

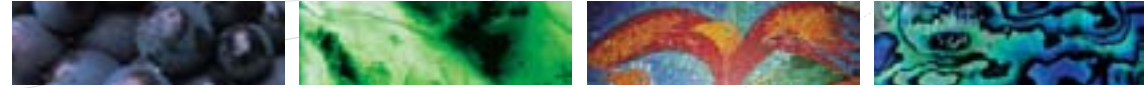
MINISTRY OF FOREIGN AFFAIRS AND TRADE

# THE AUSTRALIA - NEW ZEALAND CLOSER ECONOMIC RELATIONSHIP



MINISTRY OF FOREIGN AFFAIRS AND TRADE

# THE AUSTRALIA - NEW ZEALAND CLOSER ECONOMIC RELATIONSHIP



Cover Shot: Federation Square, Melbourne.

The Ministry of Foreign Affairs and Trade thanks the following individuals, companies and organisations for the use of photographs in this publication: Rosalene Fogel, Janet Morris, Kawarau Estate, Jackie Gillan, Peter Kennedy, Stephen Harris, Rob Suisted/[www.naturespic.com](http://www.naturespic.com), PhotoNewZealand.com, Getty Images, Australian Department of Foreign Affairs and Trade, New Zealand Herald, Dominion Post, Lifestyle Photography Queenstown, and Zespri New Zealand.

Design by typeface limited, Wellington

Printed by Printlink, Wellington

This Ministry of Foreign Affairs and Trade publication provides an overview and a practical business guide to the Australia New Zealand Closer Economic Relationship. Further information about the CER Agreement and the trans-Tasman relationship move generally can be obtained at: [www.mfat.govt.nz/foreign/regions/australia/ausdefault.html](http://www.mfat.govt.nz/foreign/regions/australia/ausdefault.html)

Ministry of Foreign Affairs and Trade  
Private Bag 18-901  
Wellington  
New Zealand  
[www.mfat.govt.nz](http://www.mfat.govt.nz)

© Copyright Ministry of Foreign Affairs and Trade 2005

All rights reserved.

Permission to reproduce any part of this publication must be obtained in writing from the Ministry of Foreign Affairs and Trade. The Ministry of Foreign Affairs and Trade shall not be under any liability to any person or organisation in respect of any loss or damage (including consequential loss or damage) however caused, which may be incurred or which arises directly or indirectly from reliance on information in this publication.

ISBN 0-477-03791-7



[www.mfat.govt.nz](http://www.mfat.govt.nz)



FROM THE MINISTER FOR TRADE NEGOTIATIONS >>

**OVER 20 YEARS AGO, BEFORE THE EUROPEAN ECONOMIC COMMUNITY BECAME THE EUROPEAN UNION, AND BEFORE THE AGREEMENT SETTING UP THE WORLD TRADE ORGANISATION, NEW ZEALAND AND AUSTRALIA CREATED A FREE TRADE AREA THAT REMAINS ONE OF THE MOST OPEN TRADE AGREEMENTS IN THE WORLD.**

Over 20 years ago, before the European Economic Community became the European Union, and before the agreement setting up the World Trade Organisation, New Zealand and Australia created a free trade area that remains one of the most open trade agreements in the world.

The Australia New Zealand Closer Economic Relations (CER) Trade Agreement has even been described by the World Trade Organisation as “the world’s most comprehensive, effective and mutually compatible free trade agreement”.

That CER is still facilitating one of the closest economic relationships between any two countries shows just how farsighted an undertaking it was.

There can be little doubt about the benefits CER has brought and continues to bring to Australia and New Zealand. The Agreement, and the range of bilateral arrangements supporting it, has made considerable progress in integrating the Australian and New Zealand economies. All goods and nearly all services come within its scope. Tariffs and quantitative restrictions have been removed, and both countries enjoy freedom of movement of people.

It is important, however, that CER remains at the cutting-edge. It must not be allowed to become merely the stuff of trade history.

We are on the verge now of taking the CER relationship to the next level. In recent years the New Zealand and Australian Governments have been working together on practical initiatives to align the business environments in Australia and New Zealand more closely. We have a shared vision for a Single Economic Market. The objective is to reduce compliance costs and other regulatory barriers to doing business across the Tasman.

Looking ahead, CER should remain as a dynamic agreement, continuously adapting to the changing requirements of business in an increasingly interdependent world.



Hon. Jim Sutton

# CONTENTS

<b>1</b>	<b>WHAT IS THE AUSTRALIA NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT?</b>	<b>8</b>	<b>7</b>	<b>THE FUTURE OF CER</b>	<b>30</b>
<b>2</b>	<b>THE PATH TO THE AGREEMENT</b>	<b>11</b>		CER's 20th Anniversary	30
<b>3</b>	<b>THE AUSTRALIA NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT AND THE WIDER TRADE AGENDA</b>	<b>14</b>		CER Business Dialogue	31
	Is CER Consistent with Multilateral Rules?	14		A Single Economic Market	31
	Does CER Cover Substantially all Goods and Services?	15		Australia New Zealand Leadership Forum	33
<b>4</b>	<b>HAS CER BEEN GOOD FOR NEW ZEALAND AND AUSTRALIA?</b>	<b>16</b>	<b>8</b>	<b>LIST OF CORE CER DOCUMENTS</b>	<b>34</b>
<b>5</b>	<b>THE PRINCIPAL ELEMENTS OF CER</b>	<b>18</b>	<b>9</b>	<b>FOR MORE INFORMATION</b>	<b>38</b>
	Free Trade in Goods	18			
	Free Trade in Services	18			
	Mutual Recognition of Goods and Occupations	19			
	Free Labour Market	20			
<b>6</b>	<b>MEASURES TO REMOVE TECHNICAL BARRIERS TO TRADE</b>	<b>23</b>			
	Technical Barriers to Trade	25			
	Quarantine	25			
	Industry Assistance	25			
	Accreditation	25			
	Joint Food Standards	26			
	Food Inspection Measures	26			
	Government Procurement	26			
	Securities Cooperation	27			
	Aviation	27			
	Taxation	27			
	Business Law	28			
	Competition Policy	28			
	Customs	28			
	Investment	29			
	Dispute Resolution	29			







