NATIONAL ROAD TRANSPORT COMMISSION

SUBMISSION

by the

NATIONAL ROAD TRANSPORT COMMISSION

to the

AUSTRALIAN PRODUCTIVITY COMMISSION

Review of the

Mutual Recognition Agreement

and the

Trans Tasman Mutual Recognition Arrangement

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Executive Summary

The Productivity Commission has sought advice regarding its review of the Mutual Recognition Agreement between all Australian States and Territories which came into operation in 1993, and the Trans Tasman Mutual Recognition Arrangement between Australia and New Zealand which came into operation in 1998.

The National Road Transport Commission is a reform agency established to improve the efficiency, safety, and environmental effects of road transport by introducing nationally uniform or consistent transport policies and laws.

This submission sets out the National Road Transport Commission's experiences in transport reform, and areas where these Agreements have been of assistance, and areas where they have not been successful.

Since it was established in 1992, the NRTC has developed national policies for most areas of road transport law. Our approach involves rigorous analysis, transparency, broad consultation, and scrutiny through the regulatory impact process. The NRTC works in close partnership with the road freight and passenger sectors, governments, transport agencies, police, motoring and other organizations to identify and develop practical reforms.

The preferred means of achieving the free flow of road transport throughout Australia has been to seek to achieve national consistency in the laws, regulations, and administrative practices applied by all States and Territories.

Mutual recognition plays a vital role in many areas of transport. By its very nature, road transport could not function without mutual recognition of a wide range of approvals, licences and processes.

Nevertheless there are a number of areas in road transport where there are differences between jurisdictions that are not currently being addressed adequately by mutual recognition. These generally occur where there are significant differences in practices or procedures between jurisdictions.

The submission presents a case study which outlines where the *Mutual Recognition Act* was useful in resolving interstate differences with bus and coach driver authorisations. In contrast, the *Mutual Recognition Act* was not able to resolve differences between States and Territories for operator accreditation because the Act does not apply to these issues.

The submission points to a range of areas of rail reform where broadening the application of mutual recognition would have a significant effect on transport efficiency.

Legislation underpinning the mutual recognition of operator accreditation could be a significant driver in removing unwarranted inconsistencies between jurisdictional regulatory frameworks.

The NRTC proposes retention of the current provisions relating to product standards and occupations, and the extension of the Mutual Recognition Agreement to cover accreditation arrangements.

The *Trans Tasman Mutual Recognition Arrangement* (TTMRA) provides for a development program for Trans Tasman road vehicle standards to facilitate free trade of vehicles between Australia and New Zealand. The NRTC has played an important role in the development of these standards in conjunction with the Commonwealth Department of Transport and Regional Services (DoTARS).

The NRTC legislation was amended in the *National Road Transport Commission (Amendment) Act 1998* to provide for this process. Although there have been a number of vacancies since 1998, the New Zealand Government has not made a nomination for a New Zealand Commissioner.

The NRTC (and DoTARS) have fulfilled the obligations for the development program set out in Annex 4 to the TTMRA. Since 1998 some 26 Trans Tasman Vehicle Standards have now been endorsed by the Australian Transport Council, the most recent in January 2003. The NRTC understands that **none of these has yet been considered by COAG as set out in the TTMRA**.

Since the establishment of TTMRA , both Australia and New Zealand have become contracting parties to the *United Nations Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment, and Parts, and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions,* known as the 1958 UN Agreement.

The principal purposes for this UN Agreement are to provide a forum for contracting parties to develop and agree on international standards, and to provide a framework for the mutual recognition of new vehicle type approvals.

Given that both Australia and New Zealand have acceded to the UN Agreement, and given also the apparent lack of interest in Trans Tasman Vehicle Standards, particularly by New Zealand, it is reasonable to question whether the development program set out in Annex 4 to the TTMRA should be continued.

The NRTC considers that rather than continue with current arrangements, it would be far more productive to reflect the change in circumstances, and pursue mutual recognition between Australia and New Zealand through the provisions of the 1958 UN Agreement.

Following the recent review of the NRTC (*the Second Review*) the functions of the NRTC are to be broadened to form a new National Transport Commission which will cover road, rail, and intermodal transport. The Intergovernmental Agreement has been revised, and the draft *National Transport Commission Bill* is currently being considered by the Commonwealth Parliament.

Recognising the change in circumstances brought about by the 1958 UN Agreement, the draft *Bill* no longer contains any reference to the *Trans Tasman Mutual Recognition Arrangement* or Trans Tasman Vehicle Standards.

Recommendations

NRTC recommends that the current provisions of the *Mutual Recognition Act 1992* relating the mutual recognition of product standards and occupations be retained.

NRTC recommends that the Productivity Commission give consideration to broadening the powers of the *Mutual Recognition Act 1992* to include mutual recognition of issues such as accreditation approvals and processes relating to the capacity for a business or individual to carry out activities. Mutual recognition would apply only in areas where national standards have not been developed.

Our experience indicates that the *Mutual Recognition Act 1992* appears to be poorly understood by both industry and officers within State and Territory administrations. **NRTC recommends** that your review give consideration towards an information program targeted at these groups.

NRTC notes that some 26 Trans Tasman Vehicle Standards have been processed by the NRTC and the Australian Transport Council since 1998, and that **none** have yet been considered by COAG as set out in the *Trans Tasman Mutual Recognition Arrangement*.

NRTC recommends that the cooperation program set out in Annex 4 to the TTMRA be discontinued, and that the TTMRA be amended so that Australia and New Zealand pursue mutual recognition of vehicle standards and type approvals though the United Nations 1958 Agreement.

Introduction

The National Road Transport Commission

The National Road Transport Commission (NRTC) was established under the *National Road Transport Commission Act 1991* following an inter-governmental agreement between all Premiers, the Prime Minister, and Chief Ministers of the Australian Capital Territory and the Northern Territory. The Commission's role is to overcome barriers to more efficient road transport by introducing nationally uniform or consistent transport policies and laws.

The Act (and the Agreements embodied within it) set out the role of the Commission and its responsibilities, the responsibilities of the governments that are party to the Agreements, processes to be followed by the Commission in preparing reforms and conducting its responsibilities, as well as processes to be followed by the governments involved.

In 1997 the NRTC's Act was extended for a second six year term. The revised *National Road Transport Commission (Amendment) Act 1998* sets out fourteen principles for the NRTC. These can be summarised as:

- make road transport and road use more innovative, efficient and safe;
- introduce greater national transport uniformity and consistency;
- reduce the environmental costs of road transport; and
- reduce the costs of administration of road transport.

The NRTC comprises six Commissioners, who report directly to the Australian Transport Council, the council of all Australian Transport Ministers. The NRTC's annual budget is approximately $3.57 million. All governments contribute to the funding of the NRTC.

The tasks before the NRTC were seen as significant because:

- improving the safe operation of vehicles makes driving safer and easier and reduces Australia's road toll;
- nearly everything we use is transported by road at some stage in its journey, with savings in transport costs passing down the distribution chain to benefit us as consumers;
- improving the efficiency of road transport lowers costs for key industries, boosting national and State economies, international competitiveness and jobs;
- making bus transport more efficient encourages more people to leave their cars at home, reducing congestion and pollution in our cities; and
- reducing vehicle emissions and noise makes our air cleaner, reduces related health problems and achieves quieter neighbourhoods near busy roads.

