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CMR/ICS Update

We are now almost two months into the new Customs Integrated Cargo System (ICS). While the release and delivery of cargo is being achieved, it is fair to say that the performance and functionality of the new Customs system remains patchy. There are still a number of problems. The interface between the Customs system and the Australian Quarantine and Inspection Service is not as efficient or effective as the process was before 12 October. For example, "over the counter" payments of some AQIS charges need to be made where before these payments were made direct from our desktops using EFT facilities. In addition, the new system does not provide as much information about the reason for AQIS holds on goods as the legacy system did. There continue to be problems with matching Master Ocean Bill and House Bill of Lading details with the information that has been submitted to the Customs system by shipping companies and freight forwarders. As the system currently stands we must ensure an exact match of these details with the Bill of Lading numbers we include on the import declaration we prepare for a client. the processing regime of Australian Customs, AQIS, Shipping lines, Stevedores, depots and all other players in the import chain will not have some birth

pain. We would ask you to ensure shipping documents are forwarded to us as early as possible for timely processing before vessel arrival. If the details do not match we cannot secure release and need to spend a significant amount of time liaising with shipping companies and forwarders to verify the details they have reported. If they have not yet reported any details the situation is com-

Customs Cargo Management Re-Engineering

pounded. Indications are that the matching problems may not be completely resolved for a number of months. On the positive side the Customs Interactive website is certainly more accessible than it was when the ICS started. However, its functionality is limited to a few diagnostic tasks. We could not by any means use it to prepare either cargo reports or import declarations as the process is too unwieldy and time consuming. In the current circumstances of congested container terminals, both delivery detention charges and container storage charges may be incurred. We hope this situation will ease but cannot give any guarantees given that we are now in the peak season for container arrivals. The

Minister for Justice and Customs and spokesmen for Australian Customs have put on public notice that compensation for container terminal storage will be considered on a case by case basis. Costs caused by the inadequacies of the ICS could include expenses such as detention, overtime, financial accommodation or loss of revenue as a result of failure to comply with contractual terms, all of which would also need to be addressed. While there is no set format for claims lodged, it is appropriate that any amounts should be supported by a schedule of documents relating to the amount requested for compensation. We understand that the Minister's office has been in contact with associations representing importers to discuss these and other issues resulting from the 12 October cutover to the ICS. We recommend that any compensation claims be submitted at the earliest possible opportunity by registered mail to:

Senator the Hon Christopher Ellison
Minister for Justice and Customs
Parliament House
CANBERRA ACT 2600
Attention of Mr M Barrett

We are pleased to report that TWCF were able to deliver all our clients cargo without incurring storage charges thanks to the efforts of Paul Brooks and his team who worked exceptional hours to make things happen for you.

New Customs Chief Executive Officer

Minister for Justice and Customs, Senator Chris Ellison, has announced the appointment of Mr Michael Carmody as the new Chief Executive Officer of the Australian Customs Service. Mr Carmody's appointment as CEO of Customs, for a 5 year term, follows distinguished service as Commissioner of the Australian Taxation Office since 1993. In addition to its more traditional responsibilities, the Australian Customs Service is more than ever charged with the task of securing our borders from the threat of terrorism and transnational crime. Mr Carmody replaces Mr Lionel Woodward whose period as CEO of Customs ends on 31st December 2005. Mr

Woodward has led the Australian Customs Service for more than a decade during what has been a period of significant change, including the development and implementation of the Cargo Management Re-engineering project and the Integrated Cargo System. Last year, Mr Woodward agreed to stay on as CEO beyond his period of contract, until the end of this year. Mr Woodward was both the last Comptroller General and the first Chief Executive Officer of Customs. He is the longest serving head of Customs in the history of the agency. In commenting on the appointment of Mr Carmody the Shadow Minister for Justice and Customs,

Senator Joe Ludwig, said "What we've seen over the last while is the Customs computer system that should have been developed on time and it didn't happen. It was a massive failure by IT but also by management and also by the Minister who had been overseeing the actual implementation of the project, and so what I expect Mr Carmody to be able to do is face up to those challenges. I think he comes with the necessary experience and ability to be able to do that. Whether he'll be able to do that in the short to medium term remains to be seen. That's his challenge but business certainly needs him. Customs does need him, there's no doubt about that."

