



**Australian Government**  
**Department of Foreign Affairs and Trade**

**Deputy Secretary**

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11 November 2014

Mr Jason McNamara  
Executive Director  
Office of Best Practice Regulation  
Department of the Prime Minister and Cabinet  
1 National Circuit  
BARTON ACT 2600

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Dear Mr McNamara

**Regulation Impact Statement – final assessment**

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for the First Protocol to Amend the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA). The regulatory burden to business has been quantified using the Regulatory Burden Measurement framework. These have been agreed with your office.

I am satisfied that the RIS addresses the concerns raised in your letter of 23 October 2014. Specifically, the section of the RIS describing the problems to be addressed is now more focused on identifying the precise nature and extent of the business concerns arising from the rules under AANZFTA's existing arrangements (Section B). More detail is also included on the concerns that businesses have raised directly with DFAT and the Australian Customs and Border Protection Service, including identification of areas where AANZFTA's current requirements impose compliance costs or unnecessary regulatory burdens.

The section of the RIS on why government action is needed now more clearly states the objective in terms of the desired outcomes (Section C).

The Impact Analysis (Section E) has been updated to include more detail on the specific impacts that the First Protocol will have, as well as all potential impacts of alternative options (Section D). This section now includes more detail from the Trade Impact Assessment (Section F) and the Regulatory Burden Measurement framework (Attachment B) to assess both potential benefits and costs of all options.

The RIS concludes that the First Protocol provides business with the greatest benefits and is the only option with reasonable certainty of addressing business concerns. Taking no action will retain the status quo and will be of no benefit to business. Similarly, multilateral or other free trade agreement (FTA) negotiations would not guarantee the same level of liberalisation, and therefore, would not accrue the entire value of the benefits that would be achieved by implementing the First Protocol. Options other than implementation of the First Protocol would involve considerable uncertainty as to whether the required outcomes could be achieved and the timeframes in which they might be realized.

There is sufficient evidence gathered from business since AANZFTA's entry-into-force in 2010 to conclude that trade opportunities are not being fully utilized or that markets are being distorted due to unnecessary regulatory burdens in the Agreement. The requirement to include information that some companies consider commercial-in-confidence, or that may potentially disadvantage their competitive position vis-à-vis their suppliers and/or final customers means that full use is not being made of AANZFTA. The First Protocol will reduce or eliminate unnecessary costs and regulatory impediments which we expect to impact positively on commercial decision-making regarding future use of the Agreement.

I note the Office of Best Practice Regulation's assessment that a RIS should have been prepared for the decision by the Government in October 2013 to agree to sign the First Protocol. However, I would note that the First Protocol is purely deregulatory and only addresses areas where the AANZFTA departs from Australia's preferred approach to FTAs. All of the key issues addressed by the First Protocol are ones which would have been in the original AANZFTA if it had more fully realized Australia's negotiating objectives on rules of origin.

Accordingly, I am satisfied that the RIS now meets best practice consistent with the *Australian Government Guide to Regulation*.

I submit the RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Jan Adams".

Jan Adams