

Australia–New Zealand Closer Economic Relations Trade Agreement

Introduction

- 1.1 The 1983 Australia–New Zealand Closer Economic Relations Trade Agreement (CER) is by far the oldest of Australia’s four free trade agreements (FTAs) with other countries – Australia has FTA agreements with Singapore (July 2003); Thailand (January 2005); and USA (January 2005).
- 1.2 While the CER is subject to ongoing reviews and development by both the New Zealand and Australian Governments, this is the first review by the Joint Standing Committee on Foreign Affairs, Defence and Trade. The Committee has an interest in examining Australia’s FTAs having reviewed those with Singapore, Thailand, and USA in 2005.¹ The Committee is keen to identify the outcomes of the CER and ways in which the already close economic ties with New Zealand may be enhanced and expanded.

1 JSCFADT, *Report 128, Review of the Operation of the free trade agreements with Singapore, Thailand and the United States of America – progress to date and lessons for the future*, Canberra, November 2005.

The Closer Economic Relations Trade Agreement

History of the agreement

- 1.3 The CER grew out of an earlier free-trade agreement which came into force in 1966, and the 1973 *Trans-Tasman Travel Arrangement* which allowed citizens of Australia and New Zealand to travel to, live and work in the other country.²
- 1.4 The earlier New Zealand-Australia FTA was a 'positive listing' FTA which required long lists of products for inclusion in free trade schedules. In contrast, the CER is a 'negative listing' FTA which covers everything unless specifically excluded.
- 1.5 A Heads of Agreement for the CER was signed by the Australian and New Zealand Prime Ministers on 14 December 1982 which allowed the agreement to take effect from 1 January 1983. The actual Treaty was signed on 28 March 1983.³
- 1.6 The objectives of the CER were to:
- strengthen the broader relationship between Australia and New Zealand;
 - develop closer economic relations between Australia and New Zealand through a mutually beneficial expansion of free trade between the two countries;
 - eliminate barriers to trade between Australia and New Zealand in a gradual and progressive manner under an agreed timetable and with a minimum of disruption; and
 - develop trade between New Zealand and Australia under conditions of fair competition.⁴

Government reviews

- 1.7 Since 1983, the CER has undergone three governmental general reviews:
- 1988 – This allowed the complete elimination of all tariffs and quantitative restrictions on goods meeting CE rules of origin by July 1990, and the elimination of export incentives on trans-Tasman trade. Quarantine procedures were substantially harmonised. Services were

2 DIMA, *Submission No. 13, Vol. 1*, p. 151.

3 *Where did ANZCERTA come from?*, <<http://www.fta.gov.au/Default.aspx?ArticleID=1183>> 5 July 2006.

4 *Australia New Zealand Closer Economic Relations Trade Agreement, Overview*, <<http://www.fta.gov.au/default.aspx?FolderID=283&ArticleID=229>> 5 July 2006.

introduced into the CER except for specific exclusions. Agreements were also reached on 'industry assistance, technical barriers to trade, government purchasing, business-for coordination, export restrictions and harmonisation of Customs policies and procedures.'

- 1992 – Product standards and registration of occupations were mutually recognised. The list of exempt services was reviewed and updated, as too were the rules of origin.
- 1995 – This focused on trade facilitation issues aiming at eliminating regulatory impediments to trade. Progress was made on harmonising food standards and a trans-Tasman mutual recognition arrangement. A review of the Protocol on Trade in Services was completed.⁵

1.8 Following the three reviews, both governments decided that the annual meetings of the Trade Ministers would undertake further reviews of the CER.⁶

Agreement outcomes

Trade and investment

1.9 Between 1983 and 2003 Australia and New Zealand experienced an average of 9% annual growth in trade. This compares to an average 8.5% annual growth recorded for Australia's international trade and 6.3% annual growth for New Zealand's international trade.⁷

1.10 In 2005, trans-Tasman merchandise trade amounted to \$14.4 billion and trans-Tasman services trade amounted to \$4.7 billion. New Zealand is Australia's fifth largest export market (7% of exports) and eighth largest source of imports. Australia is New Zealand's principal trading partner (21% of imports and 21% of exports).⁸ In 2004–05, New Zealand exported goods to Australia to the value of \$5.3 billion, while Australia exported goods to New Zealand to the value of \$9.2 billion.⁹

1.11 Trans-Tasman tourism is also a significant driver of trade. New Zealand is Australia's largest source of short-term visitors – in 2004–05, 1.24 million

5 *Closer Economic relations (CER)*, <<http://www.australia.org.nz/wltn/CloseEconRel.html>> 5 July 2006.