# 1 WHAT IS THE AUSTRALIA NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT?

Closer Economic Relations (CER) is a series of agreements and arrangements that began with the entry into force on 1 January 1983 of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA).

ANZCERTA was signed in Canberra on 28 March 1983. Because a “Heads of Agreement” had been entered into earlier by the two Governments on 14 December 1982, the basic provisions of the Agreement came into effect from 1 January 1983.

The core elements of ANZCERTA outlined here are described in more detail in the remainder of this guide.

CER was from the start based on the key principles of **comprehensiveness**, which meant that everything was included unless it was specifically excluded, and **simplicity**. CER’s objectives are to expand free trade by eliminating barriers to trade and by promoting fair competition. Total free trade in goods produced in the two countries was achieved by 1990, five years ahead of schedule. The 1988 CER Services Protocol achieved free trade in services from 1 January 1989 on all services except those inscribed in annexes to the Protocol. These inscriptions have been substantially reduced since and currently include only a few items like coastal shipping.

The Agreement is supported by a large number of bilateral arrangements including on the movement of people and mutual recognition of standards.

There are now no tariffs, quantitative restrictions or industry assistance measures permissible on trans-Tasman trade in goods which meet CER origin requirements. CER also contains no anti-dumping provisions, and trade is now subject only to the disciplines imposed by domestic competition laws. Quarantine remains outside the substantive provisions of CER. There is, however, the 1988 Quarantine Protocol, which seeks to harmonise quarantine procedures in the two countries.

Having achieved integration through free trade in goods and nearly all services by 1990, both countries have moved progressively towards much deeper cooperation in policies, laws and regulatory regimes through processes of coordination, mutual recognition and harmonisation.



This cooperation has been underpinned by frequent contact between the Ministers and government agencies of both countries. The two Prime Ministers have met annually since 1996 in formal talks and less formally on a number of other occasions. Foreign Ministers have met on a six monthly basis since 1989. The Ministers of Trade, Agriculture and Defence and the Treasurer/Finance Ministers meet at least annually. And there is increasing New Zealand participation in Australian Ministerial Councils. Connections are similarly strong between parliamentary committees, political parties and many government agencies.

This cooperation has been strengthened further by the closeness of the two countries through kinship, business and social relationships, travel, and the increasing integration of the Australian and New Zealand markets.



**RIGHT:** New Zealand Prime Minister Helen Clark and Australian Prime Minister John Howard enjoy an afternoon bushwalk at West Auckland's Waitakere Ranges after their annual bilateral, February 2005.

## 2 THE PATH TO THE AGREEMENT

ANZCERTA replaced, and went far beyond, the 1965 New Zealand Australia Free Trade Agreement (NAFTA).

Although NAFTA grew out of a renewed interest by Australia and New Zealand in each other's markets, and in that sense was intended to be of mutual advantage, it had various shortcomings. The cumbersome process of nominating large lists of products for inclusion in "free trade" schedules contrasts sharply with the principle of comprehensivity embodied in CER's "negative list" approach: the idea that everything is included unless it is specifically excluded.

In March 1978 the then New Zealand Deputy Prime Minister and Minister of Overseas Trade, Brian Talboys, visited Australia and explored with Australian Ministers and the then Prime Minister, Malcolm Fraser, a range of proposals for strengthening economic cooperation between the two countries.

These discussions resulted in the "Nareen Statement", which determined that "the future of the two countries are inextricably linked" and emphasised the "desirability of the further opening of bilateral trade, as conditions permit, with the objective of encouraging in both Australia and New Zealand the development of efficient industries that can meet international competition and provide increasing employment opportunities".

Subsequent discussions, in particular with Australian Deputy Prime Minister Doug Anthony, led to the proposal for a “closer economic association” between the two countries.

Finally, the concept of “closer economic relations” between the two countries was introduced in March 1980 in a joint communiqué issued by then Prime Ministers Robert Muldoon and Malcolm Fraser.

Intensive negotiations commenced between the Governments, industry organisations, and interest groups in both countries. Although the negotiations were complex, on the whole they proceeded smoothly and methodically until March 1982, when only two major obstacles remained. These were, for New Zealand, the need for a satisfactory settlement on dairy products and, for Australia, the need to bring forward the termination dates offered by New Zealand for its import licensing and export incentive schemes.

Eventual agreement on these points cleared the way for the Heads of Agreement to be signed on 14 December 1982.

