EMA
NORTHERN

SUBMISSION

by

EMPLOYERS AND MANUFACTURERS' ASSOCIATION (N) INC.

to the

Australian Productivity Commission

on

Trans-Tasman Mutual Recognition

28 March 2003
Private Bag 92-066
Auckland 1030
Ph: 09-3670913
Fax: 09-3670914

Review of TTMRA
Submission by Employers and Manufacturers Association (N)

28 March 2003

1. BACKGROUND

This submission is made by the Employers and Manufacturers Association (N) Inc. (EMA) The EMA is made up of approximately 7000 member companies covering New Zealand region north of Taupo. This membership includes approximately 1600 manufacturers ranging from large to SME.

Within our membership there are a significant number of companies involved in the manufacture supply, distribution and use of products on a Trans-Tasman basis

The EMA includes in its advocacy role a keen interest in trade (export and domestic issues) and that of compliance costs for our members both within the New Zealand market and under international agreements such as the TTMRA and CER.
The EMA has focused its submission on more general issues noting that specific issues will have been raised by industry sector trade associations or member companies that hold an in depth understanding related to their sector products.

2. CONTACT

For further contact in relation to this submission:

Garth Wyllie
Executive Officer
Employers and Manufacturers (N)
Private Bag 92-066
Auckland

Telephone: 09-3670913
Direct: 09-3670935
E-mail: garth.wyllie@ema.co.nz
Web: www.ema.co.nz

3. SUMMARY COMMENT

As the leading voice of business for in region, the EMA has been party to talks on CER and, through its involvement with Trade Associations, has been active in the TTMRA.

We believe the work done in Standards harmonisation and recognition has generally been within the targets set under the TTMRA but there are shortfalls.

Labour market mobility for trades and professionals is generally considered well advanced with and with a high level of mutual recognition in place though there are areas that need to be fully addressed, we believe that work underway will achieve these aims.

Trade in goods are where our greatest concerns lie: the term goods includes agricultural, horticultural and aquaculture products.
We continue to see exemptions and exclusions in a range of these areas and they need to be addressed.

In manufactured goods ongoing issues with Hazardous Substances, Therapeutic products, MEPS and Gas Appliances are areas where work must be done.

The EMA is keen to see an expanded coverage of the TTMRA to include business and company law, in particular to harmonisation between the Australian States for the benefit of both New Zealand and Australian business.

EMA would like to see the expansion of the TTMRA coverage to include the use of goods in addition to the trade in goods.

The EMA believes there is merit in considering a TTMRA watchdog group to monitor, arbitrate and initiate for a limited timeframe.

4. SUBMISSION

Objectives

The EMA is pleased with progress on most of key objectives for the TTMRA. For others proposals are in place to address them.

We are keen to see several special exemption areas addressed as these tend to be the issues raised on a regular basis by our membership as barriers to trade.

Standards
A range of Joint Standards has been negotiated between the two countries standards organisations and largely involved industry as part of the consultation.
Outcomes have generally been satisfactory in achieving the aim of delivering joint standards.

The exceptions to this are where exemptions or exclusions are applied for specific states, or for one country and not the other. For example no acceptance of a Joint Standard has been possible for gas appliances.
On the other hand for roofing and a number of building related areas, we accept that geography such as weather patterns may require different standards.

One Standard where alignment has not worked has been in the Minimum Energy Performance Standards. We suggest this is misunderstanding of officials on the outcomes.

Labour, Trades and Professional Recognition
In core trades such as plumber/gasfitter, electrician, building, there has been a high acceptance of recognition by the respective industries. Some cases the unit standards used for training are identical. These sectors represent a highly successful part of the TTMRA although considerable work had been underway prior to the agreement.

The professions tend to have transportability and mobility between the two countries and are now well reflected with job ads being run simultaneously in both countries for a number of positions. This is particularly so in the higher skill and senior management roles.

General labour has a tradition of net movement to Australia, though this is not entirely one sided with some Kiwis returning after a number of years and some Australians choosing to live in New Zealand. The EMA is generally comfortable with the current levels of movement.

Products/Goods

This area is where the least progress has been made on TTMRA. A range of exemptions and exclusions for products are applied.
Mostly this deficit appears against products going to Australia. Examples include:

- Salmon
- Apples
- Meat Pies
- Therapeutic Products
- Gas Appliances

Other regulatory hurdles perceived as non tariff barriers include:

- State applied electrical differences
- State applied Health regulations for Gas Appliances
- Preferential treatment of Australian suppliers to State Governments
- Application of stringent AQIS rules and costs though New Zealand exports are clearly demonstrated to be as the lowest risk of any imported products into Australia

Barriers posed either by exclusion or regulation appear to have the tacit support of Australian manufacturers but not industries overall.