6 *Closer Economic relations (CER)*, <<http://www.australia.org.nz/wltn/CloseEconRel.html>> 5 July 2006.

7 *CER: Positive Points*, <http://www.mfat.govt.nz/foreign/regions/australia/tradeeconomic/cerpositivepoints.html> January, 2005

8 DFAT, *Submission No. 7, Vol. 1*, p. 85.

9 New Zealand Government, *Submission No. 9, Vol. 1*, p. 103.

New Zealanders undertook short-term visits to Australia. Of these 0.95 million were holidaymakers who spent about \$1.2 billion.¹⁰

- 1.12 There are close investment ties between Australia and New Zealand. In 2004, trans-Tasman investment amounted to \$6.8 billion. Australia is the largest foreign investor in New Zealand while New Zealand is the sixth largest investor in Australia. New Zealand is Australia's third most important destination for investment; Australia is the second most important destination for New Zealand investment.¹¹
- 1.13 Recently there has been significant New Zealand investment in Australia's dairy industry,¹² and significant Australian investment in New Zealand's transport and banking sectors.¹³
- 1.14 For many Australian and New Zealand firms, expansion across the Tasman provides their first experience of expanding overseas. Success in the trans-Tasman market often becomes a springboard for expansion to the rest of the world. That Australia and New Zealand comprise a 'single market' is evidenced by many New Zealand businesses having their head offices in Sydney and Melbourne.¹⁴

Domestic policies

- 1.15 Since 1983 there have been many agreements and memoranda of understanding (MoUs) between Australia and New Zealand. The goal has been to reduce regulatory impediments to trans-Tasman trade and to harmonise domestic policies. Key developments have been:
- the Trans-Tasman Mutual Recognition Arrangement (1998) which gave effect to the principle that:
 - ⇒ 'any good that may be legally sold in Australia may be legally sold in New Zealand, and vice versa; and
 - ⇒ a person registered in Australia to practise an occupation is entitled to practise an equivalent occupation in New Zealand, and vice versa;
 - the MoU on the Coordination of Business Law (2000) which recognised that coordinating business law and regulation facilitated the trans-

10 New Zealand Government, *Submission No. 9, Vol. 1*, p. 103.

11 New Zealand Government, *Submission No. 9, Vol. 1*, p. 103.

12 CER: *Positive Points*, <http://www.mfat.govt.nz/foreign/regions/australia/tradeeconomic/cerpositivepoints.html> January, 2005.

13 DFAT, *Submission No. 7, Vol. 1*, p. 85.

14 New Zealand Government, *Submission No. 9, Vol. 1*, pp. 98, 104.

Tasman relationship through reducing transaction and compliance costs, and through increasing competition;

- the Open Skies Agreement (2002) which formalised a previous MoU allowing unrestricted operation of Australian and New Zealand international airlines across the Tasman and to third countries;
- the Joint Australia New Zealand Food Standards Code (2002) which provided a system of joint food standards developed and administered by Food Standards Australia New Zealand;
- the Trans-Tasman Triangular Tax Agreement (2003) which provided 'access to franking credits for Australian shareholders in New Zealand companies operating in Australia, and for New Zealand shareholders in Australian companies operating in New Zealand'; and
- the Treaty to Establish the Trans-Tasman Joint Therapeutic Products Agency (2003) which establishes an agency to replace the separate Australian and New Zealand national regulatory agencies.¹⁵

Future directions

1.16 In 2004, the Australian and New Zealand Governments began the Single Economic Market (SEM) initiative to promote trans-Tasman business through regulatory harmonisation.

1.17 The New Zealand Government has identified four general themes for the initiative:

- reducing the impact of borders – focusing on reducing formal barriers (such as rules of origin and investment screening) and streamlining border clearance processes;
- improving the business environment through regulatory coordination – focused on reducing behind the border barriers to trade by streamlining trans-Tasman regulatory frameworks;
- improving regulatory effectiveness – focusing on finding ways for regulators on both sides of the Tasman to operate more efficiently and effectively; and
- supporting business opportunities through industry and innovation policy cooperation – focusing on facilitating connections between businesses to take advantage of increasing openness on trans-Tasman markets.¹⁶

