



## Submission No 13

### **Australia's trade and investment relations under the Australia-New Zealand Closer Economic Relations Trade Agreement**

**Organisation:** Department of Immigration and Multicultural  
Affairs

**Contact Person:** Ondrae Campbell  
International Cooperation Branch

**Address:** PO Box 25  
Belconnen ACT 2616

**Submission to Joint Standing Committee on Foreign Affairs, Defence  
and Trade**

**in relation to**

**A Review of the Australia/New Zealand Closer Economic Relations  
(CER) Trade Agreement**

**submission provided by**

**Department of Immigration and Multicultural Affairs**

*Submission to Joint Standing Committee on Foreign Affairs, Defence and Trade:  
A Review of the Australia/ New Zealand Closer Economic Relations (CER) Trade  
Agreement*

**Australia-New Zealand Immigration Arrangements**

New Zealand enjoys special arrangements in terms of the entry to and stay in Australia of its nationals.

Presently, New Zealand citizens are able to enter Australia in two ways.

**Trans-Tasman Travel Arrangement**

Under various arrangements since the 1920s, there has been a free flow of people between Australia and New Zealand. The 1973 *Trans-Tasman Travel Arrangement* has enabled New Zealanders to travel to, live and work in Australia without restriction and Australians to do the same in New Zealand. Thousands of Australians and New Zealanders cross the Tasman each year as tourists, for business purposes, or to visit family members. Around 350,000 New Zealand citizens live in Australia, plus about 100,000 are visiting at any one time. Around 60,000 Australian citizens live in New Zealand.

The legal requirement, since September 1994, for all non-citizens to have visas for travel to Australia resulted in the introduction of a Special Category Visa (SCV) for New Zealanders. At the time of presenting a current New Zealand passport and completed incoming passenger card, New Zealand citizens are considered to have applied for a visa.

Whilst the SCV allows a New Zealand citizen to remain and work in Australia lawfully as long as that person remains a New Zealand citizen, the visa is not considered a permanent residence visa.

There is provision in the Migration Act (s32 (2)(a)(ii)) to deal with New Zealand citizens who may be a character or health concern. A New Zealand citizen who has been convicted of a crime and sentenced to death or to imprisonment for at least 12 months, or has been deported from another country, is considered to be a Behaviour Concern Non-Citizen (BCNC). A person that has been excluded from another country on the grounds that they refused or failed to present a passport; presented a bogus document; was not a genuine visitor; or the authorities of that country considered the person to be a threat to national security, is also considered to be a BCNC.

New Zealand citizens who are suffering from a prescribed disease or a prescribed physical or mental condition, are considered to be a Health Concern Non-Citizen (HCNC). Currently, the only prescribed disease is tuberculosis (being tuberculosis that is not being controlled with medication, and in respect of which the person suffering from it refuses to sign an undertaking to visit a Commonwealth Medical Officer within seven days of entering Australia)

The Act provides that where a person is a BCNC or a HCNC, they are not generally eligible for the grant of a SCV.

There is provision under the Act to grant a SCV to New Zealand citizens who are BCNC only because of having been excluded from a country other than Australia in circumstances that, in the opinion of the Minister, do not warrant the exclusion of the person from Australia. Such persons must still meet the other SCV criteria.

New Zealand citizens who are not eligible for the grant of a SCV are required to apply for, and be granted another kind of visa, before being able to enter Australia. New Zealand applicants for a visa other than a SCV would be assessed against the usual character requirements, defined in s501 of the Migration Act. Provided they met the character requirements, and met all other visa criteria, the visa would be granted. New Zealand citizens, like any other visa holder, would be subject to visa conditions which may include restrictions on length of stay and work rights.

### Permanent Residence Visas

On 26 February 2001, the Australian Government announced changes affecting New Zealand citizens in Australia. From this date, New Zealand citizens must meet the same requirements as other migrants to be eligible for Australian citizenship, access certain social security payments (including Special Benefit and Newstart) or sponsor their family members for permanent residence.