**BELOW:** New Zealand Prime Minister David Lange and Australian Prime Minister Bob Hawke celebrate signing the CER Services Protocol, 18 August 1988.



hi-res to be scanned



# 3 THE AUSTRALIA NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT AND THE WIDER TRADE AGENDA

CER was the first bilateral free trade agreement entered into by either Australia or New Zealand. Since then each CER partner has negotiated separate free trade agreements with countries such as Singapore and Thailand, drawing upon the experience of CER. In 2005 the two CER partners entered together into negotiations with ASEAN as a whole.

## IS CER CONSISTENT WITH MULTILATERAL RULES?

Yes. Under the General Agreement on Tariffs and Trade (GATT) New Zealand has agreed to extend most favoured nation (MFN) status to all members of the World Trade Organisation (WTO). MFN is the general rule that WTO members do not discriminate in the terms and conditions under which goods and services are imported or exported between their countries and other WTO members. Bilateral and plurilateral free trade agreements constitute an exception to this general principle but there are disciplines in place to ensure that this important MFN principle is not undermined. The most important of these disciplines is the requirement that any such agreement should cover “substantially all trade” in goods and services between the parties involved in it.

## DOES CER COVER SUBSTANTIALLY ALL GOODS AND SERVICES?

Yes. Total free trade in goods produced in the two countries was achieved by 1990 (five years ahead of schedule) with the elimination of all tariffs and quantitative restrictions. Quarantine remains outside the substantive provisions of CER. There is, however, the 1988 Quarantine Protocol, which seeks to harmonise quarantine procedures in the two countries.

The 1988 CER Services Protocol achieved free trade in services in the two countries from 1 January 1989 on all services except those inscribed in annexes to the Protocol. These inscriptions have been substantially reduced since then and currently include only a few items like coastal shipping.



## 4 HAS CER BEEN GOOD FOR NEW ZEALAND AND AUSTRALIA?

Yes. CER has significantly benefited the economies of both countries:

- » Trans-Tasman trade in goods has grown at an average of 6% per annum for the past decade.
- » Around a fifth of New Zealand's exports of goods go to Australia, up from around 13% of our exports when CER was signed in 1983.
- » New Zealand is the fourth largest individual export market for Australian goods and services (and Australia's fifth largest two-way trading partner covering goods and services).
- » New Zealand is Australia's number one market for elaborately transformed manufactures. It is also the number one source of short-term visitors, with over one million New Zealanders crossing the Tasman each year. Over 800,000 Australians cross the Tasman each year on short-term visits to New Zealand.
- » In 2004 Australian visitors to New Zealand spent \$1.4 billion, accounting for 23% of total tourist expenditure. New Zealand's commercial service exports to Australia were worth \$485 million in 2004<sup>1</sup>.
- » Over the past 10 years, trans-Tasman trade has increased by a greater amount than the trade of either country with the rest of the world.
- » New Zealand is the sixth largest source of overall foreign investment in Australia. Australia is the second largest destination for New Zealand investment abroad after the United States.
- » Together, we provide our businesses with easy access to a combined market of 24 million people.
- » As a result of CER, Australia has access to another domestic market about the size of Queensland, and the effective size of the New Zealand domestic market has been increased six-fold.

<sup>1</sup> Some service export data is suppressed for reasons of confidentiality. However, tourist expenditure and exports of commercial services account for a significant proportion of total service exports. Adding these two items would give a conservative estimate for service exports to Australia of \$1.7 billion in 2004.



# 5 THE PRINCIPAL ELEMENTS OF CER

## FREE TRADE IN GOODS

Since 1990 there have been no tariffs or quantitative restrictions on goods. CER is entirely consistent with the WTO rules on free trade areas.

## FREE TRADE IN SERVICES

The **Protocol on Services to ANZCERTA**, which came into force on 1 January 1989, provides for free trade in services, based on the concept of national treatment. Each Government agrees to treat the providers of services from the other country on the same basis as its own service providers.

The Protocol covers all services traded between the two countries, except those inscribed by each Government on separate “negative lists”. The lists are reviewed periodically and have been substantially reduced over time. New Zealand now has only two inscriptions (airway services and coastal shipping) and Australia six (air services, broadcasting and television (x2), third party insurance, postal services and coastal shipping).



## MUTUAL RECOGNITION OF GOODS AND OCCUPATIONS

The **Trans-Tasman Mutual Recognition Arrangement (TTMRA)** came into operation on 1 May 1998. This Arrangement is a key driver of regulatory coordination and harmonisation and delivers on both the Australian and New Zealand Governments’ strategic objective of creating a single trans-Tasman market for the sale of goods and the registration of occupations.

By allowing producers and registered occupations to meet only one set of standards, rather than two or more, mutual recognition reduces the barriers to, and costs of, movements across jurisdictions. This means that most goods able to be legally sold in one country can be legally sold in the other. This principle applies regardless of any difference of sales-related regulatory requirements applying in each country.

Similarly, under the TTMRA people registered to practise an occupation in one country are entitled to practise the equivalent occupation in the other country without the need to undergo further testing or examination.

This Arrangement lowers compliance costs for business and reduces technical barriers to trade by enabling them to manufacture to only one standard for the trans-Tasman market. It also provides greater consumer choice and supports an open trans-Tasman employment market.

Currently, five product sectors are subject to special exemptions under the Arrangement, while standards and regulatory regimes are brought closer together. These sectors are therapeutics, hazardous substances, motor vehicles, gas appliances and radio communication standards. Mutual recognition in the therapeutics sector is being addressed through the negotiation of a proposed bi-national therapeutics regulatory agency.