1.18 Specifically, the SEM focuses on five areas:

15 DFAT, *Submission No. 7, Vol. 1*, pp. 86–7.

16 New Zealand Government, *Submission No. 9, Vol. 1*, pp. 107–8.

- banking;
- competition and consumer laws;
- accounting standards;
- investment; and
- the mutual recognition of securities.¹⁷

1.19 Measures taken to progress SEM and CER have included:

- the Trans-Tasman Working Group on Court Proceedings and Regulatory Enforcement (2003) which aims to streamline procedures and enforcement;
- the Trans-Tasman the Accounting Standards Advisory Group (2004);
- the Joint Trans-Tasman Council on Banking Supervision (2005). In 2006 changes were implemented requiring the Australian Prudential Regulation Authority and the Reserve Bank of New Zealand to 'support and consult each other and to consider the impact of their actions on the financial stability of the other country';
- the amendment of legislation in 2006 to allow exchange of investigatory information between the Australian Competition and Consumer Commission and the New Zealand Commerce Commission;
- the Mutual Recognition of Securities Offerings Treaty (2006) aimed at reducing red-tape for business and facilitating trans-Tasman investment;
- the revised MoU on the Coordination of Business Law (2006) which provides a framework for coordinating Australian and New Zealand business law and includes a program to increase business regulation coordination;
- negotiations in 2006 to add an Investment Protocol to the CER with the aim of completing negotiations in 2007.¹⁸

1.20 A further initiative has been the establishment in 2004 of the annual Australia New Zealand Leadership Forum which:

... brings together high-level business and community representatives, government ministers, parliamentarians and officials in an independent, second-track forum to discuss issues

17 DFAT, *Submission No. 7, Vol. 1*, p. 87.

18 DFAT, *Submission No. 7, Vol. 1*, pp. 88-9.

which impact on the trans-Tasman relationship and the future direction of the economic relationship.¹⁹

Other Parliamentary reviews

- 1.21 There have been two Parliamentary reviews of the CER. The first, undertaken by the Standing Committee on Industry and Trade in the Australian Parliament, commenced in 1984 and produced four reports on the progress of the CER. The reports were tabled from October 1984 to August 1986.²⁰
- 1.22 A second Parliamentary review was conducted in 2002 by the Foreign Affairs, Defence and Trade Committee of the New Zealand Parliament.²¹ The committee made 17 recommendations to which the New Zealand Government responded in September 2002. The Government responded positively to nine of the recommendations. It did not support the committee's call for the creation of an Australia New Zealand Economic Community, but did support the committee's recommendation that it develop policies to advance the CER.²²
- 1.23 The New Zealand Government's response concluded:
- ... co-operation between the Governments continues to be substantial and constructive. Many aspects of the relationship between our two countries are beyond the direct influence of the Government. Other groups and interests within New Zealand can and should play a greater role in understanding the relationship better and contributing constructively to it. The Government hopes that a regular high-level dialogue between politicians, academics, business people and others, underpinned by better analysis of key issues, will help to engage a wider range of people in both countries in making CER work even better for our mutual benefit.²³

19 DFAT, *Submission No. 7, Vol. 1*, p. 88.

20 SCIT, *The Development of Closer Economic Relations between Australia and New Zealand*, First Report, October 1984; Second Report, August 1985; Third Report, February 1986; Fourth Report, August 1986.

21 New Zealand Parliament, Foreign Affairs, Defence and Trade Committee, *Inquiry into New Zealand's Economic and Trade Relationship with Australia*, Wellington, April 2002.

22 New Zealand Government, *Government Response to the Report of the Foreign Affairs, Defence and Trade Committee into New Zealand's Economic and Trade Relationship with Australia*, Wellington, September 2002, pp. 3-4, 7-8.

23 New Zealand Government, *Government Response to the Report of the Foreign Affairs, Defence and Trade Committee into New Zealand's Economic and Trade Relationship with Australia*, Wellington, September 2002, p. 14.

Conduct of the inquiry

- 1.24 In response to the interest of the Committee, on 1 March 2006, the Minister for Trade, the Hon. Mark Vaile MP referred to the Committee, an inquiry into the Australia-New Zealand Closer Economic Relations Trade Agreement. The Minister agreed with the Committee that the inquiry was timely and relevant for Australia's trading interests, and noted that there had been a number of changes and additions to the agreement over the preceding two decades. The Minister concluded that the inquiry would increase public awareness of the benefits of CER and SEM and would also provide opportunity for "debate on opportunities for further extending trans-Tasman trade and investment links."²⁴
- 1.25 The Committee advertised the inquiry in *The Australian* on 7 March 2006. Letters inviting submissions were sent to relevant Ministers, Commonwealth agencies, and a wide range of organisations with an expected interest in Australia's economic and trade relations with New Zealand. A press release was widely distributed.
- 1.26 The Committee received 31 submissions (listed at Appendix A), 7 exhibits (listed at Appendix B) and took evidence from over 48 individuals and organisations during three public hearings in Canberra (listed at Appendix C).

