# Submission No 3

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


**Organisation:** **Australia New Zealand Business Council**

**Contact Name:** **Chris Mackay**

**Address:** **PO Box 3383**
**Weston ACT 2611**

# AUSTRALIA NEW ZEALAND BUSINESS COUNCIL

PO Box 3383, Weston ACT 2611
ABN: 93 356 022 496
Tel: +2.6231 9399 Fax: +2.6231 9403
email: cmackay1@tpg.com.au

PO Box 47, Shortland St, Auckland,
New Zealand
Tel: +9.3096 100 Fax: +9.3090 081

The Secretary
Trade Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Dear Sir

The Australia New Zealand Business Council is pleased to provide submissions to the Trade Sub Committee in response to its inquiry into Australia and New Zealand Closer Economic Relations.

The Council represents the views of business on a range of Trans-Tasman business related issues. Those that have contributed to the Council's submissions include accountants, lawyers and business people directly involved in trade and commerce in Australia and New Zealand.

The Council regularly attends the annual meetings of the Trade and Commerce Ministers of Australia and New Zealand, and focuses on factors that impede the ability of businesses to conduct their affairs efficiently, and to grow trade and commerce across the Tasman and, perhaps, into third markets.

CER has been very beneficial to both countries and the Council's contention is that greater benefits are yet to be unlocked through the establishment of a single economic market.

Yours sincerely

Dr Ross Patterson
PRESIDENT
19 April 2006

# AUSTRALIA NEW ZEALAND BUSINESS COUNCIL

## Submission to the Parliament of Australia, Trade Sub-Committee, Joint Standing Committee on Foreign Affairs, Defence and Trade
## 19 April 2006

The Australian New Zealand Business Council (ANZBC fully supports the stated objective of the Australian Treasurer and the New Zealand Minister of Finance of '*building on the CER agreement toward a single economic market based on common regulatory frameworks'*.

The ANZBC agrees with the Productivity Commission that the creation of a single economic market is a '*more ambitious agenda*' than the CER harmonisation objective. While we submitted to the Productivity Commission, and reiterate: '*Integration is quite a different concept to that of harmonisation; it involves a move from two systems working in harmony with each other to a single integrated system'*, within the harmonisation project there is a considerable amount of unfinished business

### Corporations Law

The Council supports the provisions of the Work Programme for Coordination of Business Law, contained in the Memorandum of Understanding between Australia and New Zealand signed on 22 February 2006, and looks forward to the early introduction of the announced changes.

### Investment Barriers

The ANZBC has consistently submitted that for the purpose of foreign investment restrictions, investment by Australian companies in New Zealand, and New Zealand companies in Australia, should be regarded as domestic investment. We were advised that this proposal needed to be considered against Australia's previously non-discriminatively policy for liberalisation of foreign investment rules, but the Government would nevertheless continue to look at this issue.

The United States/Australia Free Trade Agreement appears to be a basis upon which, as between Australia and New Zealand, this can now be revisited. At a minimum the ANZBC submits that the investment threshold for New Zealand should be increased to that which applies to the United States.

Single filings of company results to the corporate regulators would be a major step in ensuring trans-Tasman investment is viewed as essentially domestic.

## Mutual Recognition of Offers of Securities

The proposal for a mutual recognition regime to allow issuers to offer securities in both Australia and New Zealand using the same offer documents is supported by the ANZBC, and the early introduction of measures under the Mutual Recognition of Securities Offerings Treaty (signed 22 February 2006 in Melbourne) announced by the Treasurer, Peter Costello, and the Finance Minister, Dr Cullen, is supported by business.

## Investment and Taxation

A major challenge to a single economic market, and a serious concern of the business community, is the lack of harmonisation of taxation laws.

Complete harmonisation of the tax systems is recognised as being an unrealistic objective and is therefore currently not advocated by the ANZBC. The political and economic implications are too involved to contemplate such a policy.

During the period since the introduction of the trans-Tasman imputation rules in 2003, much debate has centred on the extent to which this has erased the burden of taxation on direct investment. The general view is that the current pro-rata allocation system does little to encourage Australian business to expand into New Zealand and create jobs and economic activity in New Zealand or for New Zealand businesses to expand into Australia similarly creating such jobs and economic activity.

The ANZBC has long advocated mutual recognition of imputation credits by both countries. Whilst this would have a cost it would enable businesses to operate in each country without needing to resort to differing forms of 'financial engineering' to maximise tax paid in the home country and minimise tax paid in the other country. There are clear benefits for both countries in providing for mutual recognition of imputation credits o assist in the creation of a single economic market where structures are not driven by tax consideration. Most importantly, the current system is a disincentive to Tans-Tasman investment.