Australia - US Free Trade Agreement: Claiming Preferential Customs Duty Rates

Australian Customs Notice 2005/54 has been issued to clarify the information, or knowledge, required by an Australian importer to claim a preferential rate of customs duty under the Australia - United States Free Trade Agreement (AUSFTA). There are product-specific rules of origin that need to be met for goods to qualify for a preferential rate of customs duty under the AUSFTA. The information that an importer needs to substantiate a claim for a preferential rate of customs duty depends on the rule of origin that applies to the good that is being imported. An importer needs to know exactly which product-specific rule of origin applies to the good that is being imported. The Australian Customs Service (Customs) will not be satisfied that an importer has sufficient information, or knowledge, where the im-

porter knows only that the good is the product of the USA. An importer is entitled to claim a preferential rate of customs duty without any written advice, at the time of importation. However, Customs suggests that an importer obtains written confirmation (i.e. in an email, facsimile or letter) of any oral advice provided by a US manufacturer/producer of a good. The advantage of written advice is that it will be much easier for an importer to demonstrate, when audited by Customs, that a good meets a rule of origin under the AUSFTA and, therefore, qualifies for a preferential rate of customs duty. Customs may require an importer to submit a statement setting forth the reasons why a good meets a particular rule of origin. Customs may also seek to verify that a good meets a particular rule of origin by requesting information from

the US manufacturer/producer or exporter of the good. Customs may deny a preferential rate of customs duty where the importer, manufacturer, producer or exporter does not provide information that demonstrates that the good meets the rules of origin. A certificate of origin is *not* required under the AUSFTA. However, if a certificate of origin has been obtained by the importer, Customs will accept it as *prime facie* evidence that the good meets a rule of origin under the AUSFTA, provided that the certificate of origin:

- has been issued by the US manufacturer/producer of the good; and
 - specifies which product-specific rule of origin applies to the good.
- A certificate of origin used under other Free Trade Agreements, such as the North America Free Trade Agreement (or NAFTA), will *not* be accepted by Customs.

There are product-specific rules of origin that need to be met for goods to qualify for a preferential rate of customs duty under the AUSFTA.

Rising costs and patchy demand hit Manufacturing

The improvement in activity that was evident in September evaporated in October due to the impact of cost increases, particularly fuel, and patchy domestic demand. The Australian Industry Group - PricewaterhouseCoopers Australian Performance of Manufacturing Index (Australian PMI) fell 5.1 points to 47.8 in October.

The manufacturing sector has had a rocky few months, with activity rising and falling. Manufacturers in October were hit by falls in sales and new orders, which has led to the fastest rate of monthly inventory accumula-

tion since May 2005. Small businesses (those with less than 25 employees) are feeling the impact greatest, with activity falling sharply in October, while medium and large-sized firms appear to have been largely unaffected, reporting moderate growth in the month. States with strong mineral-based activity seem to be doing better in the current climate, with Western Australia and Queensland both reporting moderate growth. Employment fell for the fourth consecutive month. Production also fell. Only four sectors reported increases in October.

Five of twelve sectors reported growth, down from eight the previous month. Growth was strongest in the consumer-related sectors of textiles and wood,



wood products & furniture. Basic metals and machinery and equipment both reported the first declines in several months.

Concerns of largest companies with ATO Audits

Although the ATO's annual professionalism surveys have indicated a high level of satisfaction (over 70 percent) with staff professionalism by companies in the large business segment, the Corporate Tax Association (CTA) reports that a high level of satisfaction was not shared by a number of the very largest companies. The principal concerns reported after the CTA interviewed a number of senior tax officers from these companies included: difficulty in obtaining timely private binding rulings, to the extent in many cases of rendering the private binding ruling concept virtually useless to them.

- long delays often occurring in the preparation of position papers after all required information had been



furnished and a strong perception on the part of a number of those companies that the serious consequences of assessments, particularly for listed public companies, did not appear to have been adequately

considered.

- Difficulties in understanding the purpose and effect of complex transactions and in understanding the commercial imperatives driving the competitive success of businesses.
 - Difficulties in achieving meaningful discussions before a conclusion was reached in the risk review process or in obtaining a review of the risk level assessed.
- Concerns with some instances of over zealous or unduly aggressive conduct, disbelief of truthful statements made, and of not reciprocating the level of co-operation offered by companies.

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Changes to Item 50A: Consumption Goods

A recent Australian Customs Notice advises that there have been changes to the administrative list of 'consumption goods' attached to Item 50A of Schedule 4 of the *Customs Tariff Act 1995*). The Item provided for the concessional entry, with a 'Free' rate of Customs duty, of certain goods identified as 'consumption goods'. Item 50A referred to United Nations Statistical Papers, Broad Economic Categories (BEC) and Standard International Trade Classification (SITC). These documents define those classifications that are 'consumption goods' for the purposes of Item 50A. It was brought to Customs attention that certain changes to the BEC occurred in February 2003, and that those changes had not been reflected in the relevant Customs published documents. As a consequence affected parties may be eligible for a refund of

duty, and/or may be subject to recovery action where duty has been short levied. The changes involve:

- (a) Certain classifications changing to that of 'consumption goods'; and
- (b) Certain classifications that were 'consumption goods' changing to that of non-consumption goods. .



