

1 August 2008

Mutual Recognition Review
Productivity Commission
LB2 Collins Street East
MELBOURNE, VIC 8003

Productivity Commission Review of Mutual Recognition Schemes

Standards Australia and Standards New Zealand welcome the opportunity to provide comment to the Productivity Commission Review of Mutual Recognition Schemes. As the national Standards bodies, we have a unique perspective on how joint Australian/ New Zealand (AS/NZS) Standards underpin the Trans Tasman Mutual Recognition Agreement (TTMRA).

Single Economic Market

We believe it is important to draw the Commission's attention to the key role played by AS/NZS Standards in helping both countries move towards a Single Economic Market (SEM). The Australian and New Zealand governments have committed to identifying any impediments to trans-Tasman trade and implementing practical initiatives that could reduce discrimination and costs arising from different or conflicting regulation and institutions. This is increasingly important given that:

- SEM is a 'process' rather than an end point;
- in practical terms, both countries share a common labour and investment market;
- economic arrangements between the countries need to be dynamic to keep abreast of contemporary social and economic factors.

The TTMRA is a powerful mechanism to drive regulatory cooperation and the SEM agenda. In turn, joint Standards development supports the mix of regulatory measures used to enhance trade across the Tasman and promotes harmonisation. It is important to acknowledge that AS/NZS Standards help to make business and trading arrangements more seamless between the countries. They do this by:

- promoting more flexible, performance based regulatory frameworks and regulatory efficiency;
- providing the technical basis for regulations and as a means of regulatory alignment;
- allowing a broad spectrum of government, industry and community stakeholders to have input into, and develop a consensus around, what is acceptable practice;
- improving competition in the market place by helping industries capture knowledge, share insights, enhance compatibility between products and reduce risk;
- covering subject areas that directly affect trade, such as raw materials, certain manufactured goods, test methods, information technology and communications;
- increasing consumer confidence and safety;
- providing a means for producers and registered occupations being required to meet only one set of trans-Tasman requirements, rather than two or more.

Memorandum of Understanding between Standards Australia and Standards New Zealand

The relationship between Standards Australia and Standards New Zealand is unique in the world. Standards Australia and Standards New Zealand have a formal relationship dating back to 1992 when the first agreement between the two organisations was signed in April/May 1992 as an 'Active Co-operation Agreement'. The main aim behind the agreement was to co-operate with one another to the utmost of their abilities to meet objectives of Article 12 of the Australia/New Zealand Closer Economic Relations (CER) Trade Agreement. Several iterations followed the first Active Co-operation Agreement which then evolved into a Memorandum of Understanding (MoU). There have been several revisions of the Memorandum of Understanding and the latest version was signed in November 2007.

One key objective of the MoU is to assist trade and harmonisation between Australia and New Zealand, while recognising each organisation as the peak standards body in their respective countries. When considering which national Standards and new project proposals should be produced as AS/NZS Standards, consideration is given to:

- major tradable items
- major design codes
- Standards cited in or needed for harmonised legislation under the TTMRA

AS/NZS Standards are produced by the consensus of all relevant interests in Australia and New Zealand and as far as possible are direct adoptions of International Standards. Joint Standards are pervasive and cover most aspects of the trans-Tasman economy - there are over 2,400 current AS/NZS Standards.

Standards Australia and Standards New Zealand actively collaborate in terms of participation in international Standards fora – both organisations are members of the Pacific Area Standards Congress (PASC) and cooperate closely with government in the Standards and conformance activities of APEC and ASEAN-CER. An example of this collaboration is the recently established China-Australia-NZ Portal (http://www.standardsportal.org.au/index_english.jsp). The Standards Portal is administered by the Standardisation Administration of China (SAC), Standards Australia and Standards New Zealand. The aim of the Standards Portal is to facilitate trade between nations and provide for mutually-developed standards content in both languages.

AS/NZS Standards help to ensure WTO obligations are met

The Agreement on Technical Barriers to Trade (TBT) - sometimes referred to as the Standards Code - is one of the legal texts of the WTO Agreement which obliges WTO Members to ensure that technical regulations, voluntary standards and conformity assessment procedures do not create unnecessary barriers to trade. Australia and New Zealand are signatories to the WTO Agreement.

