7th October 2003

Submission to Australian Productivity Commission

Subject: Rules of Origin under ANZCERTA (ROO CER) Agreement between Australia and New Zealand

Submitted by: Textile Bonding Ltd
42 Sir William Avenue
East Tamaki
Auckland
New Zealand

Executive Summary

- Textile Bonding Ltd is a specialist New Zealand manufacturing company serving curtain wholesalers by back-coating fabrics with a "Thermal" backing.

- Under the existing 50% CER ROO (Rules of Origin) area content rules there are at least two serious anomalies that seriously hinder companies in both Australia and New Zealand doing Trans-Tasman business.

- The basis of our submission is that the main criterion for CER ROO should be "Substantial Transformation" (that is where the manufacturing process alters the product to a stage where there is a change of Tariff Heading) and further be subject to a CER ROO area content of 20%.

Textile Bonding Ltd

- Textile Bonding is a New Zealand-based manufacturing company specialising in the crushed-acrylic-foam coating of curtain fabrics. We coat curtain and blind textiles for wholesaling companies on both sides of the Tasman. This process produces what are commonly called "Thermal Drapes" or "Thermal Backed Curtains" and allows curtains to be hung without the cost of a separate lining.

- This process of manufacture is considered by the Customs Services in NZ and Australia as being a "last process of manufacture" for CER ROO purposes. Both Customs Services consider this coating process has created a product that is essentially different from the materials that went into the process. In essence, a fabric has been substantially transformed by a manufacturing process into an impregnated specialised curtain material.

- Textile bonding is currently serving both the Australian and New Zealand markets with this service in addition to a number of other foreign markets.

- Textile Bonding is a small to medium sized, New Zealand-owned company with a staff of 45 all working at its Auckland factory.

- Under the current rules of origin Textile Bonding is able to supply coated fabric duty-free into the Australian market only if it is black-out coated – ie three coats or two coats. These latter two specific manufacturing processes usually meet the requirements of the CER ROO 50% area content provisions in terms of materials, labour and overheads at ex-factory level.

- However, a single-pass manufacturing process (the bulk of the market), which is not as manufacturing intensive as the black-out coating processes, does not generally meet the 50% area content and is therefore usually subject to duty on entering Australia. If, however, substantial transformation was in place and subject to a CER area content of 20%, then most fabrics produced under this single-pass coating manufacturing process would qualify under CER. This very necessary change in CER Policy would further enhance trading between member countries and, in our opinion, generate benefits to companies on both sides of the Tasman.

There are at least two serious anomalies with this manufacturing process under current CER rules:

Anomaly No. 1

- Under current tariff regulations, fabric of a typical curtaining weight (less than 200 grams per square metre) that is 100% cotton, enters both New Zealand and Australia duty free. Under Part 1 of the Customs tariff in New Zealand there is no import duty on cotton fabrics; whilst in Australia, we understand, light weight woven cotton fabrics may enter free of duty by means of a duty free concession.

- Theoretically, this means in effect that there is no local manufacture in either New Zealand or Australia for this specific type of cotton fabric used in curtain production.

- However, when Textile Bonding Ltd, a New Zealand manufacturer, subjects this duty free cotton to a single-pass coating process in its own plant on behalf of an Australian customer, the cotton fabric of Tariff Chapter 52 then becomes a coated textile fabric of Tariff Chapter 59 and is subsequently subject to duty in Australia because the 50% area content has not been met. This despite the fact that the coating process is totally New Zealand qualifying.

- To have a duty-free fabric coated with a CER qualifying process becoming dutiable is obviously contrary to the intent of CER and must be changed. A change from 50% area CER ROO to “Substantial Transformation” will achieve this.

Anomaly No. 2

- Currently there is a difference in interpretation of origin requirements between the two Customs Administrations which produces the second anomaly in this niche textile industry.

- The Australian Customs Service have determined that, if an imported material (in our case textiles) is supplied to a New Zealand manufacturer (Textile Bonding Ltd) by a New Zealand company for further processing at no cost to that manufacturer, then the original cost of the imported fabric is not taken into account when calculating CER ROO area content. In other words it is only the manufacturer's expenditure on materials, labour and overheads at an ex factory level that is taken into account. The imported fabric cost is disregarded.

- In effect this means that coated fabric, with a less-than-50% CER qualifying content, that has been coated in New Zealand is duty-free when exported to Australia by a New Zealand company other than the coating company. This situation quite clearly disadvantages the manufacturer (Textile Bonding Ltd) because its Australian customers are penalised and once again is contrary to the intent of CER.

- This interpretation by Australia does not match that applied by the New Zealand Customs Service. New Zealand Customs includes the cost of imported fabric in its ex-factory calculations for goods exported to Australia. This difference in interpretation has caused a great deal of confusion between companies on both sides of the Tasman in recent times, and, at the time of writing, this interpretation difference remains.

- This anomaly presents an even greater disadvantage for Australian companies who purchase, for example, fabric from Pakistan, ship it direct to New Zealand (Textile Bonding Ltd) for coating and subsequent re-export to Australia. Unlike his New Zealand competitor, where an Australian business is involved directly or indirectly in the provision of that fabric, the Australian Customs Service requires the cost of that fabric to be determined by the Customs CEO. This determination however does not apply to New Zealand companies.

- The question must also be asked – why is there a need for the Australian firm to seek a determination from the Australian Customs as to the normal market value of the fabric supplied when in New Zealand the Australian Customs Service disregards the imported cost of the fabric? Both issues are the same yet different requirements apply. There needs to be uniformity in interpretation as between Customs Administrations.

- Once again a change from 50% area content CER ROO to "Substantial Transformation" would remove this anomaly and restore the intent of CER.

Submission

- The two situations described above clearly demonstrate the inadequacy of the current 50% CER ROO area content rule governing Trans-Tasman trade under ANZCERTA.

- Both these anomalies would be solved by changing the present 50% CER ROO provisions to one of "substantial transformation" – ie a change of tariff heading through a process of manufacture.

- However, to ensure that there is a reasonable level of CER ROO area content in the finished product it is suggested that such area content be 20% (certainly no more than 25%).

Submitted by

Richard Yates
Joint Managing Director
Textile Bonding Ltd
Auckland
New Zealand

Ph ++64-9-274-4488
Fax ++64-9-274-3334
Email: richard@texbond.co.nz