquittal of GST was regarded as the owner for Customs entry purposes and the importer for GST purposes. While ACN 2000/30 was not legally binding on Customs, it did represent an important statement as to Customs' position. The revocation of ACN 2000/30 suggests that Customs is of the view that the categories of parties who could be liable for duty, GST and penalties have been expanded. This means that Customs could require importers using DDP and DDU transactions to pay duty short-paid, duty erroneously refunded and penalties on past importations. It is therefore possible that Customs will target past DDP and DDU importers in respect of transactions where adequate duty was not paid. In addition, the revocation of ACN 2000/30 raises GST issues. Customs stated that ACN 2000/30 should be revoked as it pre-dates the developments in, amongst other things, the 2010 Incoterms review.

## KAFTA MOVES TOWARDS IMPLEMENTATION IN 2014

There have been a number of significant events in the process towards implementation of the Korea Australia Free Trade Agreement with the apparent aim to do all things possible to have implementation commence in 2014. The first was the introduction into Parliament of the two Customs Bills required to be passed to implement the "customs aspects" of the KAFTA, the first Bill being the amendment to the *Customs Act 1901* to give effect to the required Rules of Origin. The second Bill comprises the amendments to the *Customs Tariff Act 1995* to implement the KAFTA. This includes:

- Providing free rates of duty for "Korean originating goods".
- Amending Schedule 4 to the Customs Tariff to maintain customs duty rates for certain Korean originating goods.
- Phasing the preferential rates of customs duty for certain goods to 'Free' by 2021.
- Inserting a new schedule in the Customs Tariff to accommodate preferential and phasing rates of duty to maintain excise – equivalent rates of duty on certain alcohol, tobacco and petroleum products.

In addition, there will be new Regulations introduced to help effect KAFTA as well as legislation in other areas to make amendments required to implement the KAFTA. The Bills have been referred to the Senate

Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 October 2014.

### **TRANSFORMING MELBOURNE AIRPORT**

Over the next 20 years Melbourne Airport will invest up to \$10 billion to enhance and expand facilities. Projects currently underway to meet future demand include.

- improving access: Airport Drive - Construction was officially launched on the extension of Airport Drive and enhancement of Steele Creek on 1 July. This significant road project will provide a new direct link between Melbourne Airport and the M80 Ring Road as well as reduce congestion on the Tullamarine Freeway and local roads by extending Airport Drive between Sharps Road and Mercer Drive. There has been more than 106,600 construction hours worked with zero lost time injuries (LTIs). The project is on schedule for completion in mid-2015.
- increasing capacity: T2 Arrivals expansion - Expansion of the T2 arrivals area is on schedule for completion at the end of this year. Recent milestones include the opening of additional seating in the international arrivals hall and the completion of the northern section of the new quarantine search facility. The southern section of the quarantine search facility is progressing well and will be completed over the coming months. Once finished the expanded arrivals hall will include new flight information screens, digital media screens and new walkways from Customs through to the baggage reclaim hall. The project has worked more than 126,000 man hours with zero LTIs and is due to be delivered in December 2014.
- increasing capacity: new Terminal 4 - The structure of our new domestic terminal is now taking shape following preparatory works over the last few months. Construction of the steel frame has commenced and concrete slabs for the floors will be poured over the coming months. The project has worked more than 194,000 construction hours with one LTI. The new Terminal 4 will be home to Jetstar, Tigerair and Rex.

### **JOINT REVIEW OF BORDER FEES, CHARGES AND TAXES**

The Government has commissioned a joint review of charges, fees and taxes at the border which will focus on identifying where the border charging arrangements can be improved to better support future border operations and outcomes for industry.

The Minister for Immigration and Border Protection, Scott Morrison announced the commencement of the Fees Review on 17 September 2014. This Review will be led by the Australian Customs and Border

Protection Service (ACBPS) and the Department of Immigration and Border Protection (DIBP) and will be conducted jointly with the Department of Agriculture (Agriculture) given similarities in certain border charging arrangements.

The Review will cover current major charging arrangements at the border, including:

- Import Processing and Passenger Movement Charges levied by ACBPS.
- Import related fees and charges recovered by Agriculture such as full import declaration charges, container charges and registration fees.
- Visa Application Charges administered by DIBP.
- Current and future cost recovery based charging for services, particularly those resulting from industry demand factors.

Industry, Government and the community can play a key role in the Fees Review by sharing their views on current charges at the border. ACBPS wants to hear from industry participants involved in travel and trade across the border on how the current charging regime can be improved. Organisations and individuals with peak body representation are encouraged to direct their ideas through their respective industry body. Public comments and feedback may be provided online at [www.customs.gov.au/feesreview](http://www.customs.gov.au/feesreview) using an online submission form. The closing date for submissions is **31 October 2014**.

