

Ms Judith Sloan  
Commissioner  
Mutual Recognition Review  
Productivity Commission  
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Dear Commissioner

ACCORD is pleased to provide the following comments in relation to the Draft Research Report *Review of Mutual Recognition Schemes* released by the Productivity Commission (PC) as part of its Review of Mutual Recognition Schemes.

We apologise for the lateness of this submission but trust the comments and information will still prove useful.

ACCORD has a specific and direct interest in the current review of Mutual Recognition Arrangements (MRA) and Trans Tasman Mutual Recognition Arrangements (TTMRA). These arrangements can be extremely valuable vehicles to reducing regulatory impediments to goods and services mobility across jurisdictions.

ACCORD is therefore disappointed with the PC Draft Recommendation 7.1 regarding consideration of converting the TTMRA special exemption for hazardous substances, industrial chemicals and dangerous goods into a permanent exemption. We believe this is inappropriate at this stage in light of COAG's current consideration of chemicals and plastics reform. The status of the Cooperation Programme as outlined in the PC's 2003 Report remains current. In that report Recommendation 8.7 noted that:

*In Australia, the fragmentation of responsibilities across agencies in relation to hazardous substances industrial chemicals and dangerous goods impedes progress towards achieving mutual recognition or harmonisation with New Zealand.*

Given that COAG has recently agreed to a comprehensive reform programme to address issues related to the fragmentation of roles and responsibilities for chemicals management in Australia, ACCORD would recommend that Australian and New Zealand regulatory agencies continue to work towards TTMRA for this sector.

In our submission to the Issues Paper, we argued that greater effort is required by regulators on both sides of the Tasman to overcome perceived obstacles regarding the trade in chemicals. Pleasingly, we note that the New Zealand Government in its submission to this review felt that work towards mutual recognition for chemicals is progressing well and that the special exemption under the TTMRA should be retained until GHS implementation for Australia is resolved (p27).

As the New Zealand Government states:

*The unique feature of the TTMRA is that it recognises the equivalence of regulatory outcomes based on mutual confidence in the efficacy of respective regulatory systems (p5).*

Both Australia and New Zealand have the same regulatory objective for industrial chemicals in the protection of public health, OHS and the environment. The different approaches to achieving these regulatory outcomes should not be used as an excuse not to mutually recognise.

From the DoHA submission referenced by the PC in its Draft Report, this fundamental principle of mutual recognition appears to be misunderstood. From the same submission, the meaning of the statement that *...New Zealand does not require the notification and/or assessment of some chemicals that, while technically classified as non hazardous, are not necessarily safe (p127)* is questioned. Further, the basis of DOHA's assertion that another barrier to mutual recognition is that it could jeopardise Australian trade with third countries (p127) should be justified.

In our submission we also outlined one area of commonality within the Cooperation Programme where an opportunity exists for TTMRA to apply to a class of low risk products, namely cosmetics. We note that in the New Zealand Government's submission it also noted that some special exemptions contain products where mutual recognition can be readily achieved (p13).

ACCORD notes that cosmetic products are currently controlled as industrial chemicals in Australia and hazardous substances in New Zealand. Since the Australian Government finalised its reforms to cosmetic products at the therapeutic interface in September 2007 and New Zealand introduced the Cosmetic Products Group Standard on 1 July 2006, the regulatory controls for cosmetic products are now closely harmonised and there is a strong case for TTMRA to apply to this class of consumer goods. The application of TTMRA for this class of low risk, fast moving consumer products would have significant benefits in facilitating trade and reducing unnecessary barriers.

Cosmetic products provide an ideal opportunity for both Governments to demonstrate their commitment to TTMRA.

We therefore question the dismissal of this proposal in the Draft Research Report (on the basis that cosmetics are subject to Australia's notification and assessment regime) but it is then stated that there is some potential to progress work in 'low regulatory concern' chemicals (p126). Cosmetics as a class of goods constitute a category of low regulatory concern chemicals. For example, can the regulator and the PC not see the current benefit and real opportunity for the free trade of goods such as soap across the Tasman, since soap, as a cosmetic product is regulated as part of the industrial chemicals regime?

ACCORD supports Draft Finding 8.2 to include the scope of mutual recognition relating to the transport, storage and handling of goods. Having raised this in our submission, we are pleased to see the opportunity taken up, and ACCORD will endeavor to provide some cost data on potential savings which could arise from the implementation of this recommendation.

Please do not hesitate to contact me should you require further elaboration on the points raised in this submission in response to the Draft Research Report.

Yours sincerely

*Approved for electronic transmission*

Dusanka Sabic  
**Director, Regulatory Reform**

19 December 2008