Outcomes and Principles

The Commission's **aim** is to contribute to the development of a transport system that meets Australia's growing land transport needs.

It will achieve this aim by developing and facilitating implementation of uniform or nationally consistent regulatory and operational reform for road, rail and inter-modal transport.

National transport reform outcomes will be sought in developing the Commission's strategy.

The national regulatory reform effort should:

1. Promote integrated systems that provide efficient movement of people, goods and associated information flows within and between modes.
2. Build efficiency along the whole transport chain.
3. Enhance safety, security and environmental performance taking into account best practice risk management and community expectations.
4. Drive innovation to improve productivity and compliance.

*To achieve these outcomes it will be necessary to apply certain **principles**:*

1. Ensure transparency of reforms through consultation and analysis of all costs and benefits, including social costs.
2. Develop and ensure uniform application of national policies and reforms to achieve the most efficient outcome, for the transport system as a whole.
3. Develop and ensure implementation of national transport reforms in a sustained national effort, reflecting an agreed national approach, and recognising both the global environment and remote and regional impacts.
4. Harmonise reforms with international standards wherever appropriate.
5. Ensure that the direction and timing of regulatory reform and infrastructure investment are complementary.
6. Facilitate the development and application of seamless administration of regulations across jurisdictions.

What the NRTC Has Done

Since it was formally established in 1992, the NRTC has developed national policies and laws for the following road transport reforms:

- Improved safety:
  - national road rules;
  - national standards for all vehicles in operation;

  - a national driver licensing scheme, including common licence classes and a demerit points system;
  - improved bus safety standards;
  - a national policy to combat speeding trucks and buses;
  - "chain of responsibility" laws to make others in the transport chain legally liable;
  - nationally consistent truck and bus driving hours laws;
  - reforms to the safe and efficient transport of dangerous goods;
  - alternative compliance schemes for heavy vehicles covering loading, vehicle maintenance and driver fatigue;
  - a national truck loading code;
  - medical standards for commercial vehicle drivers.

- Improved transport efficiency:
  - a uniform towing limit for cars, utes and vans;
  - a national vehicle registration scheme;
  - uniform heavy vehicle weight limits based on 45.5 tonne semi-trailers with road-friendly suspensions;
  - standards for longer semi-trailers and road trains, and 25 metre B-doubles;
  - uniform heavy vehicle registration charges that reflect the costs of road provision and maintenance and an agreed procedure for automatic annual updates.

- Optimised use of road infrastructure:
  - the NRTC mass limits review applied international research into road vehicle interaction to increase the mass limits of heavy vehicles having state of the art “road friendly” suspensions.

- Reduced environmental impact:
  - tighter vehicle emission standards; and
  - new cleaner fuel standards with lower sulphur content.

Additional reforms are currently in progress to provide internationally cutting–edge improvements on issues that are priorities for reform in the road transport sector. They include:

- a comprehensive review of heavy vehicle driver fatigue and safety;
- reforms to the safety and efficiency of heavy vehicles and industry sectors;
- tighter noise standards for new vehicles, and reduced noise and emissions from heavy vehicles in operation, including lower engine brake noise;
- a comprehensive approach to heavy vehicle compliance and enforcement, including tougher national laws for truck overloading, exceeding dimensions and poor load restraint; and
- a performance-based approach for regulating heavy vehicles.

Transition to the National Transport Commission

Following the recent review of the NRTC (*the Second Review*), the functions of the NRTC are to be broadened to form a new National Transport Commission which will

cover road, rail, and intermodal transport. The Intergovernmental Agreement has been revised, and the draft *National Transport Commission Bill* is currently being considered by the Commonwealth Parliament.

How the NRTC Operates

The NRTC works in close partnership with the road freight and passenger sectors, governments, transport agencies, police, motoring and other organisations to identify and develop practical reforms.

The process adopted by the NRTC is very open and highly consultative. All issues are subject to rigorous analysis, and any proposals are developed with the best contemporary regulatory reform principles and Regulatory Impact Statements.

Voting Arrangements

All of the outputs of the NRTC are put forward as recommendations to a council of Australia's Transport and Roads Ministers. The Commonwealth, each State and both Territories are represented on the Australian Transport Council (ATC). Each of the nine jurisdictions has one vote, and if approved by a majority, all governments are expected to implement the proposal.

The NRTC considers that this step of formal voting by Ministers through majority decision-making (rather than the consensus basis of some other inter-governmental arrangements) is particularly important for the achievement of road transport reform in the Federal system. Without a formal decision, there is little chance to make a difference across the nation to the way in which transport operates. The majority decision-making rule is also important, generally providing a means of eliminating the danger of reforms being subject to jurisdictional 'veto', by preventing a single jurisdiction from obstructing the achievement of national outcomes.

This has proven to be a useful approach, building greater ownership of Ministers and agencies of the work of the Commission. It also ensures commitment to the directions taken in reforms across all jurisdictions. This is essential if reforms are to be implemented nationally and make a real difference on the ground.

Delivery Mechanisms

The NRTC's outputs are put in place by individual jurisdictions, usually by the State and Territory road authorities. In some cases they also impact on the Federal Interstate Registration Scheme, or the Commonwealth uses this scheme to assist in implementing reforms. In other cases the reforms impact on other portfolios, such as environment, workplace safety or other agencies.

The major delivery mechanism remains national legislation, however this can take the form of template legislation model legislation or, occasionally, drafting guidelines. Other delivery mechanisms include statements of policies and implementation tools. Implementation tools might take the form of guidelines, codes, business rules or training and education packages.

In a number of areas there are interjurisdictional consultative arrangements to assist implementation. Examples are the Australian Motor Vehicle Certification Board and the dangerous goods Competent Authorities Committee. These resolve detailed implementation issues, and agree upon exemptions etc on a unified national basis. These have been successful where the rigidities of the codes or standards do not reflect developing practice. These processes have been of great assistance to industry.

Legislative and Policy Processes

Template Laws

The original national reform model laid down by the Heavy and Light Vehicles Agreements was one of legislation being developed by the Commission, enacted by the Commonwealth on behalf of the Australian Capital Territory (known as the 'host jurisdiction'), then used in all other jurisdictions as a template for their own laws.

This approach was, in theory at least, a sensible and straightforward means to acquire uniform road transport legislation throughout Australia.

The initial approach was to develop one template legislative instrument to incorporate all areas of the national road transport law. However, by the mid-1990s the Commission began to experience significant difficulties with developing laws using the template model.

Some of these problems were technical and practical. The national road transport law covers a range of technical and legal subject matter, and the task of manipulating this within a single legislative instrument was not straightforward. The template model can only operate effectively when the template laws are introduced in *all* jurisdictions without local amendments or delays; however, each of the jurisdictions is subject to its own legislative and parliamentary timetables.

As well, jurisdiction-specific modifications to the template might be necessary to overcome local obstacles to its implementation. Working with nine different jurisdictions entailed nine different introduction times for each template law, as well as up to nine different sets of local amendments. These technical and practical problems were inconvenient, but not insurmountable.