The TBT Agreement recognises the important contribution that international standards and conformity assessment systems can make to improving efficiency of production and facilitating international trade. Where international standards exist or their completion is imminent, therefore, the Code of Good Practice says that standardising bodies should use them, or the relevant parts of them, as a basis for standards they develop. It also aims at the harmonisation of standards on as wide a basis as possible, encouraging all standardising bodies to play as full a part as resources allow in the preparation of international standards by the relevant international body, including the International Organization for Standardisation (ISO) and International Electrotechnical Commission (IEC).

A common element of bilateral trade agreements is that they must not contravene the agreements under the WTO that already bind the signatories. In other words, bilateral agreements may simply reaffirm the existing

rights and obligations of the Parties under TBT Agreement or they may provide for enhanced cooperation, e.g. mutual recognition or even the establishment of joint Standards bodies such as the Standards Australia and Standards New Zealand MoU. From a standards perspective, **mutual recognition** can create a range of problems, especially where there are multiple bilateral agreements in place. Fortunately the TBT Agreement deals directly and unambiguously with the question of standards and conformance, providing a model that can also be applied in bilateral agreements. The TBT Agreement identifies the use of international standards as the universal benchmark and requiring compliance with national standards that are not internationally aligned is only permissible in certain defined circumstances where a relevant international standard does not exist or can be demonstrated to be inadequate.

We note that bilateral and multilateral trade agreements entered into Australia or New Zealand should take into consideration both the obligations of the TBT Agreement and alignment with AS/NZS Standards that are already in place.

Joint Standards provide an alternative pathway for harmonisation

Jurisdictional differences, constitutional sovereignty issues, differences in national historical or institutional arrangements can present challenges and barriers to harmonising trans-Tasman regulations. Joint Standards provide an alternative, effective, pathway to harmonising trading arrangements either quite separate to, or as part of common legislative or regulatory approaches. Joint Standards are always stakeholder driven and consensus based.

We note that the TTMRA requires a greater discipline on regulators contemplating the introduction of joint Standards, regulations and registration requirements and encourages greater cooperation between regulatory authorities.

Emission Trading Scheme

Both Australia and New Zealand are currently reviewing options to establish greenhouse gas emission trading schemes (ETS). Arguably, the success of ETS may depend on the degree of consistency between the approaches adopted in both countries and alignment with robust Standards that ensure interoperability of ETS reporting regimes nationally, regionally, and internationally.

We believe joint Standards development and the use of appropriate international Standards need to be carefully considered by Australian and New Zealand regulators in this regard.

Consideration of AS/NZS Standards in trans-Tasman discussions

We note that SEM continues to be a focus of discussion for the Australian New Zealand Leadership Forum and the role and place of joint Standards development was raised by one of the Forum working groups.

We encourage these discussions and believe there is a much greater potential to use AS/NZS Standards to achieve SEM objectives. The national Standards bodies should be involved in, and actively participate in Forum working groups to highlight the contribution joint Standards can bring to trans-Tasman productivity and achieving SEM and TTMRA objectives and outcomes.

Research into the economic benefits of joint Standards

As the Commission identified in its 2006 report on 'Standards Setting and Laboratory Accreditation', a case can be made for the theory that Standards help the diffusion of technological developments and can act as a spur to economic growth. Standards Australia commissioned a report from the Centre of International

Economics to research this link and this report has been previously shared with the Commission. Economic productivity is very much a topical issue and there is a wealth of international research literature on this topic.

However, we believe more research is warranted to improve the collective understanding of the relationship between Standards and economic growth – particularly around the macro economic contribution of joint Standards to both the Australian and New Zealand economies and the benefits they bring to advancing harmonisation.

Summary

In a world that is increasingly dominated by global supply lines, where no one company operates independently, the AS/NZ Standards are allowing for trade to take place effectively and efficiently across the Tasman – they are an essential, but sometimes overlooked, mechanism to drive progress towards a SEM. AS/NZS Standards complement the TTMRA and help to promote regulatory coordination and integration between Australia and New Zealand.

We look forward to providing more information to the Commission at the roundtable sessions scheduled later in the year.

Regards



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