



Australian Government

Department of Education, Employment and Workplace Relations

Your Ref
Our Ref

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

Dear Carole

Please find attached the Department of Education, Employment and Workplace Relations' submission on the Productivity Commission's draft research report on the Review of Mutual Recognition Schemes, which was released in November 2008.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Drew Wagner', with a large loop at the end.

Drew Wagner
Branch Manager, Regulations Branch
Office of the Australian Safety and Compensation Council

18 December 2008



OASCC Comments on the Productivity Commission's Draft Research Report of Mutual Recognition Schemes

Specific Issues

Page 22, paragraph 1

The text in this paragraph *"except those relating to children's car restraints"* appears to be a transcription error and should be deleted as this forms no part of the work program for the special exemption for chemicals.

Page 128, paragraph 5

The text in this paragraph *"No country has fully implemented the GHS, although New Zealand has made the most progress"* is incorrect. New Zealand implemented the GHS under the *Hazardous Substances and New Organisms Act 1996* with final implementation of all GHS requirements to be completed in 2008. The new European regulation on classification, labelling and packaging which is based on the GHS came into effect on 1 December 2008; the deadline for substance classification according to the new criteria is 1 December 2010 whereas for mixtures the deadline is 1 June 2015.

The Office of the Australian Safety and Compensation Council (OASCC) is concerned with the following two recommendations made by this draft research report.

Draft Recommendation 7.1 states: "Following completion of the five year work plan for industrial chemicals in 2009, Australian and New Zealand Governments should consider converting the TTMRA special exemption for hazardous substances, industrial chemicals and dangerous goods into a permanent exemption. This should involve a cost-benefit analysis, based on a realistic assessment of the likelihood of achieving mutual recognition or harmonisation in the foreseeable future, given the slow progress to date."

The OASCC submission on the issues paper in July 2008 noted that progress is being made to progress GHS implementation in the workplace chemicals sector. As such the Office of the ASCC does not believe that a permanent exemption is required for all aspects of the chemicals cooperation program. Nevertheless, a permanent exemption would reduce the burden in undertaking the yearly rollover of the special exemption.

The ASCC questions the need for a cost benefit analysis for moving from a special to permanent exemption. Such a change would be purely administrative in nature, and would result in no change to the existing regulatory arrangements nor have an additional compliance burden on Australian business. A cost-benefit analysis is unlikely to yield any useful information to inform such a decision. Further, it is unclear who would be responsible for undertaking the analysis, and how such a cost-benefit analysis would be funded.

Draft Recommendation 7.5 states: "The TTMRA legislation should be amended so that special exemptions can have a maximum duration of three years, and can be extended for one or more further periods, each not exceeding three years. This reform should be reflected in the administrative procedures that governments use when considering special exemption rollovers, including the cooperation reports only need to be prepared every three years."

ASCC notes that recommendations 7.1 and 7.5 are inconsistent in that recommendation 7.1 recommends a permanent exemption for chemicals, while recommendation 7.5 recommends a 3-yearly rollover for special exemptions. It is assumed that the Productivity Commission's preference is for a permanent exemption for chemicals, with the fall-back position being a 3-yearly roll-over period for the special exemption. The ASCC would support either option on the basis of a reduced administrative burden of reporting annually to COAG to effect the roll-over.

However, the Office of the ASCC believes that a 3 yearly rollover exemption would be preferable and considers it useful to have an imperative for both countries to eventually harmonise their chemicals regulation based in part on the Globally Harmonised System of Classification and Labelling of Chemicals (GHS).