



Duty Free Security Co Ltd

Supplementary Submission to
Treasury requesting Regulation
Impact Assessment

Tourist Shopping Review – the Sealed
Bag Scheme and Tourist Refund
Scheme

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A EXECUTIVE SUMMARY

The **Duty Free Security Co Ltd** (DFSec) is a not-for-profit organisation founded in 1978 to serve the duty free industry as its primary docket collection agency.

DFSec thanks the Treasury, Australian Taxation Office (ATO) and Customs and Border Security Service (Customs) for meeting with its representatives on Friday 17 June 2011 to discuss DFSec's submission of 2 June 2011. That submission responded to draft regulations designed to provide additional verification procedures for liquids, aerosols, gels, creams and pastes (LAG products) purchased free of excise or customs duty or Goods and Services Tax (GST) under the Sealed Bag Scheme, by passengers departing on international flights.

As discussed in this meeting, DFSec was granted an additional period of one month in order to prepare a supplementary submission to Treasury. DFSec would like to take this opportunity to further encourage Treasury to prepare a Regulation Impact Statement (RIS) prior to the suggested implementation of proposed regulations.

As discussed at the meeting of 17 June 2011, Treasury acknowledged that a RIS had not been prepared in relation to this proposed regulatory change at any stage of the policy-making process. DFSec believes a RIS should be prepared by Treasury as a matter of priority, noting that the implementation of the regulations will preclude other regulatory and non-regulatory options for consideration. This is therefore considered by the Australian Government to be a 'significant decision-making stage of the process'¹ and warrants the preparation of a RIS.

DFSec believes a RIS should be prepared by the Treasury, in association with the ATO and Customs, as appropriate. The purpose of this RIS would be to assist the Treasury to make decisions regarding the implementation of the proposed LAG regulations that do not discriminate against DFSec as the operator of Australia's Sealed Bag Scheme and the retailers who provide access to a variety of tax free and duty free shopping experiences for travellers.

In this document, DFSec has addressed many of the substantive requirements of a RIS in order to demonstrate to Treasury that the proposed changes would have a detrimental impact on travellers and industry and that a RIS should be prepared in order to properly quantify the likely impacts.

¹ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 13.



B THE GOVERNMENT'S BEST PRACTICE REGULATION REQUIREMENTS

The Australian Government has made a commitment in its *Best Practice Regulation Handbook* to rigorously assess the impact of regulatory proposals and alternative options. This framework is supported internationally by the Organisation for Economic Cooperation and Development (OECD).

REGULATORY IMPACT ANALYSIS

Regulatory Impact Analysis (RIA) is the process of examining the likely impacts of a proposed regulation and a range of alternative options which could meet the government's policy objectives. The Australian Government's RIA requirements are intended to achieve better regulation by supporting:

- sound analysis;
- informed decision making; and
- transparency.²

DFSec urges Treasury to abide by its obligations under the Australian Government's *Best Practice Regulation Handbook* to formally identify compliance burdens in the explanatory material supporting the exposure draft regulations released by Treasury, with a focus on the resulting impacts 'on all relevant groups, including consumers, governments and the broader community'³.

REGULATION IMPACT STATEMENTS

DFSec notes that a RIS is required under Government requirements, when a regulatory proposal is likely to have any impact on business or the not-for-profit sector, unless that impact is of a minor or machinery nature and does not substantially alter existing arrangements.

DFSec contends that the proposed changes to LAGs verification, particularly the addition of a mandatory LAG declaration, is likely to have an impact on industry and will substantially alter existing arrangements (see Section 4 'Impact analysis, including costs and benefits'), thus justifying the need for a RIS.

In accordance with the RIS framework outlined in the *Best Practice Regulation Handbook*, a RIS has seven key elements, setting out:

1. the problem or issues which give rise to the need for action;
2. the desired objective(s);
3. the options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s);

² Australian Government, *Best Practice Regulation Handbook* (June 2010) p 25.

³ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 25.



4. an assessment of the impact (costs, benefits and, where relevant, levels of risk) on consumers, business, Government and the community of each option;
5. a consultation statement;
6. a recommended option; and
7. a strategy to implement and review the preferred option.

To aid the reader, the chapters in this submission are numbered in accordance with the elements of a RIS. Please note, DFSec has omitted elements 5-7 as these components are to be prepared by government from the perspective of government.

