

SUMMARY – Freight & Trade Alliance (FTA) submission to the Customs licensing review – depots and warehouses

31 December 2015

Licensed depots and warehouses continue to provide an important role ensuring compliance with statutory requirements and provide cost effective services for Australian importers. Based on feedback received from members during focussed meetings, public webinars and in written submissions, FTA sees no advantage for any stakeholder across government or commerce by moving away from the current overarching licensing arrangements.

FTA commends the Department of Immigration and Border Protection (DIBP) for initiating the review as it provides an opportunity to streamline and improve current administrative arrangements. To that end, FTA provides the following based on feedback from recent forums, online virtual meetings and written feedback received from our membership.

- **Standardise licensing renewal timeframes across border and biosecurity arrangements**

FTA recommends that a co-ordinated approach between the Department of Immigration & Border Protection (DIBP), Australian Taxation Office (ATO) for Excise Equivalent Goods (EEG) and the Department of Agriculture & Water Resources be initiated to standardise all licensing and Approved Arrangements application and renewal processes. Streamline reporting to align application and renewal requirements across all departments with the introduction of electronic processing and the ability for industry to report changes. Savings from automation of this functionality should be passed on to industry via an appropriated reduction in application and renewal fees. FTA also recommends that all licensing be aligned to at least a three (3) year renewal period with consideration to extend this to five (5) years.

- **Clarity is required in terms of how the "fit and proper" person test is applied**

The legislation sets out some set criteria (bankruptcy, crimes etc). However, it is unclear what place there is for general notions of unfitness or being an improper person. That is, are the set factors that must be considered exhaustive or inclusive.

- **Seek clarification on the perceived need for financial security above and beyond current debt recovery provisions and examine the potential of commercial insurance options to address this risk.**

The need for financial securities are understood, however, where there is very little risk of duty loss (such as High Volume Specialist Operators handling personal effects) there appears to be no real basis for the requirement.

In recent weeks Section 79 warehouse operations have received correspondence from the ATO suggesting examination of their commercial insurance policies to ensure that they:

- cover demands for an amount 'equivalent to duty' arising from theft or similar loss:
and
- cover you for any 'liability to duty' arising from insured loss.

In response, FTA has followed up with the ATO who have confirmed that they are specifically asking if licensees' insurance policies cover them against a demand for an 'amount equivalent to duty' made under section 35A of the Customs Act 1901.

FTA recommends that rather than mandatory imposition of a financial security for Sec 77G Depots, that DIBP consider whether the establishment is insured for duty imposed on it by authorities for breach of regulations. We understand that some policies could take additional steps in an attempt meet the security requirements by including DIBP as a “Connected Interest Joint Assured” meaning that if the licensed entity had a liability then DIBP would be able to claim direct on the policy.

- **Border risks in underbond movements between secure approved premises with a need for additional safeguards and licensing for entities requesting the underbond movement and those physically transport goods.**

Whilst strict licensing requirements are justifiably in place for depots and warehouses, there is little if any rigour placed on transport operators that physically handle and underbond move cargo between secure premises. This is in contrast to expectations on transport operators for the handling of export air cargo whereby regulation is imposed by the Office of Transport Security (OTS). FTA recommends a review on licensing (or some form of accreditation) on transport operators and where possible, align practices with those prescribed by the OTS.

Assuming that additional rigour can be introduced in the underbond process, FTA recommends that Sec 77G depots be permitted to be used as short-term staging facilities for Nature 20 goods destined to Sec 79 warehouses. This need arises due to physical capacity restrictions at sec 79 warehouses for large volume imports. By allowing movement between secure premises, a revised underbond regime would provide a logistics solution to the international trade sector and would help reduce congestion at Australian stevedore operations. This may be aligned to “streamlined cargo reporting” associated with the Australian Trusted Trader reform focussing on process improvements for the reporting, movement and clearance of cargo.

- **Increased flexibility of licensing arrangements**

FTA recommends a policy review allowing for deconsolidation of cargo outside of secured warehouse facilities whilst within the perimeter of the licensed facility.

- **Approved training for Depot / Warehouse staff to be made available and authorised by DIBP**

FTA recommends that mandatory training / continuing professional development is introduced as a part of licensing arrangements (or some form of accreditation) for individuals / corporates completing depot and warehousing services. This approach would align to those that are administered by the Department of Agriculture and Water Resources as a part of Quarantine Approved Premises / Approved Arrangements.

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