In terms of occupations, only medical practitioners are exempted. However, in the case of doctors trained in Australia and New Zealand, a mutual recognition-type arrangement already applies.

The Australian Productivity Commission undertook a review of the TTMRA in 2003 on behalf of the Australian and New Zealand Governments. Overall, the review demonstrated that the TTMRA and Australia's Mutual Recognition Agreement (MRA) were working well, contributing significantly to increased trans-Tasman mobility of goods and labour. But the review also proposed possible improvements to the Arrangement, which are now under consideration.

### FREE LABOUR MARKET

There is a long history of arrangements, collectively known as the **Trans-Tasman Travel Arrangement (TTTA)**, which allow Australians and New Zealanders to visit, reside and work in each other's country without restriction. These arrangements have been supplemented by the Social Security Agreement, the Reciprocal Health Agreement and the Child Support Agreement.

Trans-Tasman freedom of movement has become a key element in New Zealand's relationship with Australia, underlining the essential people-to-people nature of the broader relationship and underpinning the government-to-government relationship and economic growth under CER.

There are at present some 375,000 New Zealanders living in Australia, and some 57,000 Australians resident in New Zealand. There are approximately 1.8 million short-term visits across the Tasman by New Zealanders and Australians each year.

Under the **Australian Migration Reform Act 1994** all non-citizens require visas to enter Australia. New Zealanders travelling to Australia are classed as exempt non citizens and are entitled to be issued with "Special Category Visas" on presentation of a passport and completed arrival card at the point of entry (unless they are of character or health concern). Australian citizens are not required to have a visa to enter New Zealand.

The freedom for New Zealand citizens to enter and to live and work in Australia remains. Rules surrounding eligibility for Australian citizenship and access to social security benefits have, however, changed.

A new **Australia-New Zealand Social Security Agreement** was signed in 2001 and came into effect on 1 July 2002. The Agreement is limited to the provision of age pensions and severe disability benefits only. Each country now makes part payment for new beneficiaries who have lived and worked in both countries. The combined payment is comparable to what people would get if they were receiving the age pension or severe disability benefit from the country in which they are living.

The **Australia-New Zealand Reciprocal Health Agreement**, signed in 1986, allows Australians and New Zealanders making short-term visits to each other's country to receive "immediately necessary" medical care on the same terms as residents of that country. It was amended during renegotiations in 1998 to exclude out-of-hospital (GP) treatment from the scope of the Agreement, but still covers access to immediately necessary hospital care for New Zealanders temporarily in Australia (and vice versa).

New Zealand and Australia also implemented on 1 July 2000 the world's first **Child Support Agreement**. This Agreement provides for the recognition and enforcement, across the Tasman, of each country's child support assessments.





## 6 MEASURES TO REMOVE TECHNICAL BARRIERS TO TRADE

### WHAT ARE TECHNICAL BARRIERS TO TRADE? WHY IS IT IMPORTANT TO REDUCE THEM?

Technical regulations and standards are commonly used to protect human health and safety and the environment, and to prevent deceptive practices in trade. But when they are more onerous than is necessary, un-transparent, arbitrarily imposed or discriminatory, they can act as barriers to trade.

The biggest problem for exporters or potential exporters is the diversity of standards among countries. Having to adjust production facilities to comply with diverse technical requirements in individual markets will raise the unit cost of production, making goods more expensive than they need to be. The smaller the firm, the greater the financial burden this imposes on it.

As a result of the WTO Uruguay round of negotiations, the Agreement on Technical Barriers to Trade (TBT) was established to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles to trade.

The TBT Agreement does not prevent countries from adopting the standards they consider appropriate for things like product safety, labelling or environmental impact. But, for the benefit of consumers and producers alike, it encourages countries to use international standards wherever appropriate. If the circumstances that led a country to adopt a regulation change, or a new alternative less trade-restrictive measure becomes available, then the TBT Agreement says the regulation must be removed.



“ ESTABLISHING UNIFORM STANDARDS REDUCES COSTS FOR EXPORTERS IN BOTH COUNTRIES, AS THEY CAN TEST THEIR PRODUCTS AGAINST THE IMPORTING COUNTRY’S STANDARDS. ”

The TBT Agreement requires the procedures used by Governments to decide whether a product conforms with national standards to be fair and equitable. The Agreement applies the Most Favoured Nation (MFN) and national treatment principles so that WTO members are obliged not to use methods that would give domestically produced goods an unfair advantage.

The TBT Agreement also encourages countries to recognise each other’s testing procedures.

In the trans-Tasman context, a number of instruments have been negotiated since CER was concluded that support the reduction, and removal, of technical barriers to trade and the establishment of uniform standards in Australia and New Zealand. This helps exporters in trade between the two countries, as before exporting they can test their products against the importing country’s standards.

The instruments include:

**1988 Memorandum of Understanding (MOU) on Technical Barriers to Trade.** Under this MOU both Governments commit to work towards harmonising requirements relating to such matters as standards, technical specifications and testing procedures, and domestic labelling. The text of the MOU can be accessed online at:

>> [www.dfat.gov.au/geo/new\\_zealand/anz\\_cer/267.pdf](http://www.dfat.gov.au/geo/new_zealand/anz_cer/267.pdf)

**1988 Protocol on the Harmonisation of Quarantine Administrative Procedures.**

This Protocol seeks to improve the efficiency and speed of the flow of goods between the two countries by harmonising quarantine procedures. Under the Protocol, New Zealand and Australia reaffirm their commitment to the principle that quarantine requirements should not be deliberately used as a means of creating a technical barrier to trade where this is not scientifically justified. A regular senior officials Biosecurity Dialogue, and various working groups, were revitalised in 1999 to manage quarantine issues. The overwhelming majority of the trade issues in the annex to the Protocol have now been resolved, with only one or two remaining. The quarantine relationship between the two countries has been enhanced, with only a few irritants remaining.

