

Mr John Gallagher  
Manager - Indirect Tax Unit  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Mr Gallagher

## **MINISTERIAL PARTNERSHIP CONSULTATION ON EXCISE EQUIVALENT GOODS (EEG) ADMINISTRATION**

I am pleased to provide you with AIP's Submission to this consultation process. This submission has been prepared on behalf of AIP's core member companies (BP Australia Pty Ltd, Caltex Australia Ltd, Mobil Oil Australia Pty Ltd and The Shell Company of Australia Ltd) who are responsible for almost all petroleum product excise manufacture in Australia and a significant share of imported petroleum products or EEGs.

AIP and its member companies have been strong supporters of, and active participants in, the Government's EEG reform process in recent years. **We therefore support the pursuit of new opportunities and options to further improve the efficiency and effectiveness of the EEG regime and streamline arrangements and costs for business. Importantly, we consider there is clear scope to achieve this.**

In particular, the AIP Submission recommends the implementation of a **single integrated platform** for the administration of both EEGs and excise, including:

- a single 'administrator and decision maker' (the ATO)
- a single 'import pathway' and declaration document
- a single 'license document' for customs and excise warehouses
- a single online or 'electronic system' for all duty/excise obligations and reporting
- a single 'audit and compliance regime'.

AIP believes this would deliver:

- a simplification and streamlining of administration for government and industry
- a reduction in the duplication of government and business administration activity and costs, whilst still maintaining robust controls over excisable products prior to delivery into home consumption
- a consistent and integrated approach to fuel excise and EEG administration and policy
- an excise and duty framework more consistent with the arrangements in other developed countries which AIP member companies operate in or trade with.

While recognising the constitutional and legislative constraints which this consultation is framed against, AIP considers that a single administrator is readily achievable if the proven and successful 'delegation model' utilised for Phase 1 EEG reforms is applied again. Under a delegation approach, there is no need to change the current legislation, nor the points where liability for the respective duties arise, in order to deliver a single administrator in practice and additional administrative cost savings. Further, we consider that the identified options to deliver a single administrative platform may only require minor legislative change to align the specific timetables and treatments across customs and excise goods.

## 2.

In addition to EEG administrative streamlining, the AIP Submission also strongly recommends priority review and consideration be given to **the alignment of excise reporting with other tax reporting timeframes and systems on a monthly basis**. This has been recommended by independent and government reviews and would be consistent with the longstanding Government reform agenda to simplify the taxation system and its administration, including in relation to excise.

Compared to EEG administrative streamlining, 'tax reporting alignment' has the potential to deliver more significant cost reductions and efficiencies to both industry and Government, including:

- a very significant reduction in administration and operating expenses
- scope to move to a single, modern and online electronic system (rather than 'paper-based')
- compliance and data matching efficiencies from the alignment of excise liability with other indirect taxes paid on a monthly cycle (eg. GST)
- scope for more efficient cash flow and working capital management by industry, including by a better alignment of the excise payment cycle with cost recovery from customers
- a simpler and more efficient tax system.

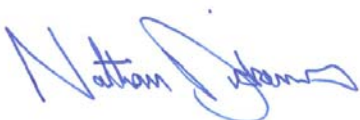
It is also well accepted that potentially more significant savings and efficiencies for Government and industry would be available through monthly excise reporting on the BAS, in the same way as claims for Fuel Tax Credits (totalling \$5 billion) are currently made on a monthly BAS cycle.

AIP member companies have argued strongly that monthly excise settlement should be available across all excisable liquid and gaseous fuels and for all businesses, rather than just for gaseous fuels and eligible small businesses currently. This would be the most simple, equitable and efficient solution to ensuring a robust excise system with a level playing field across all transport fuels. It also provides scope for more efficient cash flow and working capital management by industry, as these burdens for AIP member companies have increased substantially over time and are significantly greater than those of other fuels suppliers in the Australian market. Importantly, AIP member companies believe that there would be no substantive change to the 'risk to Government revenue' from a move to monthly excise reporting and options should be fully explored to mitigate any short term budget impacts in order to realise the significant efficiencies and savings beyond the short term, including for the Budget.

If the government had uncertainty about the net benefits of tax reporting alignment, then a targeted independent review may provide a more comprehensive and transparent basis for any Government decision, or indeed for further industry consultation on this matter.

I would be happy to discuss with you any of the issues and options raised in AIP's Submission. Please do not hesitate to contact me on (02) 6247 3044. We would also be happy to participate in a roundtable discussion with the Partnership agencies on the opportunities raised here.

Yours sincerely



Nathan Dickens  
**General Manager – Policy**

30 August 2011



**CONSULTATION ON  
EXCISE EQUIVALENT GOODS ADMINISTRATION**  
*Legislation and Policy Better Regulation Ministerial Partnership*

*Submission to:*  
**The Treasury**

**30 August 2012**

# (1) INTRODUCTION

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The Australian Institute of Petroleum (AIP) was established in 1976 as a non-profit making industry association. AIP's mission is to promote and assist in the development of a sustainable, internationally competitive petroleum products industry, operating efficiently, economically and safely, and in harmony with the environment and community standards.

**AIP is pleased to present this submission on behalf of the following member companies:**

**BP Australia Pty Ltd  
Caltex Australia Ltd  
Mobil Oil Australia Pty Ltd  
The Shell Company of Australia Ltd.**

**AIP member companies are responsible for almost all petroleum product excise manufacture in Australia and a significant share of imported petroleum products or Excise Equivalent Goods (EEGs).**

This submission has been developed to assist with Treasury's consultations on further opportunities and options to improve the efficiency and effectiveness of the EEG regime, and "to streamline arrangements and reduce costs to business". AIP supports this overall objective, including for this consultation process.

