

10 February 2017

Mr Todd Muller, MP  
The Chair  
Foreign Affairs, Defence and Trade Select Committee  
Parliament House  
WELLINGTON

Email: [select.committees@parliament.govt.nz](mailto:select.committees@parliament.govt.nz)

Dear Mr Muller, MP

The New Zealand Food & Grocery Council (NZFGC) has made several submissions to the New Zealand Customs Service in the course of its review of the ***Customs and Excise Bill 2016*** (the Bill). The consultation process has been very inclusive and helpful in exchanging views and exploring options for amending the *Customs and Excise Act 1996*. Most recently, this has covered provisions yet to be considered in the Bill concerning additional duty as applied to alcohol. We have appreciated the preparedness of Customs' officers to consider industry concerns and develop new mechanisms and processes to streamline the system and increase a wide range of aspects to improve its operation.

In our view, the changes made in the Bill will greatly enhance the usability of the legislation, improve the way businesses interact with the Customs system and hopefully accommodate future changes in technology that impact both Customs and industry. Much of the detail of interest to our members will reside in the regulations currently being prepared and again, we are pleased with the extent of consultation being undertaken to ensure these are both best practice and workable for business.

As a result of the consultation conducted by the Customs Service to date, and the further detail to be contained in regulations, we are pleased to state that we have very few issues concerning the food and grocery sector (which includes the alcohol sector) that we wish to draw to the attention of the Foreign Affairs, Defence and Trade Committee Select Committee.

A key area of continuing concern relates to the disparities in the respective treatment of imported stock under the Customs regime when compared to domestically manufactured stock. New Zealand imports a substantial proportion of its food both for manufacturing and for sale. Many manufacturers are both importers and exporters yet the regime under the Customs and Excise Bill requires imported products to pay excise-equivalent duty immediately upon importation and prevents their storage in Customs Controlled Areas with duty unpaid. By contrast, products manufactured in New Zealand can be stored in Customs Controlled Areas and (subject to certain requirements) moved between such Areas with duty unpaid and with no time limitation from the time of manufacture until the time that they exit the Controlled Areas into circulation. The cost of financing and logistical management of imported products is

significant and has flow on effects to refund or remission of duty for lost or damaged stock. Our major trading partners do not apply such disparate regimes to imports vs domestically manufactured products. The disparity is inefficient, costly and inequitable. Addressing this issue would seem to advance the New Zealand food system and our trading environment substantially. This is an area that we commend for Select Committee consideration.

NZFGC is pleased to see some changes in the area of refunds, remissions and drawback but note that this is mainly in the remissions area. We suggest further change could easily and simply be made in the broader area including to refunds and drawback that would greatly enhance the business environment. One such provision could allow for broader remission/refund circumstances such as where goods have no 'commercial value' and are disposed of. This arises, for example, with excess production and trial products.

We are particularly pleased to see provision for appeals to be handled internally by Customs rather than only by a judicial authority. We consider this will greatly enhance the appeals process for individuals and small to medium businesses.

Statutory Rulings made by Customs are contained in Part 5, Subpart 8. The provisions expand a little the making of rulings but we believe considerably more areas would benefit from the application of statutory rulings. Customs plays a critical role in the import and export business environment of New Zealand and certainty and transparency are vital to efficient operation of that environment. This would be greatly enhanced by a broader application of statutory rulings to provisions of the Bill for both compliance certainty and transaction certainty. We believe it would have the same positive impact as the statutory rulings facility applied to the tax regime – certainty over the application of the Customs laws, reduced administrative costs, reduced litigation and reduced compliance costs.

During the course of consultations on this point, importers were particularly keen to see rulings extended and indicated a willingness for industry funding / preparedness to pay for the resources necessary to provide them.

While we are pleased to see a statutory timeframe in place for the making of statutory rules, we repeat our concerns made to Customs that almost half a year (150 days, clause 315) for the making of a statutory rule is not reflective of the timeframes in the business environment. We are strongly of the view that 60 or 90 days should be feasible and more realistic in a global trading environment.

Schedule 4 contains several references to the term 'commercially significant'. There is no definition of the term which could lead to differences of view as to what 'commercially significant' might mean.

This submission may be published in full. NZFGC does not wish to appear before the Committee when it holds public hearing.

Yours sincerely

Katherine Rich  
**Chief Executive**