1. The Department's interest in the Study

This Submission provides information related to road vehicles, in particular the importation and supply to the market of road vehicles in Australia and aviation related (safety) certification between Australia and New Zealand.

The *Motor Vehicle Standards Act 1989* (MVS Act), administered by the Department, is covered by the Special Exemptions of Part IX of the Trans Tasman Mutual Recognition Arrangement (TTMRA). A Cooperation Programme, Schedule 3, Annex 4 of the TTMRA has been undertaken with our New Zealand counterparts to:

> *harmonise Australian and New Zealand standards with the internationally recognised United Nations-Economic Commission for Europe (UN-ECE) standards, or those national or regional standards that are agreed by the Parties and at developing consistent conformance assessment and certification requirements in both countries. This body of internationally harmonised standards is intended to form the basis of a set of trans-Tasman road vehicle standards. It is intended that, as far as possible, all vehicles would be certified against these trans-Tasman standards. All road vehicles certified as meeting these standards will be able to be freely traded between Australia and New Zealand.*

The MVS Act is concerned with the importation and supply to the market of all road vehicles. Issues related to use and registration are the responsibility of the Australian States and Territories. In this respect, the intention for the Study to examine broadening the scope of both the MRA and the TTMRA into the use of goods has the potential to encroach on the Department's activities.

2. *Motor Vehicle Standards Act 1989*

The MVS Act was introduced in 1989 in close consultation with and the support of States, Territories, industry and consumers to give effect to Government objectives to standardise Australia's vehicle certification system to improve road safety and environmental protection.

An independent review of the MVS Act was conducted in 1999 to consider alternative approaches to ensure vehicles supplied to the Australian market met the Government's safety and emission performance objectives.

Revisions were made to the MVS Act in 2001 that re-affirmed the intent and purpose of the Act and introduced new measures aimed at improving arrangements to ensure that imported used vehicles meet Australian requirements.

Under the MVS Act, the Minister determines certain national standards (known as the Australian Design Rules) related to safety, emissions, vehicle security and energy saving. Vehicles are required to comply with applicable

Australian Design Rules (ADRs) before they are supplied to the market, however, there is provision allowing the supply of certain vehicles that do not meet all ADR requirements such as over dimension vehicles, used imported vehicles etc. A number of concessionary arrangements are available under the MVS Act to cater for personally imported vehicles, vehicles imported for test and evaluation, race and rally cars etc. Non-standard vehicles require an import approval issued under the provisions of the MVS Act and all vehicles irrespective of whether they are standard or non-standard require an authority to take delivery from the port of entry.

3. Australia's vehicle certification system

Australia operates a "whole vehicle" type approval system where vehicle manufacturers submit evidence to the Department to confirm that the vehicle model intended for sale complies with applicable ADRs. Following receipt of satisfactory evidence, the manufacturer is issued with an approval allowing the fitment of an Identification Plate to vehicles of that particular type. A vehicle fitted with an Identification Plate is normally taken to meet registration requirements by State and Territory Registration Authorities.

Post market audits are conducted at vehicle manufacturing plants both in Australia and overseas to confirm that vehicles are being built to the approved type. Inspections are also made at test facilities engaged in testing to demonstrate compliance with the ADRs to ensure that the tests were carried out correctly.

Used vehicles imported in commercial quantities must be modified in a Registered Automotive Workshop and are inspected on a "vehicle by vehicle" basis before a Used Import Plate can be fitted. These plates are issued under the authority of the Administrator of Vehicle Standards.

4. New Zealand's vehicle approval arrangements

New Zealand accepts vehicles complying with technical regulations applied in a number of countries, the so called 'smorgasbord approach'. These standards include Australian Design Rules, UN-ECE, United States, European and Japanese regulations. Further, New Zealand does not specifically mandate all requirements that apply in Australia. These include vehicle emissions and occupant protection requirements that are considered important in Australia for public safety and environmental protection reasons.

New Zealand operates a self certification system where vehicle manufacturers or their distributing agents undertake to supply vehicles that comply with New Zealand requirements. There are no pre or post market checks to confirm these undertakings.

5. Cooperation Programme

Australia and New Zealand have consulted on the development of a common regulatory system in accordance with Annex 4 of the TTMRA and have provided Joint Annual Cooperation Reports for consideration by COAG over the five years of the Arrangement's operation.

As part of that process New Zealand has been directly involved in the complete review of the ADRs that commenced in 1998. It was agreed by the Parties that the review would provide an opportunity to develop harmonised road vehicle regulations. The ensuing regulations, known as trans Tasman Vehicle Standards (TTVSs), were intended to be submitted to COAG for endorsement under the provisions of the TTMRA allowing Australia and New Zealand to adopt them in their respective national legislation. To date about 26 TTVSs have been endorsed by the Australian Transport Council. The TTVSs have not been forwarded to COAG for endorsement under the TTMRA. Following agreement from New Zealand, the TTVSs were determined under the provisions of the MVS Act as ADRs.

Concurrent with the consultations on regional regulatory harmonisation through the TTMRA, both Australia and New Zealand have continued alignment of their respective national regulations with ECE Regulations.

Global events have taken over from regional arrangements where, through the UN-ECE 1958 Agreement[1], automotive product certified to comply with ECE Regulations can be freely traded between the Contracting Parties. With both Australia and New Zealand intending to apply the ECE Regulations in domestic legislation, free trade between the two countries would be realised.

