

**Productivity Commission Study of the Regulatory Burden on the
Chemicals Industry**

**The Globally Harmonised System for Classification and Labelling of
Chemicals (GHS) – Supplementary information**

The Globally Harmonised System for Classification and Labelling of Chemicals (GHS)

1. Introduction

ACCORD's October 2007 submission to the Productivity Commission's Study of Chemicals and Plastics Regulation highlighted a range of issues that directly impact GHS implementation considerations for Australia; including

- The GHS remains a 'work-in-progress' and will need to evolve in recognition of problems that arise in both practical application, and to reflect changes that arise in the implementation that occurs in the major chemical trading nations
- The emergence of different customised 'brands' of GHS has the potential to strongly work against a stated objective of GHS with regard to trade facilitation
- For Australia, trade facilitation is the major benefit of GHS implementation as recognised in the July 2007 UK Initial Regulatory Impact Assessment:
 - “5. *The current EU classification and labelling system for supply and use of chemicals is mature, well developed, and widely understood. It is unlikely the EU (and therefore the UK) will experience significant benefits for human health or environmental protection from implementation of the United Nations Global Harmonised System of Classification and Labelling of Chemicals (GHS), compared with the current EU classification and labelling system. It is countries that as yet do not have a regime in place to control the supply and use of hazardous chemicals, that are expected to benefit the most from the UN GHS, and for them it will be a significant step forward in the safer management of chemicals.*
 - 6. *The principal economic benefit of the GHS for the EU, and therefore the UK, is considered to be the facilitation of international trade, over the longer term, due to the lowering of technical barriers to trade.....”* <http://www.hse.gov.uk/consult/condocs/cd213ria.pdf>
- Issues concerning identification of Australia's major trading partners
- Identification that Australia has a unique opportunity to gain benefits of GHS if it phases GHS implementation to follow behind that adopted in major economies and trading partners such as the European Union, North America and other APEC economies. If Australia extended the transition periods for mandatory adoption of GHS then this would allow Australia to benefit from:
 - GHS classifications that are undertaken in the major chemical trading nations
 - resolution of major GHS implementation issues
 - avoidance of duplication and inconsistencies
 - avoidance of potential significant costs of 'reworking' as the GHS evolves during implementation
- Identification that the schemes for regulation of hazardous substances, agricultural/veterinary chemicals and consumer products have different approaches to who conducts the risk-assessment and towards communication with end-users:
 - the Hazardous Substances regulatory approach is based on hazard classification and hazard communication for substances which may have diverse uses. Risk-assessments are required to be conducted in the workplace, and based on the specific use scenario.
 - the Agricultural and Veterinary Chemical Products regulatory approach provides a higher, level of regulatory intervention whereby the risk-assessment for these defined-use products is part of the registration and approval process. The agvet product label is the culmination of the hazard-assessment, exposure assessment, risk-characterisation, risk-management and risk communication for the product.
 - the Consumer Products regulatory approach provides for notification and assessment of substances by the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) and risk-assessment, risk management and risk communication through the regulatory intervention of the National Drugs and Poisons Schedule Committee (NDPSC) and the adoption of the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) by the States and Territories
- Australia has the opportunity to maximise the benefits and minimise the costs of the GHS through its implementation strategy. ACCORD strongly recommends that the Productivity Commission

supports the following recommendations:

- the Departments of Foreign Affairs and Trade (DFAT) and Innovation, Industry, Science and Research (DIIRS) provide advice to Australian government regulators of the chemicals and plastics industry on Australia's trade profile and emerging trends
- DFAT and DIIRS be actively engaged in the development of Australian implementation strategies for the GHS
- further considerations on Australian GHS implementation to be informed by developments in Australia's major trading partners
- acknowledgement be given that Australia's National Interest will be best served through trade facilitation and efficiencies that timely and appropriate GHS implementation may offer
- Australia maintain an active role in the APEC Chemicals Dialogue to promote trade facilitation from GHS implementation within the 21 APEC economies
- acknowledgement be given that Australia's currently developed regulatory regime for chemicals and plastics is comparable to those in other developed countries
- the Productivity Commission endorses the principle that Australia adopt GHS implementation transition periods that are beyond major chemical trading economies thereby allowing efficiencies and cost-effective benefits to be realised
- the Productivity Commission supports the development of an Australian government/ industry workplan that:
 - involves government and industry in a partnership approach
 - addresses the individual chemical sector needs and issues
 - is progressively informed by international developments
 - recognises and provides input on Australian views to international fora, such as the APEC Chemicals Dialogue and the UN Sub-committee of Experts on the GHS
 - ensures efficiency, avoids duplication, enhances trade, and promotes consistency with international progress such as in the area of GHS classifications
 - follows behind the transition timetable that becomes established as relevant by Australia's major trading partners
 - explores opportunities for mutual recognition (vs full harmonisation)
 - provides for broad training, outreach and awareness raising

For the purposes of this supplementary submission following the 11 November 2007 PC Roundtable, ACCORD highlights the following matters for the Productivity Commission's consideration.

2. Analysis of Australia's Major Trading Partners and impact of GHS

Through the Government-led GHS Roundtable Group a meeting has been scheduled with DFAT on 7 February 2008 to discuss a study to assist to inform GHS implementation from a trade perspective. Industry has prepared a draft briefing document for the meeting and a copy is attached.

The results of the trading partner analysis will also be useful to the Productivity Commission in its considerations. At this stage there is not a finalisation date for this project.

3. Inner Package Labelling

Inner package labelling requirements under transport of dangerous goods provisions are **unique Australian requirements** that:

- (a) are not based on transport safety as the inner packages are contained within an outer package that meets dangerous goods requirements appropriate to the nature of the goods;
- (b) do not recognise that other labelling schemes apply and are targeted to specific end-user audiences (for example, consumer products);
- (c) increases costs to industry, and ultimately consumers, through the need for:
 - Australia only labels;
 - separate production runs for products destined for the Australian market; or
 - overstickering of individual product labels to meet local requirements;

- (d) may not meet guidance provided by the COAG *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies* or other materials prepared by the Office of Best Practice Regulation; and
- (e) makes Australia vulnerable to *dispute procedures* under the World Trade Organisation.

This matter is not new to the Productivity Commission and in its 2003 Research Report on Mutual Recognition Schemes¹ the Commission noted:

The successful achievement of the goals of MRA and TTMRA contributes to the competitiveness, innovation and flexibility of the economies involved, by removing the need for a business operating in more than one jurisdiction to satisfy:

- *the multiple regulatory standards of the participating jurisdictions;*
- *requirements to package and label goods differently for sale in different jurisdictions;(underlining added) and*
- *testing requirements of jurisdictions prior to sale in those jurisdictions.*

The removal of these requirements permits businesses to capture economies of scale available through producing a product to a single standard for sale throughout Australia and New Zealand.

The Productivity Commission's preliminary finding 8.3 states:

In aligning State and Territory provisions for inner labelling of packaging, benefits would arise from consultations with relevant authorities in New Zealand.

Inner package labelling should not be seen as a transport issue. For consumer goods, for instance, there are strong benefits to be achieved through having point of sale labelling requirements under the jurisdiction of other consumer labelling provisions of requirements such as the Standard for the Uniform Scheduling of Drugs and Poisons. This is a significant issue for industry and a positive resolution to remove inner package labelling from the ADG needs to be achieved.

The National Transport Commission has failed to address the issue of inner package labelling despite the issue being raised continually during the development of the 7th edition of the Australian Dangerous Goods Code.

¹ Productivity Commission 2003, Evaluation of the Mutual Recognition Schemes, Research Report Canberra.