Of much more significance however, were the difficulties with the template model that the Commission encountered in attempting to resolve the very real and extremely complex regional, operational, institutional and legal differences of the States and Territories in their approach to road transport regulation, coupled with increasing problems for the Australian Capital Territory as the host jurisdiction to the national road transport template law.

One of the Commission's first strategies was to seek Ministerial approval to abandon the pursuit of the whole national road transport law within a single legislative instrument, and instead, to use the modular approach, effectively carving the road transport law up into six stand alone, 'bite-sized' regulatory chunks.

The modular approach to the development of the national road transport law did result in the successful production of a number of template legislative instruments: most notably, in the areas of heavy vehicle charges and the transport of dangerous goods.

At the same time, the pursuit of template law was seen to be a slow, cumbersome and costly process that was frustrating the early achievement of real, 'on the ground' safety, productivity and efficiency reforms and that was leading to widespread disaffection with the goal of national conformity.

By late 1996, the level of general dissatisfaction with template law was such that the Independent Committee, set up under the *National Road Transport Commission Act 1991* to review the Commission (*the First Review*), recommended that the Commission's charter be broadened to enable delivery of reforms through non-legislative means (such as through national policies and practices).

As well, the Committee recommended that where legislation is to be developed, template law should be the long-term goal; but the delivery of reforms should not be seriously delayed or made too expensive by the pursuit of a template program.

From these recommendations, the *National Road Transport Commission Act 1991*, including the Heavy Vehicles Agreement and the Light Vehicles Agreement, was amended in 1998[1] to enable jurisdictions to apply the national road transport law either by template or by implementing the substance of that law[2].

Alternative Approaches

By the time the Commission's charter was amended to give effect to the recommendations from the 1996 Review, the Commission had begun experimenting with delivering reforms by different methods, such as model legislation and policy principles.

The Commission has always been involved in the development of administrative guidelines. More recently, the Commission has expanded its delivery mechanisms to include guidelines, codes of practice, enforcement guidelines, and, in the area of training of enforcement officers, to national sets of training competencies and training support materials.

Current thinking favours future road transport legislative reforms being produced by model law, which jurisdictions would be able to reference or substantively implement. Reasons for this view are:

- the template approach has had only limited success;
- the model laws approach will not close off other delivery options, such as policy and including template, that might be used by the Commission in the right circumstances;

[1] *National Road Transport Commission (Amendment) Act 1998.*

[2] Note that the Australian Capital Territory refused to sign onto these new arrangements until its ability to legislate in non-template circumstances was made beyond doubt, and, where template was to be used, that the legislation was functional to the Australian Capital Territory.

- instead of compelling jurisdictions to adopt every word of a legislative document, which is the hallmark of a template system, jurisdictions are encouraged to contribute to the development, approval and implementation of a legislative document which is developed as a model to guide them in implementing agreed national policy locally;
- access to the model legislation will be improved by providing a distinct home in a separate Commonwealth Act;
- policy changes over time can simply be reflected in amendments to the model laws – there is not the additional practical difficulty associated with developing, and obtaining agreement on, amendments (and consequential amendments) to 'real' legislation to give effect to those policy changes;
- the Australian Capital Territory is put on exactly the same footing and status as the States and the Northern Territory;
- the Commission will retain access to Commonwealth legislative drafting; and this model still affords scope down the track to integrate much of the model law and to tackle a number of the internal inconsistencies across products already delivered.

Mutual Recognition

General Perspective

As set out in the preceding section, the principal approach adopted by the NRTC in the reform process has been to achieve consistent national road transport laws, standards, regulations, business rules, and administrative practices through the development nationally agreed approaches, template law, model legislation and policy principles. These are subject to a vote by transport Ministers from all jurisdictions at the Australian Transport Council using the NRTC voting process (two thirds disallowance).

When measures are endorsed by the Council, all governments have an obligation under the Intergovernmental Agreements to adopt them into their road transport law within a reasonable time. In essence, the preferred means of achieving the free flow of road transport throughout Australia has been to seek to achieve national consistency.

This is not to say that mutual recognition between jurisdictions does not play an important role in the facilitation of interstate transport. Mutual recognition plays a vital role in many areas of transport. By its very nature, road transport could not function without mutual recognition of a wide range of approvals, licences and processes. Some examples of where mutual recognition is practiced (in some cases for many years) are listed below:

- Driver licensing
- Demerit points
- Licence cancellation and driver disqualification
- Vehicle registration
- Roadworthiness inspection certificates (between some jurisdictions)
- Vehicle defects notices and clearances

- Heavy vehicle driver logbooks
- Dangerous goods approvals
- Medical examination of drivers.

Nevertheless there are a number of areas in road transport where there are differences between jurisdictions which are not currently being addressed adequately by mutual recognition. These generally occur where there are significant differences in practices or procedures between jurisdictions.

There are now substantially nationally uniform vehicle standards through the Australian Design Rules (which apply nationally to *new vehicles*) and the NRTC Vehicle Standards Rules (which are applied by States and Territories to vehicles *in service*). Although roadworthiness inspections and certificates are recognised between some jurisdictions, they are not between others due to perceptions of differences in stringency and practice.

Another area where there are differences is for bus and coach driver authorisation, and coach operator accreditation. The NRTC has been working with Austroads, the bus and coach industry, and jurisdictions to address these issues. Because of the relevance of this work to the Productivity Commission review, this is set out as a case study.

Rail Safety Accreditation

In January 2003, the Chair of the Australian Transport Council formally advised the Chair of the NRTC of the decision of Heads of Government to endorse the recommendations of the 2002 review of the *National Road Transport Commission Act 1991* (*the Second Review*). The review recommended the broadening of the role of the NRTC to a National Transport Commission to address road, rail and inter-modal transport. ATC has approved that the NRTC begin its functions in rail and inter-modal issues effective 1 July 2003.

Consultations with key stakeholders within the rail industry have identified the mutual recognition of jurisdictional accreditation of rail safety systems as the priority reform issue for the rail industry. Action on this issue is being undertaken as a lead project in the NRTC 2003-04 work program.

Accreditation requirements for track owners and train operators operating in more than one jurisdiction are complicated by separate and differing State accreditation regimes. While some issues of duplication of effort have been addressed through informal mutual recognition arrangements operating between States, the effectiveness of mutual recognition is blunted by state-based administration and often complex local requirements, sometimes of little relevance to the operations of the accreditation seeker. This situation represents a barrier to new entry and innovation by interstate operators and also by operators wishing to operate on both interstate and intrastate networks within some individual States. Existing fragmented accreditation arrangements and the costs they impose is one of the key concerns of industry.

Rail operators carrying on business in two or more States or Territories must obtain separate accreditation in each jurisdiction. Moreover, even where uniform accreditation requirements are accepted by all regulators and operators, they are

supplemented with prescriptive state-based requirements and procedures based on differing local infrastructure and operating rules.

Legislation underpinning the mutual recognition of operator accreditation could be a significant driver in removing unwarranted inconsistencies between jurisdictional regulatory frameworks. Industry is of the view that removal of these inconsistencies will bring about substantial efficiency gains without compromising safety outcomes.

Case Study: Bus & Coach Driver Authorisation and Operator Accreditation

The Australian Bus and Coach Association (now known as the Bus Industry Confederation) approached the NRTC in 1998 seeking assistance to obtain mutual recognition between States and Territories of bus and coach driver authorisations, and coach operator accreditation. They advised that different practices and lack of mutual recognition was having an impact on their interstate operations, and inhibited their capacity to move drivers quickly to different locations to meet seasonal changes in demand. Separate issues are raised by each issue.