The United Nations Economic Commission for Europe (UN-ECE) is the only forum for vehicle safety and emission regulations that meets the World Trade Organisation Agreement on Technical Barriers to Trade definition of an international standardising body. The 1958 Agreement governs the development of ECE Regulations. It has 39 signatories and has 113 regulations annexed to it. Its principal feature is to provide a framework for mutual recognition of automotive product approved by Contracting Parties that have adopted the ECE Regulations.

Australia and New Zealand have individually made considerable progress towards the harmonisation of their respective national regulations with ECE Regulations. Australia acceded to the 1958 Agreement in 2000, and New Zealand acceded in 2002.

Australia and New Zealand intend to apply appropriate ECE Regulations into national legislation. Both Parties actively promote the UN-ECE as the

[1] Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment ad Parts which can be Fitted and/or be Used on Wheeled vehicles and the Conditions for Reciprocal Recognition of approvals Granted on the Basis of these Prescriptions, as amended to 16 October 1995.

international technical regulations setting body for the global automotive industry and have encouraged other APEC economies to harmonise their national technical regulations with the ECE Regulations.

Currently 50 of the 78 ADRs are either fully or partially harmonised with UN-ECE Regulations and approvals issued to ECE Regulations are accepted in Australia for the certification of vehicles to those 50 ADRs. New Zealand already incorporates 28 ECE Regulations in national legislation and accepts certification of vehicles and automotive products to those Regulations. New Zealand will also continue to recognise selected ADRs that may not be harmonised with an ECE Regulation. Each jurisdiction will continue to retain some unique regulations for technical or operational reasons and New Zealand will continue to recognise several national and regional technical regulations.

Last year Australia prepared a draft Regulatory Impact Statement (RIS) to examine whether there should be mutual recognition or permanent exemption for road vehicles under the TTMRA. The RIS came to the conclusion that it was not in the interests of the Parties to seek a mutually harmonised regulatory system for road vehicles and that consideration should be given to seek a permanent exemption. The draft RIS was circulated to all Australian stakeholders seeking their views. All those consulted agreed with the permanent exemption proposal.

6. Extension of the MRA and TTMRA to apply to the use of goods

All road vehicles before they can be used on public roads must be registered. For most vehicle categories this is not a problem where all Parties agree on the safety, emission etc requirements that are applicable. As discussed above, all Australian States and Territories have endorsed requirements for road vehicles operating in Australia. Vehicles permitted to be used on public roads in New Zealand would not be granted registration in Australia because they do not necessarily meet the ADRs and would not be fitted with plates confirming compliance. Likewise, certain vehicles that are permitted on Australian roads would not be allowed in New Zealand; this particularly applies to heavy vehicles where there are dimension restrictions in New Zealand that do not apply in Australia.

Within Australia, certain States do apply additional requirements for certain heavy vehicles over and above that specified in the ADRs. An example is the requirement in certain States for B-Doubles to be fitted with spray suppression devices and anti lock brakes.

7. Mutual recognition of aviation-related (safety) certification

In relation to air transport, the Department and CASA are currently implementing the Government's policy for the mutual recognition of aviation-related (safety) certification between Australia and New Zealand. Mutual

recognition of aviation-related certificates will permit an aircraft operator to carry out an aviation activity in either Australia or New Zealand, whether international or domestic, passenger or cargo, based on an Air Operator's Certificate (AOC) issued by the regulator of their home country. This is because it has been established that while some systems and processes may vary, Australia and New Zealand share equivalent aviation safety standards. The relevant aviation safety regulatory authorities for mutual recognition are the Civil Aviation Authority of New Zealand (CAANZ) and, in Australia, the Civil Aviation Safety Authority (CASA).

The principle underlying mutual recognition for air transport is the same as the principle behind the *Trans-Tasman Mutual Recognition Act 1997* and the *Mutual Recognition Act 1992*. The Australian and New Zealand Governments reaffirmed their commitment to adopt mutual recognition of aviation-related certification in a Memorandum of Understanding dated 20 November 2000 made in conjunction with the new 'Open Skies' Air Services Agreement between our two countries. The target date for achieving mutual recognition in this context is December 2003 and legislation will be introduced to Parliament in the Winter session.

The Australian Minister for Transport and Regional Services and the New Zealand Minister of Transport signed the Air Services Agreement on 8 August 2002. The Agreement is intended to promote competition and closer economic relations between the two countries and to build upon the principles contained in the 1996 Australia-New Zealand Single Aviation Market (SAM) Arrangements, while ensuring the highest degree of safety and security in air transport.

In March 2002, Australian and New Zealand Ministers for Transport agreed to implement the 'highest from' of mutual recognition, namely *that an operator that is the holder of an air operator certificate (AOC), and other associated certificates and permissions, issued in one country will not be required to hold an AOC, or other certificate or permission, to conduct air transport operations in that country.*

Mutual recognition will be introduced in a phased approach. AOCs held by eligible operators will be the first aviation-related safety certificates to be mutually recognised. Consideration will then be given to including other certificates not already covered by other recognition arrangements. Ministers have also agreed that the first priority should be acceptance of AOCs for operations involving aircraft with more than 30 seats or equivalent (15,000 kg maximum take-off weight).

In the case of air transport policy formulation, the implications for mutual recognition were considered at the time the Air Services Agreement was being negotiated with New Zealand.