AIP also understands the terms of reference and parameters for this consultation process. This Submission is fully compliant with these terms including:

- *"the need to ensure that the ATO has the necessary powers for the effective and efficient administration of the excise and customs legislation*
- *the need to ensure revenue is adequately protected from unintended loss of customs and excise duties*
- *the need for excise and customs legislation to comply with Australia's constitutional law and international obligations*
- *the objective of reducing regulation, rather than shifting the burden of regulation to another point*
- *seeking consistent treatment between the importation and exportation of EEGs and other goods*
- *seeking consistent treatment between EEGs and excisable goods*
- *not addressing 'the rate, scope or incidence of excise or customs duty' which is out of scope".*

Our comments, principles and recommendations contained in this submission seek to support these objectives and framework, whilst also identifying relevant principles, issues and options for further consideration by the Partnership agencies.

**The coverage of this submission includes:**

- (1) Introduction**
- (2) Summary: AIP's Role, Principles and Recommendations**
- (3) AIP's Response to Specific Consultation Questions**
- (4) Other Reform Options: Tax Reporting Alignment**

Should you have any questions in relation to this Submission, the relevant contact details are below.

Nathan Dickens  
General Manager – Policy  
The Australian Institute of Petroleum  
GPO Box 279  
CANBERRA ACT 2601  
Phone: (02) 6275 3044  
Email: [ndickens@aip.com.au](mailto:ndickens@aip.com.au)

AIP is happy for this Submission to be made publicly available on the Treasury website.

## **(2) SUMMARY: AIP'S ROLE, PRINCIPLES & RECOMMENDATIONS**

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### **AIP'S ROLE:**

- **AIP member companies are responsible for almost all petroleum product excise manufacture in Australia and a significant share of imported petroleum products (EEGs).**
- As a consequence, AIP and its member companies have been active participants in the EEG reform process to date, in recognition that a streamlining of EEG administration had the scope to reduce business costs and regulation and deliver resource savings for business.
- AIP and its member companies were active participants in Phase 1 of the EEG review and reform process (outlined in the current 'Consultation Paper'). From the perspective of AIP member companies, Phase 1 of EEG reform was effectively and efficiently implemented by industry and the ATO and, following a transition period, has delivered administration and compliance savings for business and government, as acknowledged in the Consultation Paper.
- As also acknowledged in the Consultation Paper, the Phase 1 reforms were important first steps in the reform process, but more reforms are needed to deliver the full benefits to industry and government of EEG administration streamlining; importantly, there remains scope to achieve this in AIP's view.
  - The demonstrated success of Phase 1, and the transition approach utilised then, provides a clear case for adopting the same effective blueprint for Phase 2 (as we recommend below).
- Through AIP submissions and established ATO consultation forums, AIP has had longstanding positions in relation to the key parameters and outcomes that should be targeted in this reform process.

### **AIP'S PRINCIPLES & RECOMMENDATIONS:**

- **Overall, AIP supports the establishment of a single administrator for fuel excise and EEGs in Australia.**
- **AIP member companies believe that a single administrator for excise and EEGs would ensure:**
  - **a simplification and streamlining of administration for government and industry**
  - **a reduction in duplication of government/business administration activity and costs, whilst maintaining robust controls over excisable products prior to delivery into home consumption**
  - **a consistent and integrated approach to fuel excise and EEG administration and policy**
  - **an excise and duty framework more consistent with the arrangements in other developed countries which AIP member companies operate in or trade with.**
- AIP notes that this proposal has been recommended for some time, including in government reviews like the 2002 Fuel Tax Inquiry which recommended: "There should be a single administering organisation for fuel tax collection and the administration of customs duty collection on all imported fuel products should be transferred to the ATO".
- AIP recognises the constitutional constraints in terms of imposition of customs duty and excise.
- AIP considers there is no need to change the current legislation, nor the points where liability for the respective duties arise, in order to deliver a single administrator in practice and further administrative savings. In particular, AIP is not seeking the imposition of tax on imported petroleum products as excise instead of the existing EEGs. However, AIP considers that the administrative treatment of excise goods and EEGs needs to be aligned as much as possible under the one administering agency.
- We consider this is readily achievable (as demonstrated in Phase 1) and that the relevant administering agency should be the ATO as recommended by the Fuel Tax Inquiry and the Productivity Commission. The experience of AIP member companies is that the ATO is best equipped now to administer excise and EEGs, given the successful expansion of their EEG administrative roles and functions since 2010.
- AIP notes that through Phase 1 of EEG reform, the ATO is now successfully administering a range of previous Customs functions (see Page 10 of the Consultation Paper).