Although driver licences have been mutually recognised between States and Territories for many years, bus and coach drivers are expected to have a range of other attributes before they are authorised to carry passengers. These are set out in the various authorisation requirements applied by Queensland, Northern Territory, Tasmania, New South Wales, ACT and South Australia. The requirements vary, but they include:

- Good repute
- Capacity to operate the relevant bus or coach safely
- Knowledge of industry practices and standards
- Awareness of customer service responsibilities
- Conduct themselves appropriately
- Completion of specific training courses
- Medical fitness (there are national medical guidelines, but frequencies of examination vary)
- Some jurisdictions required drivers to hold a local driver licence before authorisations will be issued.

Most States and Territories require bus and coach operators to be accredited before they can carry out services. These also vary significantly between jurisdictions. The most comprehensive (NSW) lists some 24 criteria that an operator has to meet before they are accredited. These include:

- Financial viability
- Good repute
- Training and qualifications of management
- Vehicles to meet specified service standards
- Regularity and quality of services
- Customer and safety requirements.

Because of the large differences between requirements, States with what were perceived to be more stringent arrangements were reluctant to recognise accreditations issued by jurisdictions with fewer requirements.

NRTC and Austroads commissioned a project through the Austroads Road Use Management Program to investigate the issues, and to recommend a way forward. Under lead agency arrangements, this project was managed by the Tasmanian Department of Infrastructure, Energy, and Resources, and was carried out by Pearsons Transport Resource Centre. The report was completed in August 2000, and has been published as Austroads Report AP-R 183/00 "Mutual Recognition of Bus Drivers and Operators." A copy of the Executive Summary of the report is included as Attachment A.

Bus and coach driving was considered to be an equivalent occupation under the *Mutual Recognition Act 1992*, and therefore bus and coach drivers were entitled to use the *Mutual Recognition Act* to have their interstate qualifications recognised. At the time of the report there were a number of unresolved administrative issues (such as access to records under privacy requirements) which inhibited mutual recognition of driver authorisations. Since that time these have largely been resolved, and mutual recognition of bus and coach driver authorisations is now largely in place.

Legal opinion advised that the *Mutual Recognition Act 1992* does not apply to operator accreditation, and so there was no automatic right for interstate accreditation to be recognised. The report proposed a phased approach to bring the various systems more into line as a precursor to mutual recognition. The report recommended a set of core standards for bus and coach operator accreditation arrangements to be used to facilitate this transition.

While Austroads (which comprises all State and Territory transport agencies) has endorsed the approach recommended in the report, progress since that time has been slow. NRTC has been following this up with State agencies responsible for bus and coach accreditation, and a further project is now under way which will take the process forward.

Some State agencies, such as South Australia, have moved unilaterally to implement mutual recognition of operator accreditation, but there is still much to do before this occurs nationally.

Other areas where there continue to be some difficulties include differences between jurisdictions for permit arrangements for oversize and over mass vehicles carrying specialised freight. There are also differences in the way that enforcement of speed limiting and road train inspections are carried out. Pilot and escort arrangements are another example, where there is no mutual recognition of differing pilot and escort arrangements between States.

Lessons from the Case Study

The case study showed quite clearly the value of the *Mutual Recognition Act* in achieving mutual recognition of driver authorisations because requirements relating to

an occupation were involved. This issue is now resolved and arrangements are working effectively.

In contrast, mutual recognition of operator accreditation is still largely unresolved because of the perceived differences between jurisdictions, and because the *Mutual Recognition Act* does not apply. Resolving these differences needs careful consultation and negotiation, and a willingness by jurisdictions to vary their requirements, all of which takes time.

The NRTC considers that there would be merit in broadening the powers of the *Mutual Recognition Act 1992* to include mutual recognition of issues such as accreditation approvals and processes relating to the capacity for a business or individual to carry out activities. We recommend that the Productivity Commission give consideration to this as part of this review.

The NRTC considers that broadening the scope of mutual recognition would have benefits. However this should only apply in situations where national standards in approaches have been developed and endorsed by the national process. Where national standards have been endorsed, it would be inappropriate to recognise standards from jurisdictions who have chosen not to follow the national position.

A further observation would be that the *Mutual Recognition Act 1992* appears to be poorly understood by both industry and officers within State and Territory administrations. Although the Act has been in place since 1992, it would appear that many involved in administration were unaware of the implications of the mutual recognition of requirements for occupations until the NRTC/Austroads report was completed in 2000. Perhaps your review could also address this.

Trans Tasman Mutual Recognition Arrangement

The *Trans Tasman Mutual Recognition Arrangement* provides for a special (time limited) exemption from the mutual recognition arrangements for vehicle standards. Annex 4 to the TTMRA provides for a cooperation program between Australia and New Zealand to harmonise Australian and New Zealand vehicle standards with internationally harmonised United Nations – Economic Commission for Europe (UN ECE) standards, or other national or regional standards, and to develop consistent assessment and certification requirements in both countries. This body of internationally harmonised standards was intended to form the basis of a set of Trans Tasman road vehicle standards.

Annex 4 states the objective that all road vehicles certified as meeting these Trans Tasman road vehicle standards will be able to be freely traded between Australia and New Zealand.

NRTC Role in TTMRA Road Vehicle Standards

Annex 4 sets out institutional arrangements for developing and endorsing Trans Tasman road vehicle standards. Proposals for these standards are to be handled through the standards making processes set out in the *National Road Transport Commission Act 1991*.

In essence the steps involved in developing Trans Tasman road vehicle standards are:

- standards development by the Department of Transport and Regional Services in conjunction with the New Zealand Land Transport Safety Authority and NRTC staff;
- broad public and industry consultation;
- scrutiny through the regulatory impact assessment process;
- consideration by the NRTC Commission;
- submission by the Commission to the Australian Transport Council (which has adopted the role of the Ministerial Council for Road Transport referred to in Annex 4);
- endorsement by the Australian Transport Council;
- referral to the Council of Australian Governments for formal endorsement under the TTMRA.

The New Zealand Minister for Transport is a member of the Australian Transport Council and may vote on any proposed Trans Tasman road vehicle standard.

The NRTC is a policy body, and has no role in certification or vehicle type approval processes. These responsibilities are carried out by the Commonwealth Department of Transport and Regional Services (DoTARS).

TTMRA Referenced in the NRTC Act

In view of the key role of the NRTC process in the development and endorsement of Trans Tasman road vehicle standards, the *National Road Transport Commission Act 1991* was amended in 1998 to provide for both these standards, and roles for New Zealand in the decision making arrangements. Attachment B summarises the changes to both the legislation and the associated Agreements implemented in the *National Road Transport Commission (Amendment) Act 1998.*

The provisions include:

- development of Trans Tasman road vehicle standards;
- appointment of a New Zealand Commissioner to the NRTC to vote on TTMRA issues;
- voting by the NZ transport Minister on TTMRA issues on the Australian Transport Council;
- referral of Trans Tasman road vehicle standards to the Council of Australian Governments.