**1988 Agreed Minute on Industry Assistance.**

Under this Minute, the Australian and New Zealand Governments agreed not to pay (from 1 July 1990) production bounties or like measures on goods which are exported to the other country, and undertook to try to avoid the adoption of industry-specific measures (bounties, subsidies and other financial support) which have adverse effects on industries in Australia and New Zealand.

**1990 Agreement on Standards, Accreditation and Quality and the 1991 Joint Accreditation System for Quality Accreditation.** In 1990 both Governments agreed to develop a mutually acceptable unified system of accreditation. The text of the Agreement can be accessed online at:

>> [www.dfat.gov.au/geo/new\\_zealand/08asaq.pdf](http://www.dfat.gov.au/geo/new_zealand/08asaq.pdf)

The Joint Accreditation System of Australia and New Zealand (JAS-ANZ) was established under treaty between Australia and New Zealand on 30 October 1991. The organisation's key objective is the establishment of an internationally recognised accreditation system for quality management systems, product certification and personnel certification. This accreditation establishes confidence in, and recognition of, the producers and products of New Zealand and Australia.

On 28 March 1996 a regulation was made under the Australian International Organisations (Privileges and Immunities) Act 1963 declaring JAS-ANZ to be an international organisation to which the Act applies. New Regulations reaffirming JAS-ANZ's status were made on 18 June 1998.

The **Australia New Zealand Agreement on Joint Food Standards** entered into force on 5 July 1996. It established a joint Australia New Zealand Food Authority (ANZFA) to develop food standards for both countries. This was renamed Food Standards Australia and New Zealand (FSANZ) in 2002 following amendments to the Agreement establishing improved governance arrangements. The Agreement gives New Zealand the ability to influence the setting of food standards in our most significant market. It also gives both countries greater joint influence in the establishment of international food standards.

A Joint Food Code was agreed by the Health Ministers of New Zealand and the Australian Commonwealth and States and Territories in November 2000, and came into force on 20 December 2002. Mutual recognition of existing standards applied during the transition period.

The **Arrangement on Food Inspection Measures (AFIM)** came into operation on 1 December 1997. It reduces compliance costs associated with food inspection. Most New Zealand food items exported to Australia are now treated, for inspection purposes, as Australian domestic product and vice versa.

**1997 Australia New Zealand Government Procurement Agreement.** The Agreement provides for a single trans-Tasman government procurement market. As well as ending inter-state or trans-Tasman preference margins on Australian and New Zealand content in government purchasing, both countries have undertaken in the Agreement to accord each other's products and suppliers equal treatment, and to promote opportunities for them to compete for government business on a value-for-money basis.

**1994 Memorandum of Understanding between the Australian Securities Commission and the Securities Commission of New Zealand.** Its purpose is to enhance the efficiency and fairness of the securities and futures markets by providing a framework for cooperation, including channels for communication and the exchange of information and investigative assistance to the extent permitted by the laws and practices of Australia and New Zealand.

**1996 Australia New Zealand Single Aviation Market Arrangements and 2000 Open Skies Air Services Agreement.** The Agreement, negotiated in 2000, and brought into interim effect before the formal exchange of diplomatic notes in August 2003, provides an almost unrestricted market for Australasian airlines, to the benefit of consumers and traders. The 1996 Single Aviation Market Arrangements already provided for virtually unrestricted services between and within each other's countries, and have been incorporated into the new Agreement. The transition to "open skies" has removed restrictions on the airlines of each country operating services beyond the other country. Foreign investment restrictions on airline investment have also been relaxed.

**1995 Double Taxation Agreement.** The Agreement is designed to share the costs of eliminating double taxation. The Agreement is also aimed at reducing tax impediments to cross-border trade and investment and assisting tax administration.

In addition, New Zealand Finance Minister Dr Michael Cullen and Australian Treasurer Mr Peter Costello announced in February 2003 the introduction of legislation to reform imputation legislation. The reforms are aimed at the problem of "triangular taxation", which occurred where Australians and New Zealanders investing through a company incorporated in the other country that earned income in their own country were taxed twice on the income. Previously, the income tax laws of both countries only allowed tax paid in their own country to generate imputation credits.



From 1 April 2003, Australia and New Zealand have extended their imputation laws to include companies resident in the other country. Should a company choose to use the new legislation, its investors are now allocated imputation or franking credits in proportion to their ownership of the company.

**1988 Memorandum of Understanding (MOU) on the Harmonisation of Business Law.**

This provided the starting point for dialogue between Australia and New Zealand on business law issues. In August 1999, Australian and New Zealand officials agreed to revise the existing MOU to ensure that it reflected Australia's and New Zealand's common understanding of coordination in business law, key objectives for progressing work in this area, and revised work programme. The **Memorandum of Understanding on the Coordination of Business Law** was subsequently signed in August 2000. This MOU is focused on coordination and recognition that one single approach is not necessarily suitable for every area. Since the signing of the MOU, coordination of competition law, securities law and takeovers law has been extensive. Work is proceeding on consumer protection law, electronic transactions law, disclosure regimes, cross-border insolvency and intellectual property rights.