DFSec welcomes the opportunity to identify industry concerns in relation to the proposed regulatory changes, and to provide further information to assist Treasury in the preparation of a comprehensive RIS which addresses the elements outlined above.

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1 THE PROBLEM OR ISSUE THAT FIRST GIVES RISE TO THE NEED FOR ACTION

As identified by the Council of Australian Governments (COAG) as a principle of best practice regulation, 'an important first step before considering any action is to examine closely whether there is a problem'⁴.

DFSec notes that the Office of Best Practice Regulation (OBPR) requires that a RIS should clearly identify the problem(s) that need to be addressed. DFCsec contends that the onus of proof is on the government to identify what existing problem or issues give rise to the need for regulatory action in respect of the introduction of a mandatory LAG declaration. DFCsec queries what demonstrated 'market failure, regulatory failure or unacceptable hazard or risk'⁵ has prompted a consideration of government action?

1.1 RIS REQUIREMENTS

In preparing a RIS, Treasury must:

- present evidence on the magnitude (scale and scope) of the problem;
- document relevant existing regulation at all levels of government and demonstrate that it is not adequately addressing the problem;
- identify the relevant risks, if the problem involves risk, and explain why it may be appropriate for the government to act to reduce them; and
- present a clear case for recommending that additional government action may be warranted, taking account of existing regulation and any risk issues, and the potential for market developments to overcome the problem.⁶

DFSec submits that the current checked-in baggage provisions of the Sealed Bag System have been running smoothly without a separate LAG declaration and that there is no evidence that there are problems or significant issues which give rise to the need for regulatory changes of this kind.

JUSTIFICATION FOR ACTION

As outlined in the draft Explanatory Material issued by Treasury:

"The Treasury has released for public consultation exposure draft regulations⁷ to give effect to existing administration arrangements that support the Sealed Bag

⁴ COAG, *Best Practice Regulation – a guide for Ministerial Councils and National Standard Setting Bodies* (October 2007), p 4.

⁵ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 28.

⁶ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 16.

⁷ *A New Tax System (Goods and Services Tax) Amendment Regulations 2011 (No.), Excise Amendment Regulations 2011 (No.) and Customs Amendment Regulations 2011 (No.)*.



Scheme, and to increase the flexibility of off-airport duty free shopping under the Tourist Refund Scheme.”

Treasury has stated that the purpose of the proposed regulations is to provide better export verification procedures for duty free and tax free LAG products purchased by passengers departing on international flights.

DFSec is concerned that no evidence has been presented in respect of the magnitude of any current export verification problem, should such a problem exist, and whether or not there is a clear case for taking regulatory action without also considering co-regulatory or non-regulatory (i.e. market) mechanisms that may sufficiently address government’s concerns.

REQUEST FOR CLARIFICATION

DFSec supports the existing validation mechanisms of the *A New Tax System (Goods and Services Tax) Regulations 1999*, *Excise Regulations 1925* and *Customs Regulations 1926* and recognises the need to support the security restrictions applying since 31 March 2007 and set out in the *Aviation Transport Security Regulations 2005*. However, DFSec does not believe there is sufficient evidence to justify the proposed regulatory change in respect of the LAG declaration. With the agreement of the ATO and Customs, off-airport duty free and tax free retailers have implemented interim sealed bag arrangements which are consistent with international airport security restrictions and which have not demonstrated inadequate levels of compliance.

QUESTIONS FOR TREASURY

DFSec invites Treasury to respond to the following questions:

- i. Where is the evidence that the current checked-in baggage procedures are not working and/or are being abused?
- ii. If there is evidence to substantiate the claim that the current checked-in baggage procedures are being abused, how many identified abuses have resulted in prosecution since 2007?
- iii. If a problem justifying a case for regulatory action is identified, how would the introduction of a mandatory LAG declaration address this problem?
- iv. What evidence underpins the assumption that a mandatory LAG declaration would significantly strengthen verification of exports?

DFSec would like Treasury to explain why the current practice of travellers removing their sealed bag invoice (associated with LAG products greater than 100 millilitres) themselves, prior to packing the LAG products in their checked-in luggage represents a problem or issue of sufficient magnitude to give rise to the need for the proposed regulatory action? If Treasury is able to provide evidence of associated problems or issues, DFSec urges



Treasury to consider whether or not these could be dealt with 'by improving enforcement or encouraging better compliance with the existing regulation'⁸?

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⁸ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 32.