Although there is provision for a New Zealand Commissioner, and there have been a number of vacancies since 1998, the New Zealand Government has not made any nominations. The New Zealand Minister has voted on proposals for Trans Tasman road vehicle standards.

TTMRA Road Vehicle Standards Processed by NRTC/ATC

Since 1998 all proposals for new vehicle standards have been put forward as both Trans Tasman Vehicle Standards (to apply under the TTMRA), and as Australian

Design Rules for domestic Australian application under the *Motor Vehicle Standards Act 1989.* Both are identical.

Some 26 Trans Tasman Vehicle Standards have been endorsed by the Australian Transport Council, the most recent in January 2003. These are based upon international (UN ECE) standards as set out in Annex 4 to the TTMRA, and are listed in Attachment C.

The process set out in the TTMRA provides for these to be forwarded to the Council of Australian Governments for formal endorsement. After each vote by Australian Transport Council Ministers, the Chairman of the NRTC writes formally to the Commonwealth Minister to advise on the Council's decision, and to request that the relevant Trans Tasman Vehicle Standard be forwarded to COAG for consideration.

The NRTC understands that **none** of the 26 Trans Tasman Vehicle Standards processed since 1998 has yet been considered by COAG. We are not aware of the reasons for this, but it may be due to perceptions of a lack of interest on the part of New Zealand in the need for Trans Tasman Vehicle Standards.

Lessons from TTMRA

The NRTC (and DoTARS) have fulfilled the obligations for the development program set out in Annex 4 to the TTMRA. The policy of adopting international UN ECE standards and the regulatory impact process are a matter of course. The process of developing Trans Tasman Vehicle Standards involves no particular hardship, as the same processes and scrutiny are applied in any event. A large number of standards have been reviewed, and further proposals are in the pipeline.

It would seem reasonably clear from a reading of the TTMRA, particularly Annex 4, that heads of government had in mind that, after the development program, there would be free trade in vehicles that complied with Trans Tasman Vehicle Standards between Australia and New Zealand. Any reading of the current situation would indicate that this objective is a long way off.

It is apparent that Australia and New Zealand have adopted quite different approaches to vehicle standards.

- The approach in Australia is for a single set of standards based upon international UN ECE standards. These standards have been adopted by all of our trading partners other than the USA. There is a new vehicle type system administered by DoTARS based upon internationally recognised principles.
- New Zealand has adopted a "smorgasbord" approach to vehicle standards whereby they accept a range of standards including UN ECE, but do not have an effective system which is able to certify compliance to these standards.

The approach taken by New Zealand no doubt relates to their domestic situation where they do not have vehicle manufacturing industry of any scale, and they rely on substantial imports of second hand vehicles from overseas. Australia has a significant industry which is becoming increasingly competitive. Adoption of international UN ECE standards is a key element in Australia's capacity to export.

Given the apparent lack of interest in Trans Tasman Vehicle Standards, particularly by New Zealand, it is reasonable to question whether the development program set out in Annex 4 to the TTMRA should be continued.

Proposals for Future Trans Tasman Arrangements for Vehicle Standards

Since the establishment of TTMRA , both Australia and New Zealand have become contracting parties to the *United Nations Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment, and Parts, and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions*, known as the 1958 UN Agreement. The principal purposes for this Agreement is to provide a forum for contracting parties to develop and agree on international standards, and to provide a framework for the mutual recognition of new vehicle type approvals.

The standards developed through this Agreement (UN ECE) are endorsed by the United Nations and are the basis for international trade by most vehicle manufacturing countries, except the USA. The type approvals process is structured around mutual recognition by the contracting parties. The standards developed by UN ECE generally reflect international best practice in terms of safety, noise, and environmental protection.

The NRTC considers that rather than continue with the development program set out in Annex 4 of the TTMRA, it would be far more productive to reflect the change in circumstances, and pursue mutual recognition between Australia and New Zealand through the provisions of the 1958 UN Agreement. Rather than a narrow bilateral arrangement, the 1958 UN Agreement is an established international framework. Both Australia and New Zealand are contracting parties, and are supportive of UN ECE standards. Australia's interests would be much better served by gaining access to a wider range of markets.

This approach would provide mutual recognition through a genuinely international trading agreement which is mature, and is seen to be functioning well.

NRTC understands that this would involve Australia and New Zealand agreeing to a permanent exemption for road vehicle standards under the provisions of the TTMRA. This could be done in a way that supports the 1958 UN Agreement.

This would be far preferable to simply implementing mutual recognition under the TTMRA. There are significant differences in approach between the two countries. Contemporary approaches to commercial vehicle size, mass, and configuration is to match these characteristics to the roads environment through a process known as *Performance Based Standards*. In Australia, sizes and weights of heavy commercial vehicles are much larger than New Zealand due to differences in terrain and the roads system. NRTC could foresee significant difficulties if operators were free to supply and use these vehicles in New Zealand.

Equally New Zealand has a different "smorgasbord" approach to light vehicle standards which could lead to a lowering of safety and environmental standards in

Australia, and lead to industry policy difficulties if there was to free interchange on the basis of their current arrangements.

Following the recent review of the NRTC (*the Second Review*) the functions of the NRTC are to be broadened to form a new National Transport Commission which will cover road, rail, and intermodal transport. The Intergovernmental Agreement has been revised, and the draft *National Transport Commission Bill* is currently being considered by the Commonwealth Parliament.

Recognising the lack of interest by New Zealand in Trans Tasman Vehicle Standards, and the accession by both countries to the 1958 UN Agreement, the new Bill does not contain any reference to the Trans Tasman Mutual Recognition Arrangement or Trans Tasman Vehicle standards.

NRTC **recommends** that the approach set out in Annex 4 to the TTMRA be discontinued, and that the TTMRA be amended so that Australia and New Zealand pursue mutual recognition of vehicle standards and type approvals though the UN 1958 Agreement.

Summary and Recommendations

The National Road Transport Commission is a reform agency established to improve the efficiency, safety, and environmental effects of road transport by introducing nationally uniform or consistent transport policies and laws.

Since it was established in 1992, the NRTC has developed national policies for most areas of road transport law. Our approach involves rigorous analysis, transparency, broad consultation, and scrutiny through the regulatory impact process. The NRTC works in close partnership with the road freight and passenger sectors, governments, transport agencies, police, motoring and other organisations to identify and develop practical reforms.

The preferred means of achieving the free flow of road transport throughout Australia has been to seek to achieve national consistency in the laws, regulations, and administrative practices applied by all States and Territories.

Mutual recognition plays a vital role in many areas of transport. By its very nature, road transport could not function without mutual recognition of a wide range of approvals, licences and processes.

Nevertheless there are a number of areas in road transport where there are differences between jurisdictions that are not currently being addressed adequately by mutual recognition. These generally occur where there are significant differences in practices or procedures between jurisdictions.

The submission presents a case study that outlines where the *Mutual Recognition Act* was useful in resolving interstate differences with bus and coach driver authorisations. In contrast, the *Mutual Recognition Act* was not able to resolve differences between States and Territories for operator accreditation because the Act does not apply to these issues.

The submission points to a range of areas of rail reform where broadening the application of mutual recognition would have a significant effect on transport efficiency. In particular mutual recognition arrangements operating between States, the effectiveness of mutual recognition is blunted by State-based administration and often complex local requirements, sometimes of little relevance to the operations of the accreditation seeker.