In addition, a number of policies have been implemented that support the principles of CER:

**COMPETITION POLICY**

No safeguards measures or anti-dumping actions apply. Domestic competition law prohibitions on the misuse of market power have been extended to trans-Tasman markets. There are no export subsidies or export incentives on goods traded in the area. Both countries have further restricted their ability to adopt industry assistance measures with adverse effects on competition in the area.

**CUSTOMS**

The two Customs agencies are engaged in an extensive process of cooperation and exchange of information with a view to adopting common approaches wherever appropriate.

**INVESTMENT**

Although there is not a formal trans-Tasman investment regime, New Zealand is the sixth largest source of overall foreign investment in Australia, and Australia is the largest investor in New Zealand. Over half of Australia's total investment in New Zealand is foreign direct investment, reflecting the high level of economic integration. Recently there has been significant new commercial investment from Australia in New Zealand's transport and banking sectors. On 17 February 2005, Australian Treasurer Mr Peter Costello and New Zealand Finance Minister Dr Michael Cullen agreed at their annual meeting to investigate the possibility of adding an investment component to CER.

**DISPUTE RESOLUTION**

There are no specific dispute resolution procedures. The close and long-standing political relationship between Australia and New Zealand means that any issues of grievance or concern are addressed through discussion between the two Governments.





# 7 THE FUTURE OF CER

## CER'S 20TH ANNIVERSARY

2003 marked the 20th anniversary of the signing of CER. There was a series of events in both Australia and New Zealand designed to emphasise the continuing value of CER to both partners.

This included, most notably, the focus on CER during the annual Prime Ministerial talks in February 2003 and the guest appearance of former Deputy Prime Minister of Australia (and one of the principal architects of CER), Mr Doug Anthony, at the launch of the joint New Zealand Ministry of Foreign Affairs and Trade / Australian Department of Foreign Affairs and Trade publication "The Negotiation of the Australia New Zealand Closer Economic Relations Trade Agreement 1983".

A significant development was the formal expansion on 28 August 2003 of the annual CER Trade Ministers' meeting to include six Australian and New Zealand economic ministers.

The 2004 Ministerial Forum (10-11 December) continued the momentum of this renewed and expanded focus on CER, and was the largest meeting in New Zealand of Australian and New Zealand Ministers about CER since its establishment.

## CER BUSINESS DIALOGUE

Each year a delegation of New Zealand and Australian industry representatives meet in parallel to the annual CER Ministerial Forum with the purpose of further developing trans-Tasman networks, identifying common obstacles and giving voice to industry concerns. This element of the meeting gives Ministers a good business perspective on the development of CER, and provides industry with a direct line to Ministers responsible for trade issues.

At New Zealand's initiative in 2002, discussion between Business Councils only was replaced by a separate and specific focus on industry sectors, with the dairy and Information Technology industries being chosen as themes for the inaugural CER Business Dialogue. This proved to be a very successful innovation and was followed in 2003 with a biotechnology sectoral focus, and in 2004 with a "wood and paper products" sectoral focus. It is proposed to continue this approach in future years.

## A SINGLE ECONOMIC MARKET

Since the establishment of CER, substantial progress has been made in integrating the Australian and New Zealand economies - in trade, investment, the flows of people and regulatory approaches. Under CER, tariffs and quantitative restrictions have been removed, the suppliers of goods and services from both countries are treated on a similar basis and business law is more coordinated.

The focus is now firmly fixed on identifying, developing and implementing reforms that seek to progress the development of this relationship to create a seamless trans-Tasman business environment — a **Single Economic Market (SEM)** between New Zealand and Australia.

The concept of a Single Economic Market between New Zealand and Australia first saw the light of day at government-to-government level at the January 2004 annual meeting between Australian Treasurer Mr Peter Costello and New Zealand Finance Minister Dr Michael Cullen. At that time the two Ministers agreed to a number of initiatives relating to banking supervision and improved cooperation and coordination on competition policy, with the long-term goal of enabling a properly constituted Australian company to function as a company in New Zealand as of right, and vice versa. These developments were endorsed at a meeting between New Zealand Prime Minister Helen Clark and her Australian counterpart, John Howard, on 3 March 2004.



**RIGHT:** The 2004 CER Ministerial Forum held in Queenstown included six key economic and trade Ministers - on the Australian side; Trade Minister Mark Vaile, Agriculture Minister Warren Truss, and Industry Minister Ian Macfarlane; and on the New Zealand side; Trade Minister Jim Sutton, Economic Development Minister Jim Anderton, and Commerce Minister Margaret Wilson.

While there are generally no formal barriers to goods, services and factors of production moving across the Tasman, the degree to which they will move depends upon the extent to which there is “friction” in the combined market created by differences in regulatory and other policy interventions — “behind-the-border” regulation — and other non-regulatory factors. The current SEM reform agenda is focused on reducing these behind-the-border barriers to trade in goods, services and factors of production.

Ultimately, the goal of pursuing a trans-Tasman SEM is about improving productivity and growth in both countries through:

- » Reducing transaction costs by lowering non-tariff barriers to trade (including the cost of complying with regulation);
- » Encouraging investment by lowering regulatory barriers to inward and outwards investment;
- » Providing greater economies of scale for businesses and regulators, and better access to new capital and technology;
- » Spurring innovation through greater competition and the transfer of knowledge;
- » Creating greater employment opportunities and increased choice; and
- » Enhancing regulatory effectiveness.