- These functions include EEG warehouse licensing, issuing permissions, approving remissions and compliance activities, following the transfer of these functions under delegation on 1 July 2010.
- **AIP considers the next step is for further delegations to be given to the ATO in relation to EEGs, to administer to the greatest extent possible the remaining administrative functions performed by Customs (see Page 10 of Consultation Paper) so a single EEG administrator is delivered in practice.**
  - AIP notes that the 2008 Productivity Commission ‘Annual Review of Regulatory Burdens on Business’ recommended (Recommendation 8.1) that *“the Australian Government should, subject to appropriate consideration and assessment, delegate authority for administering Customs duty in relation to excise equivalent goods to the ATO. The Australian Customs Service should retain its current border management role in relation to excise equivalent goods”.*
  - AIP member companies share this view and have supported this recommendation since 2008.
- We see no major barriers to this being achieved in the short term, as it appears no legislative change would be required for effective delegation by the CEO of Customs to the staff of the ATO (in the same way as utilised for Phase 1). If legislative change may be required at some stage for longer term certainty and efficiency reasons, this could be considered at a later stage with the benefit of the ATO’s experience in administrating the new functions and arrangements.
- As a corollary, we consider Treasury and the Assistant Treasurer having formal responsibility for the parts of Customs legislation that relate to EEGs (based on proven ATO-Treasury administration-policy synergies), will provide stronger administration-policy integration for the Government in the same way as the successful implementation and outcomes flowing from the 2006 fuel tax reforms.
- The Consultation Paper also identifies a number of questions in relation to **specific EEG administration arrangements** (eg. import arrangements, licenses, permissions). AIP member company responses to these questions, including potential reform options, are outlined in detail in Section 3.
- **In summary:**
  - **while AIP recognises the excise and customs legislation must be kept separate (and there is an ongoing need for licenses and permissions under both Acts), we see no major barriers under a delegation model to a single ‘document’, administrator and decision-maker for all licenses and permissions made for excisable product, and also a ‘single import declaration’**
    - **this would provide material administration and resource savings for industry and government, and also deliver a single audit and compliance regime providing further streamlining and savings benefits**
    - **importantly, AIP member companies consider that this can be achieved whilst still maintaining robust controls over excisable product and revenue collection.**
  - **AIP member companies also would support a ‘single electronic system’ for meeting their excise and customs obligations and reporting.**

#### **QUANTIFYING COST REDUCTIONS FOR BUSINESS & GOVERNMENT:**

- Consistent with the view of the Productivity Commission, AIP is also confident that a single administrator for excise and EEGs should generate reductions in business regulation and costs.
  - Overall, if the reform outcomes above are achieved, particularly in full, we would expect a further reduction in the duplication of industry activity in relation to excise and EEGs.
- The task of quantifying the potential savings for the downstream petroleum industry is difficult given the parameters of any new ATO/Customs regime for EEGs are not known at this stage.
- However, AIP member companies consider that streamlined paperwork, reporting and communications with Government, and a single license, permission and audit regime for excise and EEGs, would deliver administrative savings and improved process timetables for industry.

- The extent of these savings will largely be dependent on the degree of streamlining of the current administrative requirements and the extent to which these changes flow through to the basic internal systems needed to support each AIP member company's compliance with the excise manufacture and customs requirements.
- As part of the EEG reform process to date, AIP has provided advice to the ATO on an appropriate framework for establishing the reduction in administrative duplication and associated resource savings which are likely to be available under these reforms.
- AIP is not in a position to estimate the administration savings available for government.
  - AIP member companies expect that these reforms would create the conditions for a reduction in duplication and the need for separate dedicated systems and resources to support the full range of excise/EEG/Customs functions and activities within the two different government agencies. This would produce government budget savings.
  - Portfolio Budget Statements indicate significant Customs resources assigned to these functions.
  - AIP notes that some of these resources would need to be transferred to the ATO during a transitional period (as was the case for Phase 1 and in the 1998 reforms when functions were transferred to the ATO), but we consider that material net savings should still be available.
  - In this regard, and in relation to the Customs-ATO interaction, there may also be additional savings available to government and business from tax administration streamlining outside excise and EEGs (eg. since Customs collecting GST on imported goods in some instances is an illustration of administration inefficiency).
- Of course, any longer term savings for both government and industry would naturally be subject to resources not needing to be directed permanently to other new areas of activity, reporting and regulation under any revised arrangements that may be implemented following this review.

#### **ADDITIONAL REFORM OPTION: TAX REPORTING ALIGNMENT**

- The Consultation Paper also invites comment *"on options to introduce further legislative and/or administrative changes to current arrangements governing the treatment of excisable goods and EEGs"*.
- **Alongside these Phase 2 EEG Reforms, AIP considers the 'Partnership' should consider more substantive reforms to tax administration and reporting which have the potential to deliver much more significant resource savings to government and industry.**
- **In this regard, Section 4 of this Submission outlines AIP's longstanding proposal to align and integrate excise reporting with other tax reporting timeframes and systems on a monthly basis.**
- The 2002 Fuel Tax Inquiry saw significant merit in *"aligning the reporting timeframes of fuel taxation with other taxation arrangements to promote consistency and simplification of the tax system"* and examining this further.
- Subsequently, the 2008 Productivity Commission (PC) review recommended that *"excise duty on a monthly basis should be extended to all businesses"*, noting that *"the reduced compliance burden as well as administrative costs for government should outweigh revenue considerations, particularly if revenue administration is consolidated within the ATO."*
- **AIP member companies strongly support this view and believe the efficiencies and reductions in administrative burdens for business and government from both consistent tax reporting timeframes for business and revenue consolidation within the ATO, would be much more significant than the EEG reforms canvassed in the Treasury Consultation Paper.**
- **Such reform could be contemplated alongside the reforms to EEG administration or subsequently, but AIP recommends it be pursued as a priority, given the significant quantum of cost savings that are likely to be available from this reform - see Section 4.**

### (3) AIP RESPONSES TO SPECIFIC CONSULTATION QUESTIONS

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The 'Consultation Paper' identifies a number of specific questions on which comments from stakeholders are sought and AIP's responses to these questions are outlined below. The Consultation Paper questions related to 'duty free stores' and 'catering bonds' have not been addressed as they are not relevant to the business operations of AIP member companies.

