

2 March 2004

Rules of Origin Study
Productivity Commission
PO 80
Belconnen ACT 2616
AUSTRALIA

Dear Sir/Madam

RULES OF ORIGIN UNDER THE AUSTRALIA-NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT – PRODUCTIVITY COMMISSION INTERIM RESEARCH REPORT

Thank you for the opportunity to provide further input on the Commission's Interim Research Report.

Below are comments reflecting feedback Business New Zealand has received from our regional members in Auckland and Canterbury, several of our sector groups with an interest in this matter, and a number of individual companies.

Overall, all of those we consulted considered the Interim Research Report to be comprehensive and well balanced and all believed that it adequately covered the economic and administrative problems associated with the Rules of Origin (RoO).

Comment on Interim Recommendations

Interim Recommendation 1

The following changes should be made to address some of the day-to-day shortcomings of the current CER RoO:

- The 'last place of manufacture' requirement be replaced with one based on the 'principal firm', defined as the firm that performs, or has performed on its behalf, the last process of manufacture in the CER region.*
- The valuation and coverage of eligible costs in Australia and New Zealand be aligned to achieve a single set of rules implemented according to uniform practice.*
- A standard definition of manufacturing be adopted, based on the Australian and New Zealand Standard Industrial Classification.*

All those we consulted favoured the proposed changes to address the day-to-day shortcomings of the current Rules. However, there was some concern about the suggestion that the definition of 'manufacturing' be based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) as this has been devised for

statistical purposes rather than for trade purposes. This issue is important, as the definition of manufacturing will be one of the key criteria for determining duty free entry for goods under recommendations 1 and 2.

I understand that there was general agreement at the Wellington meeting between industry representatives and Commission staff (and I believe also in Auckland) that a more robust basis for determining manufacture is needed and that Commission staff undertook to reconsider basing it on ANZSIC. In this context, Business New Zealand suggests that it would be helpful to consider the case law that exists on this subject.

Interim Recommendation 2

A 'waiver' should be introduced to provide automatic duty free entry to any goods:

- *Manufactured within Australia or New Zealand (i.e., as defined in interim recommendation 1); and*
- *For which the difference between the Australian and New Zealand MFN tariff rates is 5 percentage points or less.*

The feedback we received was that the "waiver" would be the most favoured option for determining duty free entry for goods into either Australia or New Zealand

Interim Recommendation 3

The regional value content threshold under CER should be reduced from 50% to 40% immediately, with a further reduction to 30% in 2010.

If the "waiver" option were not accepted, we would support the recommendation that the value content threshold under CER be reduced from 50% to 40% and that a further review be conducted closer to 2010 to determine the need for further adjustments, given the tariff phasing programmes in place in both countries

Interim Recommendation 4

In the longer term, consideration should be given to further change in order to advance the goals of CER, in particular:

- *Elimination of the CER content threshold with only a 'principal firm' manufacturing test being applied; and*
- *Alignment of remaining non-zero MFN rates in the Australian and New Zealand tariff schedules, so that ultimately merchandise from all sources enters each jurisdiction on a common basis.*

While Business New Zealand agrees with the logic of these recommendations, we believe more discussion on these should take place when we have had an opportunity to review the status of international trade commitments (refer to our comments under Interim Recommendation 3).

Additional Comments

Business New Zealand considers that access to duty drawback provisions on imported raw materials should be maintained.

Business New Zealand would be happy to elaborate further on these comments if necessary. Please contact Marcia Dunnett, Manager Business Services (ph 64-4-496-6560, e-mail mdunnet@businessnz.org.nz), if you wish to discuss.

Yours sincerely,

Simon Carlaw
Chief Executive