Growth prospects for the two economies could also be enhanced if deepening our already close economic relationship can help broaden our linkages with the rest of the world. In this context, our mutual interests could be enhanced through:

- » The potential for our bilateral arrangements to strengthen regional (Pacific/South East Asia) relationships and institutions; and
- » The ability of New Zealand and Australia to represent our common interests more effectively together than separately in an international environment where there is international convergence of rules and norms in many areas.

The current SEM work programme spans a broad range of regulatory and policy areas with potentially wide implications for business. Current initiatives cover:

- » Business law and regulation;
- » Taxation;
- » Prudential regulation of banking;
- » Industry policy coordination;
- » Intellectual property;
- » Market access (rules of origin);
- » Investment policy;
- » Border processes; and
- » People links and the skills base.

## AUSTRALIA NEW ZEALAND LEADERSHIP FORUM

In May 2004 business, political and community leaders from both sides of the Tasman established the **Australia New Zealand Leadership Forum**.

The Forum was established to create in each country a stronger constituency that is well informed about and positively predisposed to the other, and which will encourage and foster the development of a closer relationship between the two countries.

There are already many very good relationships amongst governments, companies, interest groups and people in the two countries generally. The intent of the Leadership Forum is to build on these, through people who can contribute ideas, and in other ways, to the future development and strength of the trans-Tasman relationship.

Participants at the inaugural Forum in Wellington agreed there was an urgent need to strengthen the relationship, especially the economic relationship, to improve the competitiveness of both Australia and New Zealand.

The second Forum was held in Government House in Melbourne in April 2005. This meeting determined that in an increasingly globalised world, where both countries face many of the same economic challenges, it was essential to target impediments in areas like taxation and banking in order to create a more efficient and competitive business environment that would allow the CER economies to compete successfully in regional and international markets. This has particular relevance in the context of the CER partners’ positioning in the fast-growing Asia-Pacific region.



**RIGHT:** The Australia New Zealand Leadership Forum in action at Government House in Melbourne, April 2005.

# 8 LIST OF CORE CER DOCUMENTS

## New Zealand Australia Closer Economic Relations Trade Agreement (1983)

### Agreed Minutes (1988)

Minimum Margins of Preference  
 Industry Assistance  
 Footwear/Rubber Goods

## Exchanges of Letters

Furniture (1984 & 1985)  
 Tomatoes (1984)  
 Canned Fruit (1984)  
 Import Tariffs (1984)  
 Wheat Flour (1984)  
 Access Prices (1984)  
 Trade Between Individual Firms (1984)  
 Gloves, Mittens, Mitts (1985)  
 Wool Carpet (1985)  
 Tyres (1985)  
 Import Quotas (1985)  
 Rubber (1986)  
 Customs Tariffs (1987)  
 Export Quotas (1988)  
 Dairy (1988)  
 Annex F (1992)  
 Third Country Dumping (1992)  
 Rules of Origin (1992)  
 Direct Shipment Rule (1992)  
 Industry Assistance (1992)  
 Investment and Taxation (1996)

## Services Protocol

Protocol on Trade in Services to the ANZCERTA (1988) Inscription Amendment Letters

## Trade Protocol

Protocol to the ANZCERTA on Acceleration of Free Trade in Goods (1988)

## Quarantine Protocol

Protocol on Harmonisation of Quarantine Administrative Procedures to the ANZCERTA (1988)

## Standards

Agreement Between the Government of Australia and the Government of New Zealand and the Governments of the States and Territories on Standards, Accreditation and Quality (1990)

Agreement Between New Zealand and Australia Concerning the Establishment of the Joint Accreditation System of New Zealand and Australia (JAS-ANZ) (1991) (replaced with the 1998 Agreement)

Exchange of Letters Regarding the Status of JAS-ANZ as an International Organisation

Memorandum of Understanding Concerning Cooperation on Standards and Conformance Between ASEAN and CER (1996)

Agreement between Australia and New Zealand Concerning the Establishment of the Governing Board, Technical Advisory Council and Accreditation Review Board of the Joint Accreditation System of Australia and New Zealand (1998)

## Food Standards

Agreement Between the Government of New Zealand and the Government of Australia Establishing a System for the Development of Joint Food Standards (1995)

Exchange of Letters Regarding Implementation of the Treaty (1995)

Exchange of Letters Regarding the Establishment of a Food Inspection Programme (1996)

Exchange of Letters Amending the Joint Food Standards Treaty (2001)

Agreement Between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System (2002)

## TTMRA

Arrangement Between the Commonwealth of Australia, Australian States and Territories and New Zealand Relating to Trans-Tasman Mutual Recognition (1996)

## Government Procurement

Australia and New Zealand Government Procurement Agreement (1997)

Agreed Minute on State Government Purchasing Preferences (1988)

### Technical Barriers to Trade

Memorandum of Understanding Between the Government of New Zealand and the Government of Australia on Technical Barriers to Trade (1988)

Exchange of Letters Clarifying the Role of the TBT Agreement (1992)

### Business Law

Memorandum of Understanding Between the Government of New Zealand and the Government of Australia on Harmonisation of Business Law (1988)

Memorandum of Understanding Between the Government of New Zealand and the Government of Australia on Coordination of Business Law (2000)