2 THE DESIRED OBJECTIVES

DFSec notes that the *Best Practice Regulation Handbook* requires that a RIS should explain the objectives, outcomes, goals or targets of government action. It is specifically noted that 'the final outcome of the desired final outcome of the proposal should not be confused with the outputs, or means of obtaining it'⁹.

While Treasury has stated that the purpose of the proposed regulations is to provide better export verification procedures for LAG products purchased free of (excise or customs) duty or GST under the Sealed Bag Scheme by passengers departing on international flights, it is unclear what the overarching and subsidiary objectives (as distinct from outputs) are.

QUESTIONS FOR TREASURY

DFSec invites Treasury to define the desired objective underpinning the draft regulations and submits the following questions for consideration:

- i. What are the primary and subsidiary objectives of the proposed regulations?
- ii. Is, for example, facilitating compliance with aviation security measures subsidiary to seeking to provide greater verification of exports?
- iii. Is the purpose of the proposed LAGs declaration intended to be a deterrent to non-export, or is it designed to serve as proof of export?
- iv. Has any risk to government revenue been identified as warranting regulatory intervention and is improved assurance of revenue one of the desired objectives (whether primary or subsidiary)?

DFSec reminds Treasury that the objectives should be specified broadly enough to allow consideration of all relevant alternative solutions and that the proposed regulation itself should not be an objective of government action (namely, the regulations should be a means to an end rather than an end in itself).

DFSec urges Treasury to prepare a RIS which clearly articulates the objectives, intended outcomes, goals and targets of government action, without using such objectives to pre-justify a preferred solution.

⁹ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 33.



3 THE OPTIONS THAT MAY CONSTITUTE VIABLE MEANS FOR ACHIEVING THE DESIRED OBJECTIVE

DFSec notes that the *Best Practice Regulation Handbook* requires that a RIS should identify a range of alternative options including, as appropriate, non-regulatory, self-regulatory and co-regulatory options. If only one option (apart from the status quo) is considered feasible, the RIS should provide sound justification for considering just two options.

DFSec welcomes the opportunity to discuss a variety of options that may constitute viable means for achieving Treasury's desired objectives.

3.1 CONSIDERATION OF THE OPTIONS

In considering the effectiveness and appropriateness of alternative options for achieving the stated objectives, DFSec urges Treasury to consider a range of self-regulatory, quasi-regulatory and co-regulatory measures prior to pursuing explicit government regulation.

SELF-REGULATION

Characterised by industry-formulated rules, with the sole responsibility of enforcement falling on industry, self-regulation is considered to be a feasible option if:

- there is no strong public concern, in particular no major public health and safety concerns;
- the problem is a low risk event, of low impact or significance; or
- the problem can be fixed by the market itself.¹⁰

Without knowing the specific problem Treasury has identified which gives rise to the need for action, it is difficult to determine what options may constitute viable means for achieving the desired objective. However, based on DFSec's understanding, any possible problem in respect of export verification could be addressed by market mechanisms as there is no strong public concern in relation to this issue, and it is likely to be of generally low impact and significance.

DFSec is prepared to work with government to pursue a self-regulatory strategy with the view to strengthening verification of exports through a variety of alternative measures. One such example is changing the current Sealed Bag declaration to incorporate a declaration of intention for travellers purchasing LAG products. That is, the traveller *will pack* a LAG product into luggage prior to it being checked-in when departing Australia and that the existing Sealed Bag declaration be amended to differentiate between LAG and non-LAG goods.

¹⁰ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 34.



QUASI-REGULATION

Quasi-regulation includes a wide range of rules or arrangements where governments influence businesses to comply but which do not form part of explicit government regulation. Examples of quasi-regulation provided in the Best Practice Regulation Handbook include 'industry codes of practice developed with government involved, guidance notes, industry-government agreements and accreditation schemes'¹¹.

DFSec would consider the development of a guidance note or industry-government agreement some of the quasi-regulatory ways of strengthening verification of exports, particularly if such a guidance note or agreement required duty free and tax free retailers to communicate the importance of LAG processes to travellers at the point of sale. In this case, only travellers purchasing LAGs would be targeted (this identification is easily made by retail personnel) and the government's message could be effectively communicated without unfairly burdening industry.

CO-REGULATION

Typically referring to a situation where industry develops and administers its own arrangements, co-regulation provides for the government to establish legislative backing to enable the arrangements to be enforced. Legislation may also provide for government-imposed arrangements in the event that industry does not meet its own arrangements.