Under transitional arrangements, New Zealand citizens who were

- in Australia on 26 February 2001 as Special Category Visa (SCV) holders; or
  - outside Australia on 26 February 2001, but were in Australia as a SCV holder for at least one year in the two years prior to that date, and subsequently returned; or
  - who have a certificate, issued under the *Social Security Act 1991*, stating that they are residing in Australia on a particular date
- are not affected by these changes.

The Trans-Tasman Travel Arrangement and SCV arrangements remain in place and New Zealand citizens retain the right to travel to, work, study and live in Australia indefinitely.

### *Improvements in Australia-New Zealand Immigration Arrangements*

The Australian and New Zealand governments continue to work together to improve the flow of people between both countries through the implementation of a number of initiatives, including the following:

#### *Exchange of Information*

Bilateral passport data accessing arrangements have been in place with New Zealand for over a decade. Under the data accessing arrangements, New Zealand provides a copy of its passport database for use by Australia when processing the entry of New Zealand citizens.

In late 2004, this arrangement was expanded to enable New Zealand to electronically access a sub-set of Australia's passport database to verify passports when Australians check-in for travel to New Zealand. Under the arrangement:

- Information is electronically accessible on a 'near real-time' basis.
- Only the minimum information will be disclosed to allow for verification of a person's authority to travel between each country.
- New Zealand and Australia have committed to protect each other's information in the same way as each country maintains information concerning its own citizens.

From 16 February 2005 the systems have been in place to allow the accessing of this information.

On 31 March 2006 New Zealand joined a pilot Regional Movement Alert List system (RMAL) with Australia and the United States. RMAL is an APEC counter-terrorism initiative. It has positively demonstrated that economies can establish connections to access each other's lost, stolen and invalid passport data, in real-time.

#### *Facilitation through airports*

Recent agreements between the two countries have seen the establishment of joint queuing arrangements at Sydney, Melbourne and Brisbane international airports, enabling New Zealand passengers to join what is now an Australia-New Zealand citizens only lane.

This border processing change reflects arrangements already in place for Australian passport holders arriving in New Zealand.

#### *ePassports and Automated Border Processing*

In February 2007, it will be possible for both Australian and New Zealand ePassport holders to be immigration cleared using an automated border processing system known as SmartGate. New Zealand commenced the issuing of ePassports in November 2005.

DIMA is currently seeking the introduction of the Migration Amendment (Border Integrity) Bill 2006 to remove any legislative impediments to automated border processing. The Bill is scheduled to be considered in the Winter 2006 sittings.

The proposals will address ways of facilitating the entry of New Zealand citizens who hold biometric passports and who are not of health or character concern. The person's identity will be verified by matching biometric data contained on a computer chip in the ePassport against a live photograph taken on arrival.

The proposed automated process will be voluntary.

## Common Border

There have been calls in the past for the establishment of a common border between Australia and New Zealand. The concept of a common external border assumes a high level of harmonised border control and entry requirements for people, goods, services and capital. In order to achieve this in relation to the movement of people between the two countries, there would need to be significant change in approach by one or both countries. A major area of difference is that Australia requires all persons - except Australian citizens - to hold a valid visa, whereas New Zealand exempts some third of persons from this requirement under certain circumstances. Our respective immigration policies also differ in respect to migrant selection. While ever the immigration and border policies and regimes differ, it is difficult to see a common border being achieved.

## Conclusion

From an immigration and border control perspective, Australia and New Zealand work very closely together. The two countries have the best data sharing arrangements anywhere in the world. We have worked cooperatively with New Zealand on the establishment of their Advance Passenger Processing system – a system that provides advance information on all passengers travelling to New Zealand. New Zealand has also been a key player in RMAL, a significant APEC initiative.

This close cooperation has resulted in a number of initiatives to facilitate travel and improve border integrity that has resulted in benefits to both countries.