Australian Government
Department of the Environment, Water, Heritage and the Arts

Ms Carole Gardner
Review of Mutual Recognition Schemes
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

Dear Ms Gardner

2008 REVIEW OF THE MUTUAL RECOGNITION AGREEMENT AND THE TRANS-TASMAN MUTUAL RECOGNITION AGREEMENT

Thank you for the opportunity to comment on the draft report of the Productivity Commission –*'Review of Mutual Recognition Schemes'*.

The Department of the Environment, Water, Heritage and the Arts supports, in principle, draft recommendation 8.2: *The permanent exemption for ozone protection legislation should be removed from the MRA. Governments should also consider removing the ozone protection exemption from the TTMRA, subject to both countries aligning their respective regulatory systems while ensuring consistency with international obligations.*

Removal of the permanent exemption from the Mutual Recognition Agreement (MRA) for ozone protection legislation should not impact on the existing national ozone protection and synthetic greenhouse gas environmental controls. The national controls overtake the former state and territory controls on ozone depleting substances.

It should be noted that the national environmental controls established under the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995 have some similarity to state and territory systems that have been established for consumer protection and occupational health and safety. The Department's understanding of the MRA is that it would not impact on the national controls as they do not present a barrier to occupational mobility and the objective of the national system is quite distinct from the state and territory systems. As such, the possession of a similar trade licence in a state or territory would not automatically entitle the holder to a national licence.

I have provided some background on the national system and its inter-relationship with state and territory systems as the similarity between national environmental and state and territory occupational licensing is unusual.

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* was amended in December 2003 to, amongst other things, extend the Act to cover synthetic greenhouse gases that are used to replace ozone depleting substances and to enable the Commonwealth to regulate the sale, purchase, storage, handling and disposal of ozone depleting substances and synthetic greenhouse gases.

A number of industry based national end use controls have been established under the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995. The end use controls protect the environment by minimising emissions of ozone depleting substances and synthetic greenhouse gases to the atmosphere. The Regulations override previous state and territory end use controls that were, in most instances, limited to ozone depleting substances.

Specific Regulations have been implemented for the refrigeration and air conditioning and fire protection industries. The end use controls set minimum skill standards for technicians who handle ozone depleting and synthetic greenhouse gas refrigerants and fire extinguishants. The standards are occupation based and in the main align with established trade qualifications. The end use controls also mandate relevant Australian standards and codes of practice.

It should be noted that the end use controls in these sectors apply only to the handling of ozone depleting substances and synthetic greenhouse gases. Other work, when it does not involve handling, or involves a refrigerant or extinguishant that is not an ozone depleting substance or synthetic greenhouse gas (eg. ammonia, water, hydrocarbon), is not controlled under the national system.

A number of states and territories operate business and occupational licensing systems that cover areas of the refrigeration and air conditioning and fire protection industries. These controls are primarily for consumer protection and occupational health and safety. In some cases the systems are skills based. However the entry requirements do not always align with the national system or between states and territories. Variations include the minimum skill level required and the level of proof required to demonstrate that the person has the required skills.

The Department supports, in principle, consideration of the removal of the permanent exemption from the Trans-Tasman Mutual Recognition Agreement (TTMRA) for ozone protection ‘subject to both countries aligning their respective regulatory systems while ensuring consistency with international obligations’.

I note however that aligning the respective regulatory systems would be complex as Australia and New Zealand have taken different approaches to meet the requirements of the Montreal Protocol on Substances that Deplete the Ozone Layer, including legislating for a different rate and timing of the final phase out of their use. As an example Australia has a legislated accelerated phase out schedule for hydrochlorofluorocarbons that will essentially have them phased out by 2015, five years ahead of our Montreal Protocol obligations. Australia has also adopted stringent emission control measures that are not required under the Montreal Protocol.

While there are differences between the systems, in practice the permanent exemption from the TTMRA is unlikely to cause any significant disruption to trade in goods or occupational mobility.

I also note that there is a factual error on page 166, the 3rd paragraph. The text refers to hydro fluorocarbons (HFCs) instead of hydrochlorofluorocarbons (HCFCs).

The second last sentence should read:
"It is expected that Australia will cease importing ***hydrochlorofluorocarbons (HCFCs)*** for use in Australia some years before New Zealand."

Please contact Patrick McInerney on (02) 6274 1035 if you require any further information.

Yours sincerely

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Environment Protection Branch

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