Subject to Treasury preparing a RIS, DFSec would be pleased to discuss possible co-regulatory approaches to alleviate some of the burden on industry and reach an appropriate compromise. DFSec recommends a co-regulatory approach that would not impose additional requirements on non-English speaking foreign visitors, with whom there is minimal revenue risk.

EXPLICIT GOVERNMENT REGULATION

The Best Practice Regulation Handbook refers to explicit government regulation warranting consideration in situations where:

- the problem is high-risk, of high impact or significance;
- the community requires the certainty provided by legal sanctions;
- universal application is required; or
- there is a systemic compliance problem with a history of intractable disputes and repeated or flagrant breaches, and no possibility of effective sanctions being applied.¹²

DFSec challenges any assertion that the administration of the Sealed Bag Scheme, including the current practice of travellers removing their sealed bag invoice themselves, prior to packing the LAG products in their checked-in luggage, currently represents a situation of high-risk or high impact or significance. In the event of a systemic compliance

¹¹ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 34.

¹² Australian Government, *Best Practice Regulation Handbook* (June 2010) p 35.



problem which warrants the application of 'black letter law', DFSec urges Treasury to consider the application of alternative sanctions and to first assess the effectiveness of these in addressing the compliance problem.

3.2 DEVELOPMENT OF NON-INDUSTRY FUNDED LAG DECLARATION

Following completion of a RIS and consultation with the Office of Best Practice Regulation, and in the event it is concluded that explicit government regulation is the only appropriate solution, DFSec advocates the development and implementation of a LAG declaration process that is *not funded by industry*.

NO BENEFIT TO INDUSTRY

DFSec is concerned that the introduction of a separate LAG declaration does not provide any short or long-term benefits to duty free and tax free retailers or their travelling customers. All benefits related to the introduction of a separate LAG declaration would be received by the Australian (and State and Territory) Government.

It is important to note that any revenue gain for the government is to the detriment of retailers who will be required to pay substantially more duty as a result of the likely increases in the number of invoices rendered as a miss. Misses are likely to increase as a result of LAG declarations being handed in unsigned, or invoices not being able to be matched up with their corresponding LAG declarations.

In many cases, the absence of proof of export documentation will result in retailers paying the government even though the relevant LAG goods have been exported. Furthermore, there will be a substantial increase in administration costs and software development costs to DFSec and retailers.

Therefore, as the benefits of the introduction of a separate LAG declaration are received by the Government, DFSec contends that it is unreasonable to expect industry to meet the cost of the proposed changes and that the Australian Government should instead meet the costs of the changes.



4 IMPACT ANALYSIS, INCLUDING COSTS AND BENEFITS

Prior to implementing the proposed regulations, Treasury is required to consider who would be affected if a mandatory LAG declaration was implemented in the manner proposed, what costs, benefits and levels of risk would result, and how significant they would be. Treasury's analysis, in compliance with the *Best Practice Regulation Handbook*, 'should attempt to quantify all highly significant costs and benefits'¹³ and should be supported by evidence, with data sources and assumptions clearly identified.

4.1 RIS REQUIREMENTS

DFSec notes that a RIS should provide an adequate analysis of the costs and benefits of the feasible options, and should identify the groups in the community likely to be affected by each option and specify significant economic, social and environmental impacts on them.

In addition, the proposed option/s should be assessed in terms of the costs and benefits that would result. DFSec urges Treasury to complete a RIS in order to assess the impacts of the proposed regulations on business, including distributional issues such as the impact on small duty free and tax free retailing businesses, and also to quantify the effect of the regulations on business compliance costs.

DFSec notes that while the anticipated impact on industry has prompted the requirement to complete a RIS, Treasury must also consider the impact of proposed regulations 'on all affected groups in the community'¹⁴ including consumers and foreign visitors who enjoy Australia's duty free and tax free retail shopping experience.

In order to defensibly substantiate the implementation of the proposed regulations, a detailed impact assessment must be undertaken in accordance with the OBPR's requirements, and DFSec contends that Treasury cannot pursue regulatory changes of the kind proposed in the absence of such an investigation.

4.2 IMPACTS ON INDUSTRY

The introduction of a separate LAG declaration will require a significant and detrimental cost investment due to the 'paper burden' and administrative costs associated with complying with the proposed regulations in addition to negatively impacting retailer revenue.

BUSINESS COMPLIANCE COSTS

In order to comply with Treasury's proposed regulations, particularly in respect of the introduction of a mandatory LAG declaration, DFSec submits that retailers would incur

¹³ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 36.