### Securities

Memorandum of Understanding Between the Australian Securities Commission and the Securities Commission of New Zealand (1994)

### Aviation

Confidential Memorandum of Understanding Regarding Australia/New Zealand Air Service Discussions (1988)

Memorandum of Understanding Concerning Air Services between Australia and New Zealand (1989)

Memorandum of Understanding Concerning Air Services between Australia and New Zealand (1992)

Australia and New Zealand Single Aviation Market Arrangements (1996)

Memorandum of Understanding on Open Skies Between Australia and New Zealand (2000)

Agreement Between the Government of New Zealand and the Government of Australia Relating to Air Services (2002)

### Customs

CER Review Joint Understanding on Harmonisation of Customs Policies and Procedures (and Exchange of Letters) (1988)

Cooperative Arrangement Between the Government of New Zealand and the Government of Australia Regarding Mutual Assistance Between their Customs Administrations (1992) (replaced by the 1996 Arrangement)

### Taxation

Agreement Between the Government of New Zealand and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (1995)





# 9 FOR MORE INFORMATION

## USEFUL LINKS

Further detail on the Australia New Zealand Closer Economic Relations Trade Agreement, and the trans-Tasman relationship more generally, can be accessed online at:

Australia Division, New Zealand Ministry of Foreign Affairs and Trade:

>> [www.mfat.govt.nz/foreign/regions/australia/ausdefault.html](http://www.mfat.govt.nz/foreign/regions/australia/ausdefault.html)

Australian Department of Foreign Affairs and Trade:

>> [www.dfat.gov.au/geo/new\\_zealand/index.html](http://www.dfat.gov.au/geo/new_zealand/index.html)

Further information on the reciprocal social sector agreements between Australia and New Zealand can be accessed online at:

Social Security Agreement:

>> [www.nz-oz.gov.au](http://www.nz-oz.gov.au)

Reciprocal Health Agreement:

>> [www.moh.govt.nz/moh.nsf](http://www.moh.govt.nz/moh.nsf)

Child Support Agreement:

>> [www.ird.govt.nz/childsupport/custodians/cs-reciprocal.html](http://www.ird.govt.nz/childsupport/custodians/cs-reciprocal.html)

Specific information on the rules of origin requirements for goods imported/exported between Australia and New Zealand can be accessed online at:

For New Zealand:

>> [www.customs.govt.nz/importers/Commercial+Importers/Preference+for+Imported+Goods.html](http://www.customs.govt.nz/importers/Commercial+Importers/Preference+for+Imported+Goods.html)

For Australia:

>> [www.customs.gov.au](http://www.customs.gov.au)

Further information on New Zealand and Australia's joint food standards can be accessed online at:

>> [www.foodstandards.gov.au](http://www.foodstandards.gov.au)

Further information on Productivity Commission (PC) reviews related to the Australia New Zealand Closer Economic Relations Trade Agreement:

The PC's review of mutual recognition, including a copy of the review report, can be accessed online at:

>> [www.pc.gov.au/study/mra/index.html](http://www.pc.gov.au/study/mra/index.html)

The PC's review of rules of origin arrangements under CER, including a copy of the review report, can be accessed online at:

>> [www.pc.gov.au/study/roo/index.html](http://www.pc.gov.au/study/roo/index.html)

## USEFUL CONTACTS

For assistance and advice on the Australia New Zealand Closer Economic Relations Trade Agreement:

CER Policy Officer

**Australia Division**

**Ministry of Foreign Affairs and Trade**

Email: [aus@mft.govt.nz](mailto:aus@mft.govt.nz)

Phone: +64 4 439 8500

For assistance and advice on business with Australia:

**New Zealand Trade and Enterprise**

Internet: [www.nzte.govt.nz](http://www.nzte.govt.nz)

Phone: 0800 555 888

For assistance and advice on government procurement, and standards and conformance:

Regulatory and Competition Policy Branch

**Ministry of Economic Development**

Internet: [www.med.govt.nz](http://www.med.govt.nz)

Phone: +64 4 472 0030

For assistance and advice on investment issues:

International and Defence Section

**New Zealand Treasury**

Internet: [www.treasury.govt.nz](http://www.treasury.govt.nz)

Phone: +64 4 472 2733

For assistance and advice on sanitary and phytosanitary issues:

International Policy Directorate / MAF Policy

**Ministry of Agriculture and Forestry**

Internet: [www.maf.govt.nz](http://www.maf.govt.nz)

Phone: +64 4 474 4100

For assistance and advice on specific import and export requirements on food products:

**New Zealand Food Safety Authority**

Internet: [www.nzfsa.govt.nz](http://www.nzfsa.govt.nz)

Phone: 0800 693 721

## FURTHER READING

A compilation of the core CER documents:

Australia Division, Ministry of Foreign Affairs and Trade, *Critical Paths in Trans Tasman Economic Relations*, 2003.

A history of the negotiation of CER:

Australian Department of Foreign Affairs and Trade, and New Zealand Ministry of Foreign Affairs and Trade, *The Negotiation of the Australia New Zealand Closer Economic Relations Trade Agreement 1983*, 2003.

Further information on the Trans-Tasman Mutual Recognition Arrangement:

Council of Australian Governments Committee on Regulatory Reform, *A Users' Guide to the Trans-Tasman Mutual Recognition Arrangement (TTMRA)*, 1998.