This situation represents a barrier to new entry and innovation by interstate operators, and also by operators wishing to operate on both interstate and intrastate networks within some individual States. Existing fragmented accreditation arrangements, and the costs they impose, are key concerns of industry.

Legislation underpinning the mutual recognition of operator accreditation could be a significant driver in removing unwarranted inconsistencies between jurisdictional regulatory frameworks

NRTC recommends that the current provisions of the *Mutual Recognition Act 1992* relating the mutual recognition of product standards and occupations be retained.

NRTC recommends that the Productivity Commission give consideration to broadening the powers of the *Mutual Recognition Act 1992* to include mutual recognition of issues such as accreditation approvals and processes relating to the capacity for a business or individual to carry out activities. Mutual recognition would apply only in areas where national standards have not been developed.

Our experience indicates that the *Mutual Recognition Act 1992* appears to be poorly understood by both industry and officers within State and Territory administrations. **NRTC recommends** that your review give consideration towards an information program targeted at these groups.

The TTMRA provides for a development program for Trans Tasman road vehicle standards to facilitate free trade of vehicles between Australia and New Zealand. The NRTC has played an important role in the development of these standards. After development by the Department of Transport and Regional Services (in conjunction with the NZ Land Transport Safety Authority), proposals are handled through processes set out in the *National Road Transport Commission Act 1991*.

The NRTC legislation was amended in the *National Road Transport Commission (Amendment) Act 1998* to provide for this process. These amendments included provisions for the appointment of a New Zealand Commissioner to the NRTC, voting by the NZ transport Minister at the Australian Transport Council, and referral of Trans Tasman road vehicle standards to the Council of Australian Governments.

Although there have been a number of vacancies since 1998, the New Zealand Government has not made a nomination for a New Zealand Commissioner. The New Zealand Minister has voted on proposals for Trans Tasman road vehicle standards.

The NRTC (and DoTARS) have fulfilled the obligations for the development program set out in Annex 4 to the TTMRA. The policy of adopting international UN ECE standards and the regulatory impact process are a matter of course.

Since 1998 some 26 Trans Tasman Vehicle Standards have now been endorsed by the Australian Transport Council, the most recent in January 2003. The NRTC understands that **none of these has yet been considered by COAG as set out in the TTMRA.** We are not aware of the reasons for this, but it may be due to perceptions of a lack of interest on the part of New Zealand in need for Trans Tasman Vehicle Standards.

It would seem reasonably clear from a reading of the TTMRA, particularly Annex 4, that heads of government had in mind that, after the development program, there would be free trade in vehicles that complied with Trans Tasman Vehicle Standards between Australia and New Zealand. Any reading of the current situation would indicate that this objective is a long way off.

It is apparent that Australia and New Zealand have adopted quite different approaches to vehicle standards.

- The approach in Australia is for a single set of standards based upon international UN ECE standards. These standards have been adopted by all of

our trading partners other than the USA. There is a new vehicle type system administered by DoTARS based upon internationally recognised principles.

- New Zealand has adopted a "smorgasbord" approach to vehicle standards whereby they accept a range of standards including UN ECE, but do not have an effective system which is able to certify compliance to these standards.

Given the apparent lack of interest in Trans Tasman Vehicle Standards, particularly by New Zealand, it is reasonable to question whether the development program set out in Annex 4 to the TTMRA should be continued.

Since the establishment of TTMRA , both Australia and New Zealand have become contracting parties to the *United Nations Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment, and Parts, and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions*, known as the 1958 UN Agreement. The principal purposes for this Agreement is to provide a forum for contracting parties to develop and agree on international standards, and to provide a framework for the mutual recognition of new vehicle type approvals.

The NRTC considers that rather than continue with current arrangements, it would be far more productive to reflect the change in circumstances, and pursue mutual recognition between Australia and New Zealand through the provisions of the 1958 UN Agreement.

NRTC recommends that the cooperation program set out in Annex 4 to the TTMRA be discontinued, and that the TTMRA be amended so that Australia and New Zealand pursue mutual recognition of vehicle standards and type approvals though the United Nations 1958 Agreement

Recommendations

NRTC recommends that the current provisions of the *Mutual Recognition Act 1992* relating the mutual recognition of product standards and occupations be retained.

NRTC recommends that the Productivity Commission give consideration to broadening the powers of the *Mutual Recognition Act 1992* to include mutual recognition of issues such as accreditation approvals and processes relating to the capacity for a business or individual to carry out activities. Mutual recognition would apply only in areas where national standards have not been developed.

Our experience indicates that the *Mutual Recognition Act 1992* appears to be poorly understood by both industry and officers within State and Territory administrations. **NRTC recommends** that your review give consideration towards an information program targeted at these groups.

NRTC notes that some 26 Trans Tasman Vehicle Standards have been processed by the NRTC and the Australian Transport Council since 1998, and that **none** have yet been considered by COAG as set out in the *Trans Tasman Mutual Recognition Arrangement*.

NRTC recommends that the cooperation program set out in Annex 4 to the TTMRA be discontinued, and that the TTMRA be amended so that Australia and New Zealand pursue mutual recognition of vehicle standards and type approvals though the United Nations 1958 Agreement.

References

- *National Road Transport Commission Act 1991*
- Heavy Vehicles Agreement (*Schedule to the NRTC Act 1991*)
- Light Vehicles Agreement (*Schedule to the NRTC Act 1991*)
- *National Road Transport Commission (Amendment) Act 1998*
- *Mutual Recognition Act 1992*
- Trans Tasman Mutual Recognition Arrangement
- TTMRA Road Vehicle Standards
- *Motor Vehicle Standards Act 1989*
- Australian Design Rules (*Administered under the Motor Vehicle Standards Act 1989*)
- Vehicle Standards Rules – NRTC www.nrtc.gov.au
- Transport Reform (Compliance and Enforcement) Bill – NRTC 2003 www.nrtc.gov.au
- Mutual Recognition of Bus Drivers & Operators – Wright J, Pearson. R, Wright I – Austroads Report AP-R 183/00
- *United Nations Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment, and Parts, and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions*, known as the 1958 UN Agreement.

Attachment A

Executive Summary of the NRTC/Austroads Report: "Mutual Recognition of Bus & Coach Drivers & Operators"

(by: J. Wright, R. Pearson, & I. Wright – Report AP-R 183/00)

Executive Summary

All States and Territories have developed or are developing accreditation systems for operators and drivers of buses, coaches and other passenger systems.

The Austroads Project RUM 143, Mutual Recognition of Bus Drivers and Operators, arises from the differing systems in place around Australia and the need to develop processes for the mutual recognition of bus driver certification and bus operator accreditation. Pearsons Transport Resource Centre (PTRC) was appointed to undertake investigations and make recommendations for a significant part of the project.

Currently, commercial bus operators and drivers who operate outside their own jurisdiction are often required to obtain separate authorisation or accreditation from the new jurisdiction. Because these requirements vary significantly between States and Territories, major cost and time burdens are imposed on the bus industry.

The Mutual Recognition Act

The Commonwealth *Mutual Recognition Act 1992* (MRA) was developed to promote the free movement of goods and service providers in Australia.