¹⁴ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 37.



substantial business compliance costs. One such cost would result from the requirement to modify software and point of sale (POS) systems to track both LAG declaration and Sales Transaction numbers in order to accurately identify who has not correctly completed a LAG declaration regarding their checked-in baggage exports.

- **Modification to existing software systems is estimated to cost between \$60,000 and \$70,000 for an organisation with a national distribution of off-airport duty free and tax free retail outlets.**

The introduction of a separate LAG declaration will also potentially require DFSec to undertake an additional process of matching LAG declarations with their invoices should they become separated. This process of matching would either be undertaken manually or electronically, but in either case would require significant investment in changes to existing software and/or the hire of additional labour, with costs to be passed on by DFSec to the industry.

- **DFSec estimates that the costs for employing additional staff to administer the additional LAG declaration could be up to \$300,000 per annum.**

This estimate provides for the employment of additional staff members at Sydney, Melbourne and Brisbane airports. Additional customisation would be required for DFSec's computer software, at a variable cost depending on the nature of the procedural changes to be implemented.

DFSec notes that there are currently significant language challenges in communicating with travellers who are users of the Sealed Bag Scheme. Industry would be presented with the dual challenge of (a) communicating the extra declaration process to travellers in a way that will be easily understood, and (b) ensuring that travellers using the Sealed Bag Scheme understand that they must sign the additional declaration so that revenue-reducing misses are avoided.

Explaining this extra process will be difficult (especially to purchasers of non-LAG products who will query why their invoice potentially contains a declaration they do not have to sign) and will likely result in increased staffing costs to ensure additional declarations are collected at the airport.

Industry is concerned that the burden imposed on travellers in being required to sign an additional declaration will result in more travellers failing to sign their declaration, rendering the invoice a miss when it is handed to the airside docket plucker unsigned. Also, if the purchasing and compliance processes are perceived to be complex, shoppers will decide to purchase either at the airport or overseas. These factors are likely to result in detrimental revenue results for retailers.

IMPACT ON SMALL BUSINESS

Compliance by small operators would be extremely difficult, noting that they employ multiple different POS systems, many of which operate manually. As a result, retail personnel would be required to handwrite transaction numbers on LAGs declarations,



which has the potential to result in a high margin of human error and thus contribute an increased 'matching' burden for DFSec's back-end systems.

Of the small operators who would be required to modify their software and POS systems, few would have the surplus resources in order to fund such upgrades. The risk of Treasury's proposed regulations is that the increased compliance burden for some marginal small business is so high that it puts them out of business, to the detriment of the tourism industry.

DFSec urges Treasury to undertake a formal cost/benefit analysis to determine the value of duty free and tax free shopping to the tourism industry and what the impact would be if a number of retailers were no longer able to service the duty free and tax free shopping sector in Australia.

4.3 IMPACTS ON CONSUMERS (TRAVELLERS)

Further to DFSec's submission of 2 June 2011, which detailed some of the negative impacts that would be incurred by consumers as a result of imposing an additional declaration, DFSec reiterates the concern for travellers who are non-English speakers or purchasing non-LAG products.

COMMUNICATION CHALLENGES

Due to language difficulties, an additional declaration represents an increased burden faced by individuals undertaking international travel, resulting in potential misunderstandings which could lead to incorrect declarations.

Treasury's suggestion that the LAG declaration could be combined with the invoice also risks confusing travellers who, if purchasing non-LAG items only, would query why there is a declaration on their invoice which is not applicable to them.

DFSec is concerned that the potential confusion for travellers caused by the introduction of an additional LAG declaration has the potential to result in travellers forgetting to sign (or incorrectly signing) the LAG declaration and/or failing to submit the declaration because they do not fully understand the requirement.

DELAYS TO PASSENGER FACILITATION

DFSec acknowledges that international travel already requires substantial documentation and is widely regarded as an administratively demanding and time-intensive process.

By requiring an additional declaration to be signed by international travellers purchasing duty free or tax free LAG products, one likely impact is the delay in passenger movement through international airports. This would be caused by the additional requirement on DFSec staff to 'match' invoices, check for relevant signatures and instruct travellers to comply with the declaration requirements in the event they are non-compliant at the time the docket is plucked.