Delegation visit to New Zealand

- 1.27 On 25th July members of the Sub-Committee travelled to Auckland and Wellington for two and a half days of meetings with New Zealand Government Ministers and officials, and industry leaders. The trip comprised an official Australian Parliamentary Delegation.
- 1.28 The delegation was briefed on the trade links between Australia and New Zealand and the potential for closer economic ties by HE John Dauth, Australian High Commissioner to New Zealand, and Mr Ian Chesterfield, Australian Consul General and Senior Trade Commissioner.
- 1.29 In Auckland, the delegation met with the following industry leaders:
- Mr Rob Fyfe, Chief Executive Officer; and Mr Norm Thompson, Group General Manager of the Shorthaul Airline, Air New Zealand;
 - Mr Lex Henry, Deputy Chairman, Ontrack;
 - Mr Russell Hay, Chief Executive Officer, Minter Ellison;

24 Hon Mark Vaile, Minister for Trade, *Letter to Committee*, March 2006.

- Mr Leigh Auton, Chief Executive Officer, Manukau City Council;
- Mr Malcolm Allan, Head of Client Relationships, Westpac Bank;
- Mr John Welsh, Leighton Contractors;
- Mr Richard Maclean, Acting General Manager New Zealand, TransTasman Business Circle;
- Mr Peter Hall, Head of Institutional Banking, ASB Bank;
- Mr Jeffrey Greenslade, Director Corporate and Commercial Banking, National Bank of New Zealand;
- Mr Grant Lilly, Regional General Manager, Qantas Airways Ltd; and
- Mr Philip Turner, Director Government and Trade; and Ms Fiona Cooper, Trade Strategy Manager, Fonterra to Cooperative Group Ltd.

1.30 During its stay in Wellington, the delegation met with the following New Zealand Government Ministers, committees and government officials:

- Hon. Dr Michael Cullen, Deputy Prime Minister, Attorney General, and Minister of Finance;
- Hon. Jim Anderton, Minister of Agriculture, Biosecurity, Fisheries and Forestry;
- Hon. David Cunliffe, Minister of Immigration and Telecommunications;
- Hon. Lianne Dalziel, Minister for Commerce, Small-Business and Women's Affairs;
- Hon. Phil Goff, Minister of Trade, Defence and Pacific Island Affairs;
- Ms Dianne Yates, Chair, New Zealand Foreign Affairs, Trade and Defence Select Committee (accompanied by members of the committee);
- Mr Simon Murdoch, Chief Executive Officer, New Zealand Ministry of Foreign Affairs and Trade; and
- Mr Stephen Dunstan, Manager Immigration Policy, Workforce Department of Labour.

1.31 The Sub-Committee was impressed by the comprehensiveness of the briefings provided by the Australian government officials and their flawless planning for the visit of both in Australia and New Zealand.

- 1.32 The frank and open discussions with business and leaders in New Zealand and the access provided by the New Zealand Government to the delegation indicates to value placed on the trounced-Tasman relationship and augurs well for the future.
- 1.33 The issues discussed during the Sub-Committee's various meetings, where relevant, have been incorporated into the body of the report. An itinerary of the delegation's visit can be found at Appendix D.

Structure of the report

- 1.34 Chapter 2 of the report continues with an overview of the various agenda setting meetings between Ministers, officials and businesspeople from Australia and New Zealand.
- 1.35 Chapter 3 will examine the issue of telecommunications inclusion in the CER.
- 1.36 Chapter 4 looks at the current state of business and investment regulation.
- 1.37 Chapter 5 examines particular issues in the areas of trade, travel and tourism.
- 1.38 Chapter 6 overviews the mutual recognition arrangements between the two countries.
- 1.39 Chapter 7, by way of concluding remarks, discusses the 'momentum' of the CER and also puts CER in a much broader context pointing to its importance as a platform for further international trade and as a cultural exchange between Australia and New Zealand.