#### (A) OPTIONS FOR REFORM

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*(i) How do the differences in the legal and administrative treatment of excisable goods and EEGs affect your business? (ii) How could compliance costs to business be reduced while ensuring the Government revenue is adequately protected from loss of customs and excise duties? (iii) What opportunities do you see to improve the legislative and administrative arrangements to reduce difficulties or inefficiencies?*

**Overall, AIP supports the establishment of a single administrator for fuel excise and EEGs in Australia.**

AIP member companies believe that a single administrator for excise and EEGs would ensure:

- a simplification and streamlining of administration for government and industry
- a reduction in duplication of government and business administration activity and costs, whilst maintaining robust controls over excisable products prior to delivery into home consumption
- a consistent and integrated approach to fuel excise and EEG administration and policy
- an excise and duty framework more consistent with the arrangements in other developed countries which AIP member companies operate in or trade with.

AIP notes that this proposal has been recommended for some time, including in government reviews like the 2002 Fuel Tax Inquiry (FTI) which recommended: *"There should be a single administering organisation for fuel tax collection and the administration of customs duty collection on all imported fuel products should be transferred to the ATO"*.

**AIP recognises the constitutional constraints in terms of the imposition of customs duty and excise. However, AIP considers there is no need to change the current legislation, nor the points where liability for the respective duties arise, in order to deliver a single administrator in practice and additional administrative streamlining and resource savings.** In particular, AIP is not seeking the imposition of relevant tax on imported petroleum products as excise instead of the existing EEGs.

However, AIP considers the administrative treatment of excise goods and EEGs needs to be aligned as much as possible and we consider that one agency should administer both. We consider this is readily achievable (as demonstrated in Phase 1) and that the relevant administering agency should be the ATO as recommended by the Fuel Tax Inquiry and the Productivity Commission. The experience of AIP member companies is that the ATO is best equipped now to administer excise and EEGs, given the expansion of their administrative role and functions since 2010, and as evidenced by the success of the Phase 1 reforms.

AIP notes that through Phase 1 of EEG reform, the ATO is now successfully administering a range of previous Customs functions following the transfer of these functions under delegation on 1 July 2010.



These functions (identified on Page 10 of the Treasury Consultation Paper) include:

- *“Administering the warehouse licensing regime for EEG warehouse clients, including non EEG warehouses operated by those clients but not duty free stores, catering bonds and providores. This includes the granting, renewal, variation, suspension and cancellation of warehouse licences.*
- *Issuing permissions to move goods between warehouses that are administered by the ATO.*
- *Issuing permissions allowing clients to pay duty/lodge returns for EEGs on a periodic basis.*
- *Approving remissions of duty.*
- *Managing the destruction of goods within warehouses administered by the ATO.*
- *Undertaking compliance activities at warehouses dealing in EEGs.”*

**AIP considers the next step is for further delegations to be given to the ATO in relation to EEGs, to administer to the greatest extent possible the remaining administrative functions performed by Customs so a single EEG administrator is delivered in practice.**

These functions (also identified on Page 10 of the Consultation Paper) include:

- *“All import, export and Integrated Cargo System (ICS) transaction related inquiries from clients and brokers including requests for advice.*
- *Administration of the reporting, arrival, discharge and movement of goods to the point they are received at a warehouse in accordance with a warehouse declaration.*
- *Administration of EEGs that are entered directly for home consumption on an import declaration rather than being warehoused.*
- *Processing all entries including entries for goods delivered directly into home consumption, entries for goods transferred to a customs warehouse and entries for goods delivered into home consumption from a customs warehouse or transferred to the excise system.*
- *Collection of all excise equivalent customs duty payable on EEGs and*
- *Approving refunds and drawbacks of duty.”*

AIP notes that the 2008 Productivity Commission ‘Annual Review of Regulatory Burdens on Business’ recommended (Recommendation 8.1) that *“the Australian Government should, subject to appropriate consideration and assessment, delegate authority for administering Customs duty in relation to excise equivalent goods to the ATO. The Australian Customs Service should retain its current border management role in relation to excise equivalent goods”*. **AIP member companies share this view and have supported this recommendation for many years.**

We see no major barriers to this being achieved in the short term, as it appears no legislative change would be required **for effective delegation** by the CEO of Customs to the staff of the ATO - in the same way as utilised for Phase 1. If legislative change may be required at some stage for longer term certainty and efficiency reasons, this could be considered at a later stage with the benefit of the ATO’s experience in administering the new functions and arrangements.

In addition, we consider that any requirement for minor legislative change to address specific discrepancies in ‘administrative treatments’ between Excise goods and EEGs is not a sufficient barrier to achieving a single administrative agency, as we understand that solutions are available to resolve any differences.

As a corollary, we consider Treasury and the Assistant Treasurer having formal responsibility for the parts of Customs legislation that relate to EEGs (based on proven ATO-Treasury administration-policy synergies), will provide improved administration and policy integration for the Government in the same way as the successful implementation and outcomes flowing from the 2006 fuel tax reforms. Responsibility for EEG administration, legislation and policy falling to multiple agencies creates scope for poor admin-policy integration and unintended market outcomes (eg. the introduction of the fuel marker scheme in the 1990s, which was subsequently abolished).

Finally, a single excise/EEG administrator would be more consistent with the arrangements in other developed countries. AIP notes that in almost all European countries there is no sharp distinction between locally manufactured products or imported products in the way they are handled administratively. All petroleum products are seen as excisable goods, and in many countries all reporting and tax payments are made to the one agency irrespective of the product being imported or locally manufactured.

