



## Australia-New Zealand Business Council Inc.

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3 April 2004

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

Dear Sir,

Thank you for the opportunity to comment on your interim report on the CER Rules of Origin.

### **The Australia New Zealand Business Council**

The council was formed in 1978, charged with encouraging trans-Tasman trade and investment. Separate arms of the council were established in Australia and New Zealand and these played a major role in advising the two governments of the business sector's views during the negotiation of the CER agreement.

They have continued this role, monitoring the need for ongoing regulatory changes to ensure that the potential benefits of CER are realised. This requires the avoidance (or removal) of unnecessary regulatory impediments to the achievement, by both Australian and New Zealand businesses, of the highest possible level of international competitiveness. The intention of CER when it was introduced over 20 years ago was to encourage the development of a larger, single market, through which companies could achieve the benefits of scale and compete with suppliers from third countries both overseas and in their home market.

In recent years our requests to the two governments have been directed at the adoption of a long term, strategic approach to the further development of CER and, flowing from this, to the achievement of a truly single trans-Tasman market. This would involve the free movement of people, goods, services and capital across the Tasman. The regulatory environment in each country would be similar, to minimise compliance and transaction costs for those operating or trading in both countries. We are still some way from that goal. (We applaud the recent agreement of the New Zealand Minister of Finance, Hon Michael Cullen and the Australian Treasurer, Hon Peter Costello, to move towards the implementation of a single economic market; and the endorsement of this approach by the two Prime Ministers at their subsequent meeting in early March.)

Recent submissions to Ministers illustrating our desired approach to relevant issues have been posted on our website – [www.anzbc.org.nz](http://www.anzbc.org.nz)

### **CER Rules of Origin**

The rules of origin stipulated in CER have for a long time been regarded as something of an anachronism. While appropriate for the conditions which pertained when CER was negotiated, the rules of origin have, as noted in your interim report, in recent years been regarded as impeding the development of internationally competitive industries in both countries. There has, however, until now been a reluctance to address this issue and formulate a more appropriate regime.

In the meantime, we note that the Australia Singapore Trade Agreement (in respect of certain goods) and the Australia United States Free Trade Agreement have both incorporated an approach to rules of origin which differs from that contained in CER. Both the Singapore and US agreements might be considered to have used a more modern approach to this issue.

We therefore welcome your review and the approach envisaged in your interim report.

### **Desired Approach**

We have considered our response to your interim recommendations against our objective of a single trans Tasman market, within which unnecessary regulation and consequential compliance costs have been removed.

We have long been of the view that, in a regime where MFN tariffs are progressively moving to zero and, along the way, the differences between current rates contained in the tariffs of Australia and New Zealand are reducing, the need for a restrictive RoO regime within CER is lessening. Over time, RoO's are, therefore, becoming an example of *unnecessary* regulatory requirements which impose *unnecessary* compliance costs on firms in both countries. In these circumstances the need to meet such requirements should be removed.

### **ANZBC's Response to the Commission's Interim Recommendations**

In the light of the comments above, our responses to your interim recommendations are as follows:

#### **Interim Recommendation 1**

*The following changes 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 practices.*
- *A standard definition of manufacturing be adopted, based on the Australian and New Zealand Standard Industrial Classification.*

The council endorses these three changes, but notes that once MFN tariffs in the two countries reach zero, there should be no need for the ‘principal firm’ requirement to be retained. Alignment of the approach to valuation and allowable costs in the two countries is very important, if a single market is to be achieved.

#### Interim Recommendation 2

*A ‘waiver’ be introduced to provide automatic duty free entry to any goods:*

- *manufactured within Australia or New Zealand (ie 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.*

This proposal would have the effect of immediately liberalizing a significant portion of trans-Tasman trade which is still subject to restrictions imposed by the current RoOs. The council endorses the early adoption of this recommendation.

Such waivers, once triggered, must, however, be permanent (as noted in the body of the commission’s report but not carried into the recommendation). We would like to see this point explicitly mentioned in the recommendation, to avoid uncertainty in the future.

#### Interim Recommendation 3

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

The council does not favour this approach as an alternative to the waiver proposed in Interim Recommendation 2. As noted in the commission’s report, the reduction of the threshold might solve some immediate problems for some firms, but there would no doubt be others which would experience those same problems at the lower threshold. In essence, therefore, the problems would remain.

If, however, the two governments felt unable to agree to the waiver option, then we would like to see the present content threshold reduced as proposed.

#### Interim Recommendation 4

*In the longer term, consideration be given to further change in order to advance the goals of the 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.*

The implementation of this recommendation would go a long way towards the achievement of the Council's vision of a truly single market, particularly once the 'principal firm' requirement is removed when zero MFN tariffs are reached. If Australia and New Zealand meet their APEC commitment to reduce all tariffs to zero by 2010, possibly an unlikely prospect, the need for a content threshold will occur at that time (if not before).

### **Determined Manufactured Raw Materials**

The commission invited comment on the DMRM system.

The council sees no logic in penalising the use of manufactured raw materials in circumstances where the materials concerned are manufactured in neither Australia or New Zealand. We note, too, that the present process for obtaining a 'determination' are time consuming and uncertain.

The existence of an MFN tariff rate of Free in the Australian or New Zealand tariff signifies the absence of manufacture in the country concerned. Where both countries have implemented such a zero tariff, then we urge that, for as long as a content requirement exists, such products be excluded from the calculation of 'imported' or 'non regional' content.

### **Conclusions**

We would like to congratulate the Commission on the quality of its interim report. The analysis of the issues and the approaches proposed are exemplary.

As mentioned above, the council would like to see the early achievement of conditions which support the achievement of the single Australia/New Zealand market which it has advocated for many years. We support the implementation of the interim recommendations which move CER towards this objective.

Yours sincerely,

John Jenner  
Executive Director