15 April 2003

Mr Tony Hinton
Commissioner
Productivity Commission
PO Box 80
BELCONNEN ACT 2617

Dear Mr Hinton

Mutual Recognition

I refer to the review by the Productivity Commission of arrangements for Mutual Recognition, both within Australia and between Australia and New Zealand.

I have circulated the terms of reference to all environmental protection agencies in Australia (ie members of NEPC). Those agencies that have responded have indicated that their views will be incorporated into the submission to the Productivity Commission made by their own government.

Our meeting on 19 March 2003 at the NEPC Service Corporation teased out the principal issues of concern within the environmental protection context as they affect the National Environment Protection Council (NEPC). The objects of the NEPC, as outlined in its enabling legislation (the *National Environment Protection Council Act* (Cwth), and equivalent Acts of the States and Territories), are to ensure that:

(a) "People enjoy the benefit of equivalent protection from air, water or soil pollution and from noise, wherever they live in Australia; and
(b) Decisions of the business community are not distorted, and markets are not fragmented, by variations between participating jurisdictions in relation to the adoption or implementation of major environment protection measures." (section 3, NEPC Act (Cwth))

Hence the role of the NEPC is to develop harmonised approaches to environmental protection across Australia. This is compatible with, although different from, the concept of mutual recognition. Nevertheless, mutual recognition is important in the NEPC context, as illustrated in the development (and implementation by jurisdictions) of National Environment Protection Measures (NEPMs). Thus, the NEPM for the Movement of Controlled Wastes Between States and Territories inherently assumes mutual recognition of

(truck) drivers' licences between jurisdictions, as well as recognition of operational facility licences issued by EPAs for waste management or treatment facilities in jurisdictions receiving hazardous wastes by the EPA in the jurisdiction of origin of the wastes.

Within Australia, mutual recognition has an impact on national markets for appliances that may have an environmental impact – for example noise (eg motor vehicles, air conditioners, jet skis) and air quality (eg wood heaters). The NEPC is empowered under its legislation to set national standards for noise emitting equipment where national markets exist, but has not done so to date. States have ambient noise guidelines or standards which are used to govern community noise issues and associated amenity values.

Environmental standards for motor vehicles (for both exhaust emissions and noise emissions) are adequately dealt with through standard setting in Australian Design Rules made under the *Motor Vehicle Standards Act* (Cwth) and in some cases by model regulations developed by the National Road Transport Commission and enacted by the States and Territories. The NEPC has significant input into the development of these instruments, through the joint Motor Vehicle Environment Committee, which was established because of complementary consultation requirements specified in the NEPC Act and the *National Road Transport Commission Act* (Cwth).

The impact of wood heater emissions on urban air quality is of major concern to States and to the NEPC. There is in place an Australian Standard for the design of environmentally appropriate heaters. It is unclear whether all wood heater manufacturers/importers supply equipment that meets the Australian Standard but some State EPAs have expressed concern that mutual recognition means that inferior wood heaters could be imported into their respective States.

With regard the Trans Tasman Mutual Recognition Agreement (TTMRA), the import of motor vehicles into Australia is of concern. Australia has set environmentally based exhaust emission standards for motor vehicles in recent years through Australian Design Rules. It is understood that New Zealand has no domestic vehicle construction capacity and that all vehicles in New Zealand are imported. It is further understood that New Zealand does not have its own vehicle emission standards, and has adopted a policy whereby so long as vehicles meet the emission standards applicable in the country(ies) of origin, then the vehicle may be imported into New Zealand. Under the TTMRA such vehicles could be re-exported to Australia and would not have to meet the standards specified in the Australian Design Rules.

It is understood that an annual exemption from TTRMA has been sought by the Commonwealth Government in the past, and consideration is being given to a permanent exemption. This course of action would be in keeping with the need for all new vehicles in Australia to meet Australian emission standards.

I trust that these comments are pertinent to your review.

Yours sincerely

Bruce Kennedy
Executive Officer