**Apart from the ‘overall reform’ noted above, AIP member companies consider that there are additional opportunities to improve or streamline specific EEG administration arrangements (eg. import arrangements, licenses, permissions) and these are outlined below. In addition to these specific proposals, AIP considers that a more fundamental reform to excise administration should be considered which has the potential to deliver much more significant resource savings to government and industry – see Section 4 of this Submission.**

## **(B) IMPORTATION OF EEGs**

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*(i) How can reporting requirements for EEGs be streamlined or improved to make it easier for you to comply? (ii) Do you have any comments on the import declaration requirements in the Customs Integrated Cargo System for warehoused EEGs including EEGs intended to be used in excise manufacture? (iii) Do you have any comments on the System described above?*

AIP member companies consider that options should be pursued to streamline EEG administration for business and government in relation to ‘import pathways’ and remove unnecessary duplication. These options would make it easier and simpler for business to comply, whilst still maintaining appropriate controls over excisable petroleum products prior to delivery into home consumption. If the ‘macro’ reform below for handling imported petroleum products is pursued, this could also address other areas of duplication further down the petroleum product supply chain (eg. documentation and reporting, warehousing, licensing, compliance activities).

### **Macro Reform: Treatment of Imported EEGs**

AIP member companies consider that EEGs could be switched directly under excise control upon importation or prior to discharge, removing the requirement for the customs warehouse arrangements for petroleum EEGs (assuming a constitutionally viable legislative mechanism can be implemented that is robust in terms of liability for excise or customs duty). Such a reform would streamline the gateway between customs and excise for petroleum products. For example, it would remove the need to have separate documentation in circumstances where EEGs are used in the manufacture of excisable goods and businesses are required to hold both a customs warehouse licence and an excise manufacturer licence. This should benefit the downstream petroleum industry, including by removing the need for customs warehousing when EEGs are imported for the purposes of blending with excisable goods (e.g. biofuel or other fuel blends) and would remove the burden of administering two licensing regimes for both petroleum importers and government. Options and alternative pathways for imported goods have previously been tabled by AIP member companies with the ATO as part of the Phase 1 reforms.

### **Micro Reform: Improvements to Import Declarations**

AIP member companies consider that there is scope for a 'simpler' reporting document and arrangements (ie. a 'single import declaration') to provide a more streamlined pathway for imported petroleum products. For example, Nature 20 and Nature 30 declarations and related processes could usefully be consolidated into a single form and process, to meet the current requirements and circumstances of both declarations.

The single form could be utilised to firstly declare what cargo of petroleum products is entering the country (with approval given for this) and then secondly where and how much product was discharged at a given port/s. We understand that actual volumes of imported EEG's are not always shown on a Nature 20. Utilisation of the existing or an amended Nature 30 declaration would still allow for calculation of ad valorem duty and GST in the same way as currently, and a robust audit trail with appropriate controls would be maintained for Government agencies.

AIP member companies also consider that improvements should be made around the Nature 20 import declaration (or to a 'single import declaration as proposed above). The current system creates problems for industry if, for a reason, the nominated port is unable to take any or part of vessel's cargo, thus requiring a redirection of the petroleum product/s to another port. When this occurs prior to the weekend or a public holiday period, the Nature 20 approval may not be obtainable until the following week. The current process dictates that Nature 20 approval can only be obtained during working hours. This can leave the vessel waiting offshore for several days, resulting in considerable demurrage costs. AIP member companies see benefit in establishing, for example, a permission arrangement similar to continuing movement permissions, where a licensed entity can move/discharge the product at any nominated bonded location. Further, it may be possible to nominate multiple ports on the Nature 20. If one port is unable to take any or part of the product, the product could be redirected without having to lodge a new Nature 20.

In addition, currently the reporting on N20 and N30 can include up to 8 process steps, including amendments. Amendments can also be numerous in instances where a single vessel is seeking to do cargo deliveries to more than one domestic port (which is regularly the case for petroleum products), clearly highlighting the inefficiency of the current declaration approach. AIP member companies believe that petroleum products should be allowed to be discharged and surveyor's outturns submitted, in lieu of estimates, which are currently used. There is also an opportunity for outturn reporting to be eliminated from the ICS. We believe this constitutes the repetition of the process as the amendment of N20 and N30 is effectively an outturn.

### **Integrated Cargo System**

The current Integrated Cargo System (ICS) itself is fit for purpose in the view of AIP member companies, but there is scope for further refinement as noted above. More broadly, AIP member companies see significant benefits in excise compliance being brought onto an 'online electronic basis' in the same way as utilised for the ICS, rather than the paper/facsimile reporting currently. This could also be achieved if indirect tax reporting and payment was consolidated within the ATO, and payments were paid via the on-line portal for GST payment – see Section 4.

## **(C) LICENSES & LICENSING**

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*(i) How could the current licensing system be improved? (ii) Is there any duplication between the processes for excise and customs warehouse licences that could be simplified or other suggestions that could improve the process?*

As noted in the Consultation Paper, under current arrangements "an entity that deals with excisable goods and EEGs will need to hold both excise and customs licenses. They may also need to hold multiple excise and customs licenses for their excisable goods and EEGs, for example, where the entity stores excisable goods and EEGs in several different locations".

As outlined in Section 3(A), AIP considers that under the delegation model proposed we believe it would be achievable to have a single document and administrator as far as the treatment of EEGs and excise is concerned. AIP member companies consider that licensing is a particular function where the duplication of activity within government and business is obvious, but with existing duplication not generating material additional benefits in terms of controls and compliance.

While the ATO already has responsibility under delegation for issuing Customs warehouse licensing under the Phase 1 EEG reforms, this is only the first step towards realising further administrative savings for business and government (recognising that, for constitutional reasons, the excise and customs legislation must be kept separate and there is an ongoing need for licenses and permissions under both Acts).

