

Mr Paul Tighe
First Assistant Secretary
Trade Development Division
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
BARTON ACT 0221

Dear Mr Tighe

Australian-Malaysia FTA Scoping Study

The Building Products Innovation Council (BPIC) would like to provide some brief comments on the proposed Australia-Malaysia Free Trade Agreement as it relates to opportunities and risks for the building materials supply sector. BPIC also takes this opportunity to thank the Department for the inclusive approach to seeking industry input into this study through acceptance of this submission and the previous discussions we have held with you and your fellow officers.

As brief background the building and construction industry consisting of firms engaged in the construction of residential, non-residential building and engineering structures, and also in trade related services is worth more than \$70billion annually and accounts for 5.6% of the GDP (01/02 data). The industry provides jobs for more than 700,000 Australians or almost 8% of the workforce, many in regional areas. The industry has strong linkages to the wider manufacturing, financial services and retail sectors of the economy and is a core indicator of economic activity. The materials supply sector is a fundamental element of this important industry sector.

Commenting first on the main issues raised in the Department's consultation paper, BPIC members recognise the importance of the investigation particularly in the ASEAN context; however for the materials manufacturing sector the prospect of an Australian-Malaysia FTA would appear to have lesser relevance as a driving force for future opportunities. This is in part driven by the industries past experience in Malaysia which, for whatever reason, apparently did not deliver returns that might otherwise have been expected. This aside, given the settling in of the USA agreement, the significance of the Australia-China Free Trade proposal and the current high levels of domestic demand, it is perhaps understandable that attention may be diverted in the face of limited company resources.

Australian material manufacturers have faced an increasing degree of competition from offshore sources and the exports from Malaysia to Australia in building materials are not insignificant. However, they do hold only a small percentage of import share from all

sources. In particular product lines, in the main timber and certain insulation products, Malaysia has reasonable market share.

Having said this BPIC members are strongly in favour of actions that lead to a more transparent international trade environment particularly where it is developed within a boundary of fair trade. Hence there is a need to ensure that the non-tariff barriers in each market are properly identified and addressed should an FTA be proposed. Likewise, the possibility of watering down of the anti-dumping and countervailing mechanisms under a free trade agreement would be objected to by the BPIC members. The evolving of an FTA under these conditions of open and fair trade, among others, would be more likely to lead to increased surety in bi-lateral trade and therefore the increased investment and trade in goods and services that any such agreement is setting out to achieve.

BPIC is not familiar with the detail of the trade environment in Malaysia and looks forward to the scoping study report to assist in developing our understanding of that market. However, we do believe that the tariff rates applied to the exports of products from Malaysia to Australia in the building materials area are very low by some international tariff standards. Should the study find that the Malaysian tariffs are significantly higher than the applied Australian tariff then we would suggest that either a zero for zero approach (tariff elimination) or a phasing of the Australian tariff by the same ratio as the Malaysian tariff be applied. For example, where our tariff is 5%, if the Malaysian applied tariff is 25% and it phases by 20% per annum, i.e. to 20% on date of commencement, then the Australian tariff would likewise drop by 20% of our rate, which is from 5% to 4%.

Another equally valid approach is to align the tariffs before reducing the tariff from the existing minimum rate applied by one of the parties. Under certain conditions, this would ensure that both parties to the FTA have an equal opportunity to maximize their economic advantage without artificial tariff barriers providing higher returns in the domestic market.

It is important to remember in this analysis that Australia also has significant imports under concessional duty rates, mainly through the policy by-law and tariff concession systems. We would ask that should the FTA proceed and the existing customs duties are phased out, not eliminated, then the 3% revenue duty applied under the current tariff concession system be removed. Such a duty is inconsistent with the theme of a freer trade environment.

BPIC is also of the view that some account must be taken of the regulatory environment in place in Australia and the need to ensure that this system is maintained under any FTA. This includes issues such as the mandatory product and system performance requirement specified under the Building Code of Australia and the ability of products to meet, under appropriate testing regimes, these minimum standards. Equally, there must be some comparison of skills, education and training regimes in the building and construction area to ensure that not only are manufacturing standards similar for materials but also the skills to properly install and maintain these products and the constructions they are used within. This standardization would also assist in the movement of skilled labour between the two countries. At present the Australian industry is striving to ensure that we do indeed adopt and apply a nationally consistent approach to building regulation and this

same concept should, if maximum benefits are to be achieved, be carried over to any FTA situation.

As part of the consideration in this feasibility study we would appreciate investigation of the requirements for our building designers to practice in the Malaysian market, either by physical presence or by electronic commerce. There are often certain minimum levels of education and training as mentioned above, and these are not always consistent on a national level. Importantly, in Australia there are both building designers and architects practicing in this area and we would like to see both continue and have opportunity in Malaysia.

BPIC would also like to see some wider consideration of the appropriate rules of origin and would suggest that the rules adopted for the Singapore Free Trade Agreement may be an appropriate starting place. This of course would need significant examination should an FTA be recommended.

Another area that we would ask for your consideration in is that of the drive within certain areas of the Australian community to a “sustainable” approach to the built environment. It is difficult to actually define what is meant by this term as many organisations and individuals have differing perspectives. However, it is very clear to the materials industry that such an approach adds another element of cost to building in Australia through either more stringent controls in the production process (e.g. water reuse and treatment on site) or even product recycling. These types of initiative are likely to be, or already are, encroaching on the Australian materials manufacturers. There must be some recognition of the costs and disadvantages that this would place Australian manufacturers compared to manufacturers in certain offshore countries that, while supplying the Australian market, do not have similar manufacturing or post manufacturing imposts. Again one could argue that this applies under present circumstances and this is a fair point to make but also one which the industry will begin to address over the coming year. To enter into an FTA without taking account of this type of competitive measure would be quite another thing altogether.

BPIC does not ignore the possible benefits from marketing products in a manner that demonstrates their environmental credentials over and above some of their competitor or substitute products. However, the first port of call for many in the competitive commercial and domestic construction industry is often the price.

In general terms the maximum benefit from an FTA between Australia and Malaysia in the building materials area would cover issues such as standards and mutual recognition of conformity assessment, foreign direct investment rules, and safeguards for product export surges, maintenance of a workable anti-dumping mechanism and no lessening of the rights to intellectual property protection.

Having said this BPIC is aware that certain areas of the Malaysian Government and industry are keen to examine Australian advances in construction of low cost housing and that there may well be opportunities there. These issues of course need not be limited to discussion under the context of a free trade agreement, and BPIC stands ready to assist and advise the Australian Government as appropriate in these matters.

There are both opportunities and risks involved in any free trade proposition for the building materials area, and we would welcome further involvement in the process as the scoping study moves along. BPIC has asked its members to consider this issue from an individual product perspective as it is clear that for some of Australia's larger materials suppliers and construction companies the current and future opportunities in Malaysia would be enhanced by the signalling of a desire by Australia to proceed to formal discussions on an FTA.

Please feel free to contact me for more detailed information as necessary.

Regards

A handwritten signature in black ink, appearing to read 'Tony McDonald', written in a cursive style.

Tony McDonald
Chief Executive

9 November 2004