Section 17 of the Mutual *Recognition Act* describes the mutual recognition principle as follows:

1) …a person who is registered in the first State for an occupation is, by this Act, entitled after notifying the local registration authority for the second State for the equivalent occupation:

a) to be registered in the second State for the equivalent occupation; and

b) pending such registration, to carry on the equivalent occupation in the second State;

2) exception that it does not affect the operation of laws that regulate the manner of carrying on an occupation in the second State, so long as those laws:

(a) apply equally to all persons carrying on or seeking to carry on the occupation under the law of the second State; and

(b) are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

Bus driving is considered to be an equivalent occupation under the terms of this Act, and therefore bus drivers are entitled to use the MRA to have their qualifications recognised. However, unresolved differences between jurisdictions have prevented

moves to achieve mutual recognition in this area. The report highlights these differences.

Legal opinion suggests that the MRA cannot be applied to bus operators although the principles could be applied if thought desirable.

Bus Driver Authorisation

At this time, only Queensland and South Australia have applied the requirements of the *Mutual Recognition Act* to bus driver authorisations. However, The Australian Capital Territory (ACT) has effectively applied the MRA in respect of drivers seeking permanent residence because it allows immediate recognition of other State and Territory authorisations. The report notes, however, that a form of national mutual recognition already exists with regard to charter and inter-capital express bus drivers.

The report examines how mutual recognition might be applied nationally, and recommends uniform practices for key transitional issues that are not clearly specified within the MRA. It concludes that the full provision of the MRA involves unnecessary duplication of administrative effort by both bus drivers and State and Territory agencies. Full provision of the MRA would mean that all drivers operating within a State or Territory would need to be authorised, leading to multiple authorisations and significant administrative cost.

The report sets out a favoured option that proposes how the MRA should be applied to drivers including exemptions contained in legislation. *In this context, exemption refers to exempting bus drivers from having to meet the administrative requirements of the mutual recognition legislation.* It proposes that States and Territories determine what exemptions should be permitted. At the minimum, non-resident drivers of inter-capital express, tour and charter buses that have no intrastate component would be exempted (this exemption already applies in most States and Territories). Examples of other possible exemptions are:

- all non-resident drivers (this exemption applies now in the ACT);
- non-resident drivers involved in cross-border, intrastate operations (this exemption applies now in some NSW border areas); and
- drivers who are temporarily resident for less than (say) three months.

Exemptions would apply, of course, only if the driver had a valid authorisation from the "home" jurisdiction.

By avoiding the need for drivers to hold multiple authorisations, the favoured option would provide the greatest level of benefit to drivers, operators and jurisdictions whilst requiring a minimum of administrative effort.

Bus Operator Accreditation

Significant differences exist between operator accreditation schemes presently in operation in States and the Northern Territory. Some of these differences are simply

in the information to be provided upon application, for example the referee requirements in New South Wales and Western Australia. Other differences could require changes to either vehicles (e.g. monitoring devices in New South Wales) or to practices acceptable in some States and not in others.

An important issue to be addressed in mutual recognition of operator accreditation appears to be the bus categories covered by accreditation. Differing coverage relating to bus size could also have potential implications. Differences in training requirements could be overcome by use of Competency Based Training.

The challenge in mutual recognition will be the degree of change acceptable to the various authorities or the acceptance of equivalence of requirements in another jurisdiction.

Options

While a range of options exist for mutual recognition of bus operator accreditation, it would seem the most logical options are:

- each jurisdiction extend the principles of the MRA to bus operator accreditation;
- automatically recognise interstate accreditation;
- recognise "equivalent" schemes in another jurisdiction; and
- recognise "equivalent requirements" as part of each scheme.

The third option above may well be the desirable long term aim but the last option appears the most appropriate for the short term. Under this option, common, or core, standards that were satisfied in the "home" jurisdiction would be accepted as equivalent i.e. meeting the requirements of all jurisdictions. In this way, operators would have to satisfy only the unique requirements of each scheme.

Proposed Core Standards

The proposed core standards are in 6 groups as outlined below.

Group	**Requirement**
1. General	1.1 No criminal offences in last 10 years
	1.2 No offences against accreditation requirements
2. Qualifications	2.1 Competency in transport management
3. Vehicle requirements	3.1 Buses meet legislative standards
	3.2 Maintenance management program
	3.3 Regular independent inspection
	3.4 Cleaning program
	3.5 Display accreditation details
	3.6 Other (perhaps communication in remote areas)

Group	Requirement
4. Customer/safety requirements	4.1 Driver responsibilities (perhaps in a Code of Conduct) 4.2 Complaint register
5. Management	5.1 Management Information System, including fleet register, accreditation records, accident register, report accidents (threshold to be determined), and passenger manifest (where appropriate) 5.2 Drivers to be authorised 5.3 Driving hours/fatigue management (auditable) 5.4 Reasonable timetables to be imposed 5.5 Contingency plans
6. Auditing	6.1 Internal review 6.2 External review

For mutual recognition to proceed in any circumstances, it appears that a legislation change would be required in all States and Territories to enable recognition of equivalent schemes in other States and Territories. In this way the local agency would determine the appropriate types of service to be accredited, avoiding the need to standardise service descriptions throughout Australia.

A recommendation is made to form a working party (or parties) to assist with implementation of these proposals.

Attachment B

References to the Trans Tasman Recognition Arrangement in the *National Road Transport Commission Act 1991*

The *National Road Transport Commission Act 1991* was amended in 1998 to make provision for the development, consideration, and endorsement of TTMRA Road Vehicle Standards by the Australian Transport Council and the Council of Australian Governments.

These amendments also provided for the appointment of a Commissioner to the National Road Transport Commission by New Zealand. The relevant sections of the *National Road Transport Commission Act* and the associated Agreements (incorporated as schedules to the Act) are set out below. These indicate the role carried out by the National Road Transport Commission and the Australian Transport Council in the development and approval of TTMRA Road Vehicle Standards.

***The National Road Transport Commission Act 1991*; Section 23A**
23(a) Voting on matters relating to TTMRA road vehicle standards—presence of New Zealand nominee

(1) In this section:

New Zealand nominee means:

(a) If there is a New Zealand member—that member; or

(b) If paragraph (a) does not apply, but New Zealand nominates an ordinary member to represent its interests in relation to TTMRA road vehicle standards—that member.

(2) If there is a New Zealand nominee, a matter relating to a TTMRA road vehicle standard, or to a proposed TTMRA road vehicle standard, must not be voted on at a meeting of the Commission unless:

(a) The New Zealand nominee is present throughout so much of the meeting as relates to the consideration of that matter; or

(b) both:

(i) the New Zealand nominee is not present throughout so much of the meeting as relates to the consideration of that matter; and

(ii) each ordinary member has been given at least 14 days notice that the matter, or a related matter, is to be considered at the meeting.

