
The Parliament of the Commonwealth of Australia

Review of Australia-New Zealand Trade and Investment Relations

Trade Sub-Committee

Joint Standing Committee on Foreign Affairs Defence and Trade

December 2006
Canberra

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Foreword

Australia has historically enjoyed an important and productive economic relationship with New Zealand. New Zealand is Australia's fifth largest export market and eighth largest source of imports, and the 1983 Australia-New Zealand Closer Economic Relations (CER) Trade Agreement is Australia's oldest free trade agreement (FTA).

The Committee's interest in Australia's FTAs has been demonstrated previously by its 2005 review of Australia's FTAs with Singapore, Malaysia and the USA, and it is hoped that this report into the CER will be a valuable contribution to Australia's economic relationship with New Zealand, and helpful in mapping future directions.

In essence, the Committee found that the relationship is strong in a plethora of areas and advancing across a broad front. However, the Committee feels that there are still several impediments to bilateral trade and investment. One of the key themes that emerged during the inquiry process was that there is a lack of central guidance and oversight of the relationship and its future directions, and this report addresses these concerns.

Since its inception the CER has undergone three reviews, though this is the first by the Joint Standing Committee on Foreign Affairs, Defence and Trade. In addition, there have been many agreements and Memoranda of Understanding signed by Australia and New Zealand concerning regulatory issues and the harmonisation of domestic policies.

Telecommunications is a substantial area of engagement between the two countries. During the inquiry process several opinions were proffered in this area, and the Committee recommends that a telecommunications Ministerial Council be established to facilitate discussion, and that it be placed on the CER Work Program.

The business and investment regulations underpinning the economic relationship are extensive and beneficial, and the long-term goal of both countries is to develop a single economic market. To this end, the Committee recommends that the issues

of withholding tax alignment, and of competition policy harmonisation, be placed on the Work Program for Coordination of Business Law.

The regulatory regime covering the mutual recognition of services, products and professions, driven by the Trans Tasman Mutual Recognition Arrangement (TTMRA), is extensive and well-developed, and further contributes to the goal of establishing a single economic market.

In February 2006 Australia's and New Zealand's Trade Ministers agreed upon amendments to the tariff classification approach to the Rule of Origin (ROO) used in trade. These amendments will come into effect on 1 January 2007, and are supported by the Committee, as the bulk of evidence suggests that the changes will be greatly beneficial to bilateral trade.

Tourism is a major driver of bilateral trade and investment, and the two countries work very closely on immigration and border control. Australia and New Zealand have very strong travel and visa arrangements, underpinned by the 1973 Trans-Tasman Travel Arrangement which enables New Zealanders to travel to, live and work in Australia without restriction, and Australians to do the same.

In summary, Australia's trade and investment relations with New Zealand under the CER have always been close and substantial, though it is important that attention be paid to how the relationship's momentum can be maintained and enhanced. The CER encompasses a wide range of engagements, and indeed this report shows that it is a world class and highly respected trade agreement of great mutual benefit.

Finally, the Committee would like to extend warm thanks to the Australian Government officials who assisted the delegation with their visit to New Zealand in July 2006. The Committee would also like to acknowledge and thank the New Zealand officials and industry leaders for their hospitality and valuable contribution.

Hon B G Baird MP
Chair, Trade Sub-Committee



Membership of the Trade Sub-Committee

Chair Hon B G Baird MP

Deputy Chair Hon W E Snowdon MP

Members	Senator A Bartlett	Senator A Eggleston
	Senator A B Ferguson (ex officio)	Senator D Johnston
	Senator M A Payne	Senator N Scullion
	Mr P A Barresi, MP	Mrs T Draper, MP
	Hon G J Edwards, MP (ex officio)	Mr B W Haase, MP
	Mr M J Hatton, MP	Hon D F Jull, MP
	Hon J E Moylan, MP	Hon G D Prosser, MP
	Hon B C Scott, MP	Mr R C G Sercombe, MP
	Dr A J Southcott, MP	Mr C P Thompson, MP
	Mr B Wakelin, MP	Ms M Vamvakinou, MP
	Mr K W Wilkie, MP	

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Terms of reference

The Joint Standing Committee on Foreign Affairs, Defence and Trade shall examine and report on Australia's trade and investment relations under the Australia and New Zealand Closer Economic Relations Trade Agreement (CER) with particular reference to:

- The nature of Australia's existing trade and investment relationships
- Likely future trends in these relationships
- The role of Government in identifying and assisting Australian companies to maximise opportunities under CER
- Complementary policy approaches by the two governments

Referred to the Committee by the Hon Mark Vaile MP, Minister for Trade on
1 March 2006



List of abbreviations

AAP	Australian Associated Press
AAPT	AAP Telecommunications
AASB	Australian Accounting Standards Board
ACCC	Australian