

SUPPLEMENTARY SUBMISSION TO THE PRODUCTIVITY COMMISSION'S REPORT ON RULES OF ORIGIN UNDER ANZCERTA

FROM THE NEW ZEALAND MINISTRY OF ECONOMIC DEVELOPMENT, THE MINISTRY OF FOREIGN AFFAIRS AND TRADE, AND THE NEW ZEALAND CUSTOMS SERVICE

1. In November 2003, the Ministries of Economic Development and Foreign Affairs and Trade, and the New Zealand Customs Service made a comprehensive submission to the Productivity Commission (PC) on its review of ANZCERTA Rules of Origin (RoO).
2. New Zealand officials welcome the thorough analysis carried out by the PC on the CER RoO as set out in its interim report. The focus of the PC's review was to ensure that the RoO continue to promote the goals of the CER and improve bilateral trade. This has become even more significant against the backdrop of recent trans-Tasman discussions on moving to a "single economic market".
3. The PC, in our view, successfully identified the adverse economic impact of the current RoO, which were designed many years ago and in a markedly different economic and manufacturing environment. The interim PC report provided sound and compelling arguments in favour of fundamental reform of the RoO.
4. Officials are studying the "waiver" proposal with interest. The proposal represents an interesting and innovative approach. We welcome the work that the PC is doing to clarify the definition of substantial transformation.
5. Having considered the interim report, we would like to raise three issues in this supplementary submission for the PC's consideration.
6. Accepting the argument that it may not be first best option, we nevertheless believe that it would be useful for the final report to include an assessment of the implications of reform based on a Change in Tariff Classification model. We are cognisant that the CTC model is the basis for treatment of RoO under many FTAs today. Such analysis would provide a useful basis of comparison with the options outlined in the Interim Report.
7. New Zealand believes that the CTC approach could under certain conditions offer some advantages. If kept simple and clean, CTC as a measure of substantial transformation would be predictable and relatively easy to enforce. Four related issues however would need to inform support for the model:
 - It would need to offer substantive liberalisation/efficiency benefits across key traded sectors;
 - Related to this, exceptions should be kept to a minimum;

- It would need to reflect the depth and scope and maturity of the trade relationship between Australia and New Zealand and not simply reflect approaches taken in other FTAs;
- A determination whether it would make sense at this juncture of the relationship to change course in light of the “negotiation” costs; the compliance costs on government departments and businesses.

8. Secondly, having done this work on a CTC model, we would like to see both it and the “waiver” compared against the benefits of a simple change in content threshold under the current model. Historically New Zealand has always been attracted to the simplicity of lowering the threshold as means of delivering comprehensive facilitation to all sectors. Such a change would deliver real benefits across the board to business in both countries without requiring any change to manufacturing or accounting practices and without creating new compliance or administrative costs for business and for the governments. A reduction to 40 per cent, then 30 percent, as proposed by the PC in Interim Recommendation 3, has some attraction in light of the economic analysis contained in the report and against the backdrop of diminishing returns as margins of tariff preference are reduced with the decline in general tariffs. A lowering of the threshold will also provide manufacturers with additional certainty.

9. Thirdly, there is the issue of intermediate inputs. Australian and New Zealand Trade Ministers tasked officials last August with designing a revised treatment in this area as an incremental improvement to the current system ahead of possible more fundamental change, and the Department of Foreign Affairs and Trade has now asked the PC to consider the matter.

10. In brief, the motivation for the revised treatment is to give greater flexibility to businesses on both sides of the Tasman using inputs not produced in either Australia or New Zealand. The proposal under consideration to date is to allow for such inputs to be excluded from the calculation of non-originating inputs when determining whether or not the required 50 per cent area content threshold has been achieved. Discussions between officials has suggested that a cap, set at 33 per cent of the overall ex factory cost of a product, would apply to ensure the provision did not undermine the requirement for substantial transformation. Some design features still require further reflection. We would be happy to provide further detail on these if required.

11. This proposal, if implemented as an interim measure prior to more fundamental reform of the RoO, could offer some early benefits to exporters on both sides of the Tasman by allowing greater scope for the use of intermediate inputs of foreign origin without putting at risk eligibility for preference under CER.

12. Finally, we wish to reiterate our position as set out in our initial submission. New Zealand is not fixed on any particular model and is receptive to looking at all viable models.