It is our perception that such barriers do not assist those manufacturers in being efficient and ultimately internationally competitive.

Food Products and ANZFA

Food products deserve specific mention. They're often held up as a model of good mutual recognition. The high level of exceptions including those above and differing rules in particular states makes the export of some food products to Australia difficult.
However there are virtually no restrictions on Australian products entering the New Zealand market under the former ANZFA (now called the New Zealand Food Safety Authority)
While there are some fumigation requirements for products such as Queensland tomatoes this is no different to the requirements for the same products entering other states.

EMA is keen to address the anomalies in food, particularly those unable to enter Australia for dubious reasons.

IMPLEMENTATION ISSUES

Implementation has tended to occur somewhat on an ad hoc basis.

Key areas where exemptions are applied such as Therapeutics and Hazardous Substances are subject to discussions on how to bring them under the TTMRA.

We would be deeply concerned if they were permanently exempted as a continuing disparity in labelling, packaging, handling, transport and advertising them would result.

EMA is equally concerned at the impact these areas have while they remain exempted in both directions over the Tasman due to the barriers and costs that each imposes.

We have noted that the negotiations over the MEPS (Minimum Energy Performance Standards) for Electric Water heaters and Fluorescent lighting ballasts was particularly poor resulting in the urgent initiation of a temporary exemption by New Zealand.
EMA's comments under Standards apply particularly to this situation.

EXEMPTIONS AND EXCLUSIONS TO MUTUAL RECOGNITION

In general there should be no need for exemptions or exclusions to mutual recognition. The only issue is bio security for both countries which is an issue which should be dealt with on a case by case basis.

We do not however accept that bio-security should be used to block agriculture, horticulture or aqua-culture products if those products are proven not to be a hazard, and/or adequate measures are in place to ensure no risk to either country exists.
We have cited above some specific foods products that have been blocked.

Temporary exemptions have been used to allow for alignment for MEPS and special exemptions for Therapeutic Products, Hazardous Substances and Gas Appliances exist.
These should either have a mutual recognition or Harmonisation in place either in part or in full.

Medicines which form a large part of therapeutic products could immediately be given Mutual Recognition since the Therapeutic Goods Authority already accepts Good Manufacturing Practice Auditing by New Zealand Authorities and the regimes in both countries are rigorous in process before allowing approval. Harmonisation has been the aim of these procedures but a first step may be Mutual Recognition.

There's no good reason for Gas Appliances to be exempted from mutual recognition though we recognise harmonisation is a greater task given the variety of differing regimes in the Australian States.

MEPS is an area where harmonisation should have occurred in the first instance. It will now take significantly longer to align. However we believe this should still be a target.

Hazardous Substances is an area where New Zealand has significantly "stronger" legislation and regulation than Australia. It would be logical for the New Zealand regime to commence mutual recognition by accepting those substances registered under NICNAS as approved for New Zealand and requiring the same controls.
This would require law change in New Zealand.
A second stage towards harmonisation is unacceptable to EMA as it would see the ERMA model extended to Australia creating an excessive regulatory burden.

We would be keen to see a new lighter regime covering the trans-tasman jurisdiction encompassing the NICNAS and EMRA operations for Hazardous Substances with the removal of the New Organisms component which is a bio-security issue.

SCOPE OF MUTUAL RECOGNITION

EMA is keen to expand the scope of the TTMRA to encompass harmonisation of trading laws such as Fair Trading, Commerce Act, Consumer Guarantees and Companies Act. Providing common trading conditions will both facilitate growth for companies on both sides of the Tasman by placing all operations on a similar footing.
Such harmonisation would remove the need for business to identify the different rules and the need to understand the other countries market legislation before selling in it.

Legislative change is needed in both countries to achieve this and an acceptance by the States that differing trading laws creates problems for both domestic Australian and New Zealand companies.

The EMA would also promote the expansion of the TTMRA to cover the use of goods which we would see as covering such areas as building codes and materials and/or goods that may be used and the circumstances where they would be used.

MUTUAL RECOGNITION AND POLICY FORMULATION

The EMA advocates that new regulations should be tested against mutual recognition in either country to ensure that proposals will be consistent and not impose trade barriers between New Zealand and Australia.

Such an approach would require all regulatory authorities on both sides of the Tasman to proactively engage with industry and their regulatory counterparts to ensure this does happen.

When industry is engaged proactively, final regulations produce not only more functional and business friendly regulations, but wider acceptance by business of the need for them.

IMPROVING EFFECTIVENESS

EMA's recommendation is that a Joint Watch Dog group be established by both the New Zealand and Australian Government to monitor the development of the TTMRA and that this group becomes responsible for identifying new areas for the TTMRA to address while acting meanwhile as an arbitrator for the agreement

We envisage this group's duration would be prescribed to achieve set objectives under the TTMRA.