We understand from (informal) discussions with officials that mutual recognition is unlikely to be placed on either countries policy agenda, despite its critical importance to a single economic market. The ANZBC notes its surprise and disappointment at this response.

it is important that the other barriers to trade and trans-Tasman direct investments are also dealt with as a matter of urgency and with diligence. Without such activity, the goal of a single economic market cannot be considered as a serious objective.

The approach in both countries in the key areas of taxation of savings, research and development and international tax has followed fundamentally

different paths. If there is to be a single economic market, one has to question why the tax systems in these areas are not running in parallel.

New Zealand is currently revising its taxation of savings and is about to introduce some radical reforms. While Australia will quite possibly be granted special status in respect of offshore portfolio investment (compared to other offshore jurisdictions) it is not evident that this reform involves discussions on the impact on a single economic market. A policy objective for both governments should be to agree to combine the economic impact of reforms that involve cross border investment on the single economic market objective.

Another example involves the taxation of individuals. Both countries are in the process of introducing incentives to attract skilled expatriates to work temporarily in their country. These new laws apply to all expatriates from any country. There are similarities in the proposed approaches, both giving exemption from non in-country sourced income (for a period or depending on residence status). However, the detail in the proposals is fundamentally different.

The differing tax treatment for expatriates transferring trans-Tasman has long been a cost borne by business. The different tax treatment for retirement funds has acted as a barrier to the free movements of talented people.

Again, we question why, when both governments are advocating a single economic market, there is not some serious attempt to either harmonise the policies when both countries see the need for reform in the same area of tax or, at the very least, there is contemplation of tax concessions or even some harmonisation of rules to aid the free movement of people trans-Tasman. We acknowledge that the rates of tax will always be an individual country matter. Rather we refer to general matters such as the treatment of foreign investments, transfer costs, fringe benefits, superannuation etc.

The ANZBC acknowledges that Australia has signalled to New Zealand that it wishes to re-negotiate the Double Tax Treaty with New Zealand and in particular the withholding tax rates included therein. This move is supported. The more liberal US and UK treaties with Australia seem to be illogical in an environment where a move towards a single economic market trans-Tasman is a stated objective.

Many businesses setting up in the other country take on the taxation compliance duties from their home country. Continued attempts to harmonise tax compliance requirements and payment dates are encouraged. Tax compliance costs are a significant burden to business and this significantly increases when doing business in a foreign country. A single economic market goal should have as a priority harmonisation of common compliance requirements.

We recommend the establishment of an advisory group specifically focused on dealing with the tax impediments that arise for business between Australia and New Zealand, focusing on the need for mutual recognition of imputation

credits and the need to deal with the provision of superannuation benefits and foreign source income in an effective manner.

**Competition Law**

The ANZBC made submissions to the Productivity Commission's study on Australia and New Zealand Competition and Consumer Projection Regimes, and endorses the recommendations of the Commission in its report of 16 December 2004.

**Sectoral Competition Regulation**

While generic competition law is now largely harmonised, little attention has been given to sectoral competition regulation. As a result there are continuing adverse divergences in regulatory approach. The ANZBC submits that regulatory convergence is essential to greater economic integration. In Australia, regulatory harmonisation and the National Competition Policy was critical for the realisation of a single domestic market.

Such convergence should ideally commence with the most important and heavily regulated sector, telecommunications. The May 2004 communiqué from the Australia-New Zealand Leadership Forum expressly recognised that a key element of a single market was the harmonisation and integration of telecommunications regulation. Telecommunications is critical to the future economic prosperity of both nations in a digitised world and is essential in overcoming the geographic distance of Australia and New Zealand from our trading partners and from each other. Around 80% of the combined trans-Tasman telecommunications market involves firms with a presence in both nations, indicating that it is an industry with a very high trans-Tasman dimension.

It is also notable that other free trade agreements recently negotiated by Australia include a full chapter on telecommunications services. The inclusion of telecommunications is consistent with the increasing importance given to that sector by the World Trade Organisation members over the last decade under the framework of the General Agreement on Trade in Services. The opportunity should be taken to update and revitalise ANZCERTA, at least ensuring it covers those areas now routinely covered in free trade agreements between key trading partners.

**Court Proceedings and Regulatory Enforcement**

The ANZBC supports the closer integration of the civil justice systems of Australia and New Zealand, and will be making submissions to the Attorney General's Department on its public discussion paper *Trans-Tasman Court Proceedings and Regulatory Enforcement*.