As a result, during the period February 2003 to 10 May 2005, certain goods that should have attracted a duty rate of 'Free' due to the changes in paragraph (a), attracted a rate of 3%; and

certain goods that should have attracted a duty rate of 3% due to the changes in paragraph (b), attracted a rate of 'Free'. The change does not impact on goods entered for home consumption on or after 11 May 2005, as Item 50A was repealed with effect from that date, as part of the 2005/06 Budget. The ACN draws attention to the limitation in time applicable to applications for refunds and any recovery action by Customs. Customs has sought to recover duty short levied for a period of 12 months from the date of importation of the goods i.e. when the short levy occurred. While a number of demands have been issued by Customs there is a move by many of the importers in receipt of the demands to contest them.

Item 50A referred to United Nations Statistical Papers, Broad Economic Categories (BEC) and Standard International Trade Classification (SITC).

\$1.3B Paper Mill proposal gets Major Project Status

A proposed \$1.3 billion paper mill near Ipswich, Queensland, has been awarded Major Project Facilitation (MPF) status by Australian Industry Minister Ian Macfarlane. The Swanbank Paper mill expects to produce 390,000 tonnes of coated fine paper per year when operational. Up to 650 full time direct jobs could be generated in the project's construction phase, with up to 300 direct jobs created once the mill is operational. Mr Macfarlane said the project would also boost industry innovation, with Swan-

bank intending to invest in research and development to improve its products designed specifically for the Australian paper and printing industry. Construction of the mill is scheduled to start in 2006, with operations commencing in 2008. "By achieving MPF status, the Swanbank project will be assisted by the Australian Government's national inward investment agency, Invest Australia, which will work closely with the project proponents, the Queensland Government and other Australian Government agencies," Mr Macfarlane said. Through

the MPF service, Invest Australia provides investors with information, advice and assistance with necessary government approvals, as well as identifying relevant government programs that may help significant investment projects.

The Swanbank Paper mill expects to produce 390,000 tonnes of coated fine paper per year when operational.

Review of International Liner Cargo Shipping

The major recommendations in the Productivity Commission’s review of Part X of the Trade Practices Act, which essentially permits shipping lines serving Australia to agree between themselves on ocean freight prices, are:
 The regulation of liner shipping agreements be strengthened by adopting a selective approach aimed at allowing only those carrier agreements which are likely to provide a net public benefit to Australia.
 Part X be repealed, thus making the liner cargo shipping industry subject to the

general provisions of the Trade Practices Act. Transitional arrangements be introduced. Such ar-



rangements should provide deemed authorisation for operational Part X agreements (subject to certain conditions). These arrangements would entail:

- delay in the repeal of Part

- X for one year after the promulgation of an Amending Act;
- authorise only agreements which are operational at the beginning of the transitional period;
- deemed authorisation to continue for three years; and
- the ACCC to provide advisory assessments of deemed authorised agreements, at the request of members of an agreement, so as to assist applicants in applying for Part VII authorisation at the end of the transitional period.

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BCA Global Survey: Company Tax Burden too high

Australia’s corporate tax regime was quickly becoming uncompetitive and would act as a brake on economic growth if it was not brought into line with its competitors, according to a recent report released by the Business Council. The BCA’s *Corporate Taxation - An International Comparison* compared the overall tax burden on companies in Australia with all its major competitors such as major trading partners, countries which are key sources of foreign direct investment, other Asia-Pacific economies, the European Union and OECD economies. It concluded that Australia had the highest corporate tax burden across every relevant global

comparison. Australia’s headline corporate tax rate of 30 per cent is often used by business and Government as a leading indicator of tax competitiveness. However, as the report argues, the total tax burden



on companies is the more important indicator of Australia’s competitiveness because it reflects the total tax take extracted from companies’ balance sheets. The report found that Australia’s competitiveness

measured using the headline corporate rate was deteriorating and that Australia’s overall tax burden on companies was significantly higher than every other country bar Norway and Luxembourg. Australia’s high overall tax level is substantially due to Government levying a broader base of taxes on Australian companies, with fewer concessions than that offered in other countries. BCA President Mr Hugh Morgan said the report was not intended to talk down Australia’s economic strengths or ignore the significant improvements put in place in recent years to the competitiveness of Australia’s economy.



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*Put it in our hands and enjoy the
smooth sailing With TradeWinds !*

Foot Notes

Matthew Morgan left us at the end of November and we wish him well, that opened the door for our latest recruit Peter Willington who has joined us to handle the outside courier work and we welcome Pete to the team.

Once again it is that time of year when some of us will

hopefully get a chance to take a breather and celebrate the festive season. This has been an eventful and challenging year for our industry so it is pleasing to be able to look back at the achievements.

The office will be open during Christmas & new year except for the public holidays.

We extend to you all, the compliments of the season and wish you good health and prosperity in the New Year.

Thanks again for your continued support, it means the world to us.

Kind regards
Kingsley Fletcher