The National Road Transport Commission Act 1991

Schedule 1A-First Heavy Vehicles Amending Agreement

Australian Transport Council means the Council of Commonwealth, New Zealand, State, Northern Territory of Australia and Australian Capital Territory Ministers established by Ministerial Agreement on 11 June 1993 and known as the Australian Transport Council, but constituted so that it consists, when dealing with matters with which this Agreement is concerned, of only one Minister in relation to each member of that Council;

COAG means the Council of Australian Governments

2(c) "H Annex 4 to the Trans-Tasman Mutual Recognition Arrangement, entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory, and requiring Australia and New Zealand to pursue a Road Vehicle Cooperation Programme to develop a body of internationally harmonised standards to form the basis for Trans-Tasman road vehicle standards and to develop consistent conformance assessment and certification requirements, provides that road vehicles certified as meeting Trans-Tasman road vehicle standards will be able to be freely traded between Australia and New Zealand.

2(d) ***TTMRA road vehicle standards matters*** means a Trans-Tasman road vehicle standard, as it relates to Vehicles, referred to in Annex 4 to the Trans-Tasman Mutual Recognition Arrangement entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory;

2(f) “by amending the definition in clause 2 of "Voting Member" by adding the words "except New Zealand" to paragraphs (b) and (c) and inserting new paragraphs (ba) and (bb) as follows:

(ba) in relation to TTMRA road vehicle standards matters all members of the Australian Transport Council;

(bb) in relation to a request from New Zealand that it have a member nominated by it on the National Commission, all members of the Australian Transport Council;"

2(n) Recommend, to COAG that it agree a TTMRA road vehicle standard and to receive and decide requests from New Zealand that New Zealand nominate a member of the National Commission;

2(o) Notwithstanding anything to the contrary in this clause, where any meeting is to consider a matter concerning TTMRA road vehicle standards, notice of that meeting such as would be valid under clause 13(2) is to be given, and if the making of a recommendation to COAG on existing or proposed TTMRA road vehicle standards is to be considered, no vote on that recommendation is to occur unless such notice has been given.

Attachment C

Trans Tasman Motor Vehicle Standards
Approved by: The Australian Transport Council

(The NRTC understands that none of these standards have been forwarded to the Council of Australian Governments for endorsement as set out in the TTMRA)

Trans Tasman Vehicle Standards No.	Title	Date approved by ATC
TTVS 1/00	Vehicle Lighting Package Reversing Lamps	10 December 1999
TTVS 6/00	Direction Indicators Installation of lighting and light signaling devices on other than L-group vehicles	10 December 1999
TTVS 13/00	Installation of lighting and light signaling devices on L-group vehicles	10 December 1999
TTVS 46/00	Headlamps	10 December 1999
TTVS 47/00	Retroreflectors	10 December 1999
TTVS 48/00	Rear registration plate illuminating devices	10 December 1999
TTVS 49/00	Front and rear position (side) lamps, stop lamps and end out line marker lamps	10 December 1999
TTVS 50/00	Front fog lamps	10 December 1999
TTVS 51/00	Filament Lamps	10 December 1999
TTVS 52/00	Rear fog lamps	10 December 1999
TTVS 53/00	Front and rear position lamps, stop lamps, direction indicators and rear registration plate lamps	10 December 1999

Trans Tasman Vehicle Standards No.	Title	Date approved by ATC
TTVS 54/00 TTVS 55/00 TTVS 74/00 TTVS 75/00 TTVS 76/00 TTVS 77/00 TTVS 78.00	Headlamps for mopeds Headlamps for L-group vehicles other than mopeds Side marker lamps Headlamp cleaners Daytime running lamps Gas-discharge headlamps Gas-discharge light sources	10 December 1999 10 December 1999 10 December 1999 10 December 1999 10 December 1999 10 December 1999 10 December 1999
TTVS 81/00	Fuel Consumption Labelling for Light Vehicles	3 March 2000
TTVS 82/00	Engine Immobilizers	29 December 2000
TTVS 80	Amendment of ADR 80 Emission Control for Heavy Vehicles	29 June 2001
TTVS 31/01	Brake System for Passenger Cars	6 July 2001
TTVS 83/00	External Noise	10 January 2003

Attachment D

Application of Mutual Recognition Principles to Road Transport Compliance & Enforcement

Background:

The National Road Transport Commission is currently well advanced with a review of the national legislation to ensure that the road transport industry complies with road transport laws and regulations. An underlying purpose for this review is to implement a concept known as the "Chain of Responsibility," whereby all those involved in the transport chain from consignor to receiver exercise appropriate responsibility to ensure that transport is safe.

The draft *Road Transport Reform (Compliance and Enforcement) Bill* is currently subject to final comment prior to consideration by Commonwealth, State, and Territory Transport Ministers at the Australian Transport Council. Ministers will be asked to endorse model legislation which would then be incorporated into State and Territory legislation.

The approach adopted in the reform process is to achieve consistent national compliance and enforcement of road transport law using provisions derived directly from the model Bill that would be endorsed by Ministers.

Mutual recognition plays a role in the administration of the compliance and enforcement provisions by facilitating exchange between jurisdictions of administrative and enforcement decisions or action. For example an exemption or a restriction placed upon an operator in one jurisdiction would apply by mutual recognition in other jurisdictions.

The sections of the draft *Road Transport Reform (Compliance and Enforcement) Bill* relating to mutual recognition are set out below. The full draft Bill is available on the NRTC web site at www.nrtc.gov.au.

Division 2 Mutual Recognition

Drafting note. *The enacted legislation will need to ensure that judicial and administrative actions in a jurisdiction receive appropriate recognition in other jurisdictions, and that officers and bodies of a jurisdiction have appropriate powers in other jurisdictions. This Division may need to be reviewed to ensure that it complements these provisions and provides a suitable scheme for mutual recognition of activities in other jurisdictions. Consideration may need to be given to the types of activities that require recognition, and how this recognition will be achieved.*

172 Effect of administrative actions of authorities of other jurisdictions
(1) In this section:
administrative action means an act or omission of an administrative nature, as in force from time to time.

administrative authority means:
(a) a corresponding Authority; or
(b) a person holding an office constituted by or under the law of another jurisdiction and prescribed by the regulations; or
(c) a body constituted by or under the law of another jurisdiction and prescribed by the regulations.

(2) An administrative action of an administrative authority under or in connection with a corresponding road law has the same effect in this jurisdiction as it has in the other jurisdiction.

(3) Nothing in this section gives an administrative action effect in this jurisdiction or in a particular place in this jurisdiction:
(a) in so far as the action is incapable of having effect in or in relation to this jurisdiction or that place; or
(b) if any terms of the action expressly provide that the action does not extend or apply to or in relation to this jurisdiction or that place; or
(c) if any terms of the action expressly provide that the action has effect only in the other jurisdiction or a specified place in the other jurisdiction.

(4) This section applies only to administrative actions of kinds prescribed by the regulations.

173 Effect of court orders of other jurisdictions
(1) In this section:
order means an order in any judicial or other proceedings, civil or criminal, as in force from time to time.

(2) An order of a court or tribunal of another jurisdiction under or in connection with a corresponding road law has the same effect in this jurisdiction as it has in the other jurisdiction.

(3) Nothing in this section gives an order effect in this jurisdiction or in a particular place in this jurisdiction:
(a) in so far as the order is incapable of having effect in or in relation to this jurisdiction or that place; or
(b) if any terms of the order expressly provide that the order does not extend or apply to or in relation to this jurisdiction or that place; or
(c) if any terms of the order expressly provide that the order has effect only in the other jurisdiction or a specified place in the other jurisdiction.

(4) This section applies only to orders of kinds prescribed by the regulations.