**As a result, AIP member companies strongly support one source licensing document for the importation, storage and manufacture of excisable petroleum products (with one set of administrative treatments).**

AIP notes that in almost all European countries there is no sharp distinction between locally manufactured products or imported products in the way they are handled administratively. All petroleum products are seen as excisable goods, and in most countries all reporting and tax payments are made to the one agency irrespective of the product being imported or locally manufactured. In the Netherlands, for example, all licenses for storage, handling and manufacturing are handled by a single unit in the Ministry of Finance.

The key savings for industry and government from a 'one source license/document approach' would be a reduction in the number of licenses required to be applied for (less applications), paid for (transactions), processed (by the ATO) and complied with for a single warehouse for excise petroleum products. If audit frequency did not change from currently, there would also be savings in terms government and company staff time in preparing for, conducting (including disruption to normal business activities), and reporting on licensed facility audits.

**If the dual licensing requirement is preserved under the Phase 2 reforms, AIP recommends that that the different 'administrative treatments' between Excise goods and EEGs identified at page 17 of the Treasury Consultation Paper (eg. differences in license fees, renewal dates etc) should be removed. In particular, AIP member companies strongly supports a license renewal period of 3 years for Customs EEG Warehouse Licenses to align this with the treatment of excisable goods.**

## **(D) RETURNS & PERMISSIONS**

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- (i) What impact do the current requirements and processes for permissions have on your business?*  
*(ii) How can these requirements and processes be improved to reduce compliance costs or administrative burden?*

AIP member companies consider that the source of problems with returns and permissions relate mainly to the requirement to hold dual licenses, deal with two agencies, use two different systems (paper and electronic) and having lodgement and payment obligations with both the ATO and Customs.

As a result, AIP member companies believe that a single administrator, declaration, license, permission and audit regime for excise and EEGs (as noted above) would address this and streamline paperwork, reporting and communications with government, delivering administrative savings and improved process timetables for industry.

**Moreover, in relation to returns and settlement, AIP's longstanding support for the alignment and integration of excise reporting with other tax reporting timeframes and systems, including on a monthly basis, would deliver even more significant efficiencies and reductions in administrative burdens for business and government – see Section 4.**

## **(E) REMISSIONS, DRAWBACKS & REFUNDS**

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*(i) Do you see any opportunities to improve the way remissions, drawbacks and refunds are administered?*

In submissions to Treasury over a number of years, AIP has clearly stated its opposition to petroleum products 'for uses intended to be free of duty' being delivered via administrative arrangements or regulations such as remission certificates, like that currently applying to non-transport use of gaseous fuels. This opposition is based on documented compliance difficulties and opportunities for excise evasion under such approaches (eg. see 2005 Treasury Discussion Paper 'Review of the Excise Tariff Act 1921').

**Thus, if remissions remain part of the excise landscape, AIP's position is that the government should limit the use of EEG remissions to the greatest extent possible.**

As outlined in Section 3(A), AIP considers that further resource savings can be achieved with respect to drawbacks and refunds, by EEGs and excise being administered by a single agency. AIP member companies also believe that different administrative treatment of EEGs and excisable goods in relation to these functions would be eliminated if EEGs were brought within the excise regime upon importation (see Section 3B above). Applications for remission of excise, drawbacks for exports of excisable goods and refunds should be able to be made electronically under the excise regime rather than in paper hardcopy.

From a practical operations perspective, we can highlight the advantages of having a single agency by reducing the handling of certain transactions that can be dealt with from one point. Currently in situations where there is a discharge of customs duty paid product into a bonded warehouse, a drawback needs to be completed in the Customs system before duty paid product can be discharged into a bonded warehouse under the Excise system where no duty has been paid. If this was administered by the ATO (Excise), the processing of this transaction will be simplified at a single point rather than having to deal with two separate agencies which results in delays in obtaining cash back.

## **(F) EXPORT OF EEGs**

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*(i) Are there inefficiencies in the current administrative arrangements for the export of excisable goods and EEGs and how do these affect your business? Could export related compliance requirements be further streamlined?*

In line with the AIP views throughout this Submission, we expect that further streamlining and resource savings can be achieved with respect to EEG exports through the full implementation of a single administrator and approach.

## **(4) ADDITIONAL REFORM OPTIONS: TAX REPORTING ALIGNMENT**

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The 'Consultation Paper' notes that stakeholders may wish to:

- comment on options to introduce further legislative and/or administrative changes to the current arrangements governing the treatment of excisable goods and EEGs; and
- provide qualitative and/or quantitative information to support your views.

In addition to integrating Customs reporting and obligations into the excise regime as proposed in the Consultation Paper, AIP recommends an alignment of excise reporting with other tax reporting timeframes and systems, as recommended by independent government reviews and inquiries. This could be contemplated alongside the reforms to EEG administration or subsequently. AIP recommends it be pursued as a priority, given the quantum of additional resource and cost savings to business and government are likely to far exceed those available under just a single EEG administrator.

### **TAX REPORTING ALIGNMENT: MONTHLY EXCISE SETTLEMENT**

#### ***Background: Reforms to Date***

A longstanding Government reform program has been the simplification of the taxation system and its administration, including in relation to excise. Since 2006, there has been a significant modernisation of fuel taxation legislation, processes and systems and this has resulted in improvements to the robustness of the fuel tax system and a significant reduction in the risks related to compliance, fuel substitution and revenue leakage. In addition to these reforms, two longstanding targets for excise reform have been:

- a single administrator for EEGs and excise (the specific focus of the current Consultation Paper); and
- the alignment of excise reporting (timeframes and systems) with other tax reporting.