CONSUMER DETERRENCE

DFSec submits that the introduction of the proposed regulations is burdensome and may risk deterring some travellers from shopping in Australia, to the significant potential detriment of the tourism shopping sector and the tourism industry more broadly.

4.4 ESTIMATED COST ANALYSIS

As provided in Appendix 4 of DFSec's submission to Treasury dated 2 June 2011, DFSec estimated that the quantum of potential non-exported LAGs and resultant loss of GST/duty/excise could be as low as \$105,245 per annum, depending on assumptions. This calculation is made up of the following components:

- In relation to off-airport duty free shops, DFSec estimates that the resultant loss of GST/Duty/Excise in relation to non-exported LAG sales to foreign visitors is \$44,236 (assuming that 1% of LAG sales are consumed locally and not exported);
- In relation to off-airport duty free shops, DFSec estimates that the resultant loss of GST/Duty/Excise in relation to non-exported LAG sales to Australians is \$33,050 (assuming that 5% of LAG sales are consumed locally and not exported);
- In relation to tax free shops, DFSec estimates that the resultant loss of GST/Duty/Excise in relation to non-exported LAG sales to foreign visitors is \$14,853 (assuming that 1% of LAG sales are consumed locally and not exported); and
- In relation to tax free shops, DFSec estimates that the resultant loss of GST/Duty/Excise in relation to non-exported LAG sales to Australians is \$13,106 (assuming that 5% of LAG sales are consumed locally and not exported).

In the event of an increased incidence of misses, which is highly probable given the implementation of the proposed mandatory LAGs declaration, retailers will be required to pay these amounts. Industry experience is that recovery from travellers is ineffective and impractical. While this cost cannot be quantified, the fact is that the overall likely compliance cost for industry is estimated to be significantly greater than the predicted benefit in terms of GST/duty/excise revenue. This raises serious questions about the fairness and productivity of the proposed changes.

4.5 ONUS ON GOVERNMENT TO FUND CHANGES

DFSec generally supports the Australian Government's wish to pursue a strategy with the view to strengthening verification of exports. However, as outlined in section 6.2 'Impacts on Industry' DFSec strongly opposes the idea of a separate LAG declaration. This requirement represents a substantial potential compliance burden for the duty free and tax free retailers using the Sealed Bag System. In addition to the material impact on industry, DFSec notes that a separate LAG declaration will also inconvenience consumers.

- **DFSec is concerned that the introduction of a separate LAG declaration will not provide any short or long-term benefits to the duty free and tax free retailers or consumers.**



All benefits related to the introduction of a separate LAG declaration are received by the Australian Government. It is important to note, however, that the revenue gain for the Australian (and State and Territory) Governments is to the detriment of retailers who will be required to incur more expenses of a compliance nature and to pay more GST/duty to the Australian Government as a result of the likely increases in the number of invoices rendered as a miss.

Therefore, as the benefits of the introduction of a separate LAG declaration are received by the Australian Government and the costs are borne by duty free and tax free retailers, DFSec contends that it is unreasonable to expect industry to meet the cost of changes and that the Australian Government should instead meet the costs of changes.

Moreover, DFSec contends that the Australian Government should lead the implementation of such proposed regulatory changes (if required) by assisting industry with the costs of these obligations to ensure a smooth transition.

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C CONCLUSION

DFSec concludes that the proposed regulations designed to provide additional verification procedures for LAG products purchased free of excise or customs duty or GST under the Sealed Bag Scheme, by passengers departing on international flights, are not 'minor or machinery' in nature and therefore warrant the completion of a RIS as a matter of priority.

If Treasury anticipates being granted an exemption from the RIS requirements, DFFSec would like to receive a briefing of the exceptional circumstances warranting such an exception, and a copy of the letter signed by the Prime Minister once the exception is granted.¹⁵

DFSec submits it is of the utmost importance to the tourism shopping industry that active consideration be given to the potential compliance burden likely to be imposed on business as a result of the proposed regulations. This will require a concise articulation of the problem warranting regulatory intervention, clarification of Treasury's primary and subsidiary objectives, a statement of regulatory and non-regulatory options and a detailed impact analysis.

DFSec appreciates the time and effort Treasury has committed to ensure full and proper stakeholder consultation and would be happy to assist Treasury by providing additional information to assist with the preparation of a comprehensive RIS.

If the regulations are to proceed in their current form, then industry needs financial assistance to defray the costs of complying with the new requirements.

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¹⁵ Australian Government, *Best Practice Regulation Handbook* (June 2010) p 21.