### **WESTERN SYDNEY AIRPORT NOTICE TO CONSULT**

The Australian Government's delivery of a Western Sydney airport by the mid-2020s reached an important stage recently with the Australian Government formally issuing a Notice to Consult to the Sydney Airport Group. Deputy Prime Minister and Minister for Infrastructure and Regional Development, Warren Truss said the Notice to Consult will provide for the Australian Government and Sydney Airport Group to enter formal discussions on developing and operating an airport at Badgerys Creek. Under the 2002 Sydney (Kingsford-Smith) Airport Sale Agreement, the owners of Sydney Airport have a Right of First Refusal, which gives them first opportunity to develop and operate a second major airport within 100 kilometres of Sydney's centre. Mr Truss said "the Government is currently undertaking complex and detailed planning towards an operational airport by the mid-2020s that will generate long-term economic benefits, tens of thousands of jobs and transform Western Sydney to meet its rapid growth." Mr Truss said that while consultation with Sydney Airport Group is just one component of the work currently underway, it is an important step in the process. In addition, detailed work has commenced on a range of other factors,

including environmental issues and ensuring genuine community consultation. The consultation phase, initiated by the issuing of the Notice to Consult, is the first phase under the Right of First Refusal provisions. Following the consultation, the Government may decide to make a contractual offer to the Sydney Airport Group. The contractual offer would involve issuing a Notice of Intention to the Sydney Airport Group, setting out the detailed terms for the development and operation of an airport at Badgerys Creek, including technical specifications, contractual terms and timetable.

#### **UPGRADE TO DOUBLE PORT OF BRISBANE ROAD CAPACITY**

A \$110m upgrade of the Port of Brisbane's main freight access will increase the current traffic capacity from 12,500 to 28,750 vehicles - a 130% increase. Construction, which is expected to begin next year, will be funded by the Port of Brisbane and will upgrade 3.2km of road to dual carriageway and will include at least two intersection upgrades. According to a statement, \$385m was spent on infrastructural improvements at the port in 2013. Included in the works were lane extensions, the construction of six bridges and the elimination of a 90-degree bend in the road. The benefits are tenfold in terms of access and contingency according to some industry observers.

#### **BOX TERMINAL PROBABLE AT NEWCASTLE IN FUTURE**

Nicholas Whitlam, the Chairman of the new Port Authority of New South Wales "suspects" there will be a box terminal at Newcastle. Mr Whitlam gave the keynote speech at a recent Shipping Australia event in Wollongong. When asked about his views on a Newcastle container terminal, he replied: "At some stage, I suspect that there will be a box terminal at Newcastle." However, he added, there are "major logistics issues" with the railway and geography between Sydney and Newcastle. He pointed out that the Brisbane Water, a large estuary approximately 40km north of Sydney and about 70km south of Newcastle presents an obstacle, as does the general terrain and nature of the railway between Sydney and Newcastle. Mr Whitlam then went on, in contrast, to expand upon benefits of the Maldon-Dombarton route in the Illawarra. "Port Kembla has significant advantages too. The roads can be readily expanded. The Maldon-Dombarton railway can be readily expanded. The end at Maldon is on the main Sydney line, the other end is at a port. So intermodal facilities there are ideal." Sharon Grierson MP, Federal Member for Newcastle, wrote in her July-August 2012 "Overseas Study Travel Report" on "Port-Cities" that port construction and port operator

company Grup TCB had concluded that Port Kembla did not have suitable infrastructure for a mixed terminal, including containers, whereas Newcastle does as it has access to major highways and a large airport. In 2011 a report by consultants Hyder and ACIL Tasman for the Department of Infrastructure and Transport, found that the net present value of the Maldon-Dombarton line using a 7% real discount rate was "a negative \$206m - that is, constructing a Maldon-Dombarton line would not generate sufficient benefits to cover its costs."

#### **HASTINGS PLAN NEEDS RETHINK, SAY ACADEMICS**

Two leading supply chain academics have called for reconsideration of the Victorian Government's commitment to the Port of Hastings as the container trade successor to Melbourne. In a paper entitled "Build it - but will they come?" Dr Hermione Parsons and Peter Van Duyn of Victoria University's Institute for Supply Chain and Logistics call for alternative integrated planning in the event that the Port of Hastings project should fail. They cite possible reasons for failure as firstly that the assumed drive for "mega" container ships in Australian trades, requiring Hastings' planned 16-metre draft, does not eventuate and, secondly, that those adversely affected by or opposed to the development of the port and its landside links succeed in blocking the proposal. "Politically-sensitive social and environmental issues could lead the government of the day to re-evaluate the political costs of the proposed port and associated infrastructure, and decide instead to concentrate on metropolitan and regional commuter transport priorities and other more pressing constituency issues," the authors say. Contingency thinking should include developing a plan for an alternative port location to the west of the Port of Melbourne in Port Phillip Bay to optimise the use of the \$717m channel deepening investment and the anticipated \$1.6bn Port Capacity Project investment; monitoring container trade growth and megaship utilisation rates against what could be over-optimistic forecasts; and determining expected container vessel dimensions for Melbourne for the next 50 years in view of forecast changes in global market conditions, they say.

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