The 2002 'Fuel Tax Inquiry' recommended that *"there should be a single administering organisation for fuel tax collection and the administration of customs duty collection on all imported fuel products should be transferred to the ATO"*. This recommendation was subsequently confirmed and framed in more detail in the 2008 Productivity Commission 'Annual Review of Regulatory Burdens on Business'. A single administrator for EEGs has subsequently been pursued through the Phase 1 reforms and currently through this consultation process, both with strong industry support. While meaningful savings to Government and red tape reductions to business will be delivered through the full implementation of a single administrator for EEGs and excise, there is much more available from pursuing the alignment of excise reporting with other tax reporting timeframes and systems.

#### ***Alignment of Tax Reporting 'Timeframes' & 'Systems'***

The Fuel Tax Inquiry also concluded that *"the Inquiry sees merit in the related proposals to align the reporting timeframes of fuel taxation with other taxation arrangements to promote consistency and simplification of the tax system"* and that further examination is required. The 2008 Productivity Commission (PC) review conducted such an examination and recommended/noted that:

- *"excise duty on a monthly basis should be extended to all businesses";*
- *"the reduced compliance burden as well as administrative costs for government should outweigh revenue considerations, particularly if revenue administration is consolidated within the ATO."*
- *"As with other areas of taxation, compliance with monthly reporting requirements could be sufficiently monitored through audit processes"*.

As noted in the Consultation Paper, excise and duty returns are currently made on a weekly basis through electronic means (customs duties) and paper returns (excise). However, as part of the Government's recent reforms to 'Alternative Fuel Taxation', monthly excise settlement is currently available to eligible small business and the gaseous fuels industry.

**AIP member companies have argued strongly for monthly excise settlement to be available across all excisable liquid and gaseous fuels, and for all businesses, and this position is supported by independent and government reviews.** This would be the most simple, equitable and efficient solution to fully meet AIP's core principles for a robust excise system with a level playing field across the transport fuels market. It is also important for industry given the cash flow burdens already imposed on AIP member companies (see [Box 1](#)) and their contribution to meeting the lion's share of the transport fuel task in Australia.

### ***Benefits of Monthly Excise Reporting***

**This would deliver significant cost reductions and efficiencies to industry and Government, including:**

- **a very significant reduction in administration and operating expenses;**
  - The requirement to only lodge/collect 12 excise returns per year, rather than 52, represents a significant reduction in the administrative task for both industry and the ATO/ACS, particularly in relation to data compilation, review, audit and reporting and also reduced payments and lodgements and business-to-government interactions. There would also be a corresponding reduction in risk compared to the risks associated with complying with 52 weekly returns.
  - For example, the ATO processed 17,858 excise returns/forms in 2010-11 (an increase of 16%) and we expect that monthly excise settlement would reduce the returns to be processed by the ATO by >50 per cent. We understand there are currently 2,092 ATO employees involved in indirect tax collection and historically around 290 employees involved in excise.
  - **Industry expects that there would be administration cost savings to industry of around 30-50% of staff time for monthly excise settlement.** These resources could be efficiently reallocated to other indirect tax compliance processes, including excise assurance activities.
- **systems, compliance and data matching efficiencies from the alignment of excise liability with other indirect taxes paid on a monthly cycle (eg. GST);**
- **scope for more efficient cash flow and working capital management by industry, including by a better alignment of the excise payment cycle with cost recovery from customers;**
  - AIP notes that in previous AIP submissions to the Government and Treasury we have advised that there is a long time lag between AIP member companies paying excise each week to the ATO and subsequent payment to them by their customers (up to 5-6 weeks later).
  - More efficient cash flow and working capital management by the fuels industry will better support its significant infrastructure investment task to maintain Australia's ongoing fuel supply security into the future (and the competitiveness of the sector more broadly).
- **a simpler and more efficient tax system.**

**Importantly, it is well accepted that potentially more significant savings and efficiencies for Government and industry would be available through monthly excise reporting on the BAS.**

- Claims for Fuel Tax Credits (totalling \$5 billion) are currently made on a monthly BAS cycle and monthly excise settlement on the BAS would provide additional and more significant economies/savings.
- This would also provide, for example, the avenue for business entities to report and pay 'net' fuel tax liabilities, and to use the GST portal for reporting and payment, rather than the inefficient facsimile/paper based system as currently.
- Apart from administrative savings for both Government and industry, this would also provide the scope for Government to consolidate revenue (as noted by the PC) and adopt more streamlined and integrated audit, compliance and data matching processes across the range of tax obligations on a monthly basis.
- AIP expects that the savings to government in particular from this reform would total in the tens of millions each year, if not more.
- We note that these benefits would also apply to other EEG sectors where there is already broad based support for such a move, as evidenced in public submissions to the Fuel Tax Inquiry and PC Review.

**Monthly excise returns and payment would also bring Australia into line with the arrangements applying in many other developed countries which AIP members operate in or trade with.**

## **Risks to Government Revenue & Budget Costs**

**Fundamentally, AIP member companies believe that there should be no substantive change to the 'risk to revenue' from a move to monthly excise reporting** (ie. no change to risk of default, just an impact on the timing of current revenue receipts).

- Based on ATO data, fuel excise is the most stable, compliant and lowest risk revenue stream.
- We are not aware of any instances of excise payment default by AIP member companies.
- The small number of current excise payers (categorised as 'low risk' by the ATO) should not change with a move to monthly reporting for all businesses, and the current robust internal systems of excise payers (as acknowledged by the ATO) will also not change. There are a small number of excise payers compared to the 260,000 claimants of fuel tax credits on the monthly BAS.
- Major excise payers tend to have more rigorous internal controls, systems and compliance, and strong day-to-day working relationships with the ATO, compared to small businesses which already have monthly excise settlement arrangements which are successfully complied with.
- The instances of 'excise refund' are very low, including compared to other significant taxes.
- In 2010–11, the ATO conducted 178 Excise equivalent goods warehouse checks which resulted in one voluntary disclosure of approximately \$28,000 and one infringement notice issued.

AIP notes the Government at that time did not support the PC's recommendation for monthly excise reporting for all businesses in its formal response to the PC Report in March 2009, noting that *"the risks to the revenue at this time outweigh the potential benefits of the proposal."*

**However, AIP believes the tax environment and industry circumstances have changed substantially since that time and recommends the Government revisit this reform in light of:**

- significant reforms and improvements to excise administration since 2009 – including with more experience with the 2006 fuel tax reforms and with the ATO's 'risk differentiation framework';
  - The ATO 'risk differentiation framework' has categorised AIP member companies for excise purposes as key excise payers with a lower risk of non-compliance, given a long history of excise compliance supported by robust controls, systems and reporting within each company.
- the streamlined excise/EEG administration arrangements now applying to fuels and more in prospect;
- robust excise compliance and audit performance since 2009 (ie. a lower risk environment); and
- more industry and government experience now with the GST and BAS arrangements.

AIP understands that, based on Budget costing conventions, the move to monthly excise reporting may result in revenue loss to the Budget costing relative to the profile of revenue collections in the current forward estimates (to the tune of a few weeks excise payments). We also understand that this impact would be a one-off in the first year of operation.

- However, this situation is no different to the situation for GST which is levied on a monthly and quarterly basis (with the aim of curbing excessive compliance costs), although there are significantly more entities (and risk) involved with GST obligations.
- Further, AIP has previously been advised that there is scope to manage this fiscal impact downwards through the design of the relevant timetable for reporting (close-off) and payment, through appropriate financial management strategies for the new (higher) monthly excise payments, and through other alternative approaches.
- AIP and its member companies are willing to work with Treasury/ATO on appropriate options to help address/mitigate any short term 'net' revenue impacts, in order to realise the significant efficiencies and savings beyond the short term, including for the Budget. Industry expects that any initial budget impact would likely be partially/fully offset longer term by the significant savings available to government from the integration and streamlining of government administrative and compliance arrangements noted above.

**Overall, AIP believes a cost benefit analysis by the Government of monthly excise settlement (including the utilisation of BAS reporting as recommended by the PC) will clearly demonstrate that the reduced compliance burden and administrative costs for government outweighs any revenue considerations.**



### ***Importance to AIP Member Companies***

AIP member companies play a very significant role in the transport fuel supply chain and supply the vast majority of transport fuels, of all types, to the market. As a result of this role, AIP member companies are also very significant excise/duty collectors for the Government (totalling around \$15-\$16 billion pa), have total assets valued at over \$16 billion dollars, and typically invest around \$1 billion each year to keep fuel reliably supplied to the Australian market. This ongoing industry investment in fuels supply infrastructure underpins Australia's high level of supply security and the reliable supply of competitive transport fuels.

Against this background, AIP member companies have a very strong interest in reforms to fuel taxation and its associated administration. This is because fuel tax and administration changes have direct financial and business implications for AIP member companies, including an impact on their future excise and customs obligations and thereby on their future cash flow and working capital requirements.

The cash flow and working capital burdens for AIP member companies have increased substantially over time with the increase in fuel excise from the initial 9 cents per litre to the current 38 cents per litre. In addition, these cash flow and working capital impacts are significantly greater for AIP member companies than for other fuels suppliers in the Australian market (see Box 1 below).

#### **BOX 1: Cash Flow Impacts of Current Weekly Excise Settlement**

As AIP has previously advised Treasury, under the current weekly excise settlement for excisable petroleum fuels, AIP member companies experience negative cash flow and working capital burdens on a much more significant scale than small business and gaseous fuel suppliers.

By way of example:

- an LPG Distributor purchases a bulk LPG load excise inclusive from an AIP member company on the 1 or 2 December 2011;
- the AIP member company would pay excise to the ATO on 5 December;
- the LPG Distributor would typically have 7-14 days from the end of the month (ie. 7-14 January 2012) to recover the bulk LPG supply costs from their own customers and then settle their invoice with the AIP member company; and
- the LPG Distributor would subsequently be able to claim Fuel Tax Credits (FTCs) on 21 January 2012 for eligible non-transport uses of LPG.

Therefore, the potential cash flow impact for the LPG Distributor is short lived (eg. 1-2 weeks between payment of supplier and FTC claims) and would be further reduced if the LPG Distributor renegotiated trading terms with their bulk supplier to more closely align with the FTC cycle. There will also be no cash flow impact for the Distributor where LPG is supplied under the Government's remission arrangements or under a monthly excise settlement period.

**Importantly, the potential cash flow impact for the LPG Distributor contrasts starkly with the long time-lag between AIP member companies paying weekly excise to the ATO and subsequent payment to them by their customers (which can be up to 5-6 weeks later).**

### ***Recommended Next Steps***

AIP recommends that alignment of excise reporting with other tax reporting timeframes and systems, as recommended by independent government reviews and inquiries, should be considered by the Partnership alongside the reforms to EEG administration. AIP recommends it be pursued as a priority given the additional (and more significant) resource and cost savings that are likely to be available to both government and government.

AIP considers there is a strong case for a detailed assessment of this reform by the Partnership which identifies and quantifies the range of administrative savings that should be available to Government from monthly excise settlement, as well as the additional savings and efficiencies which would be delivered by monthly excise reporting through the BAS. Such an assessment, including budget and implementation costs, would provide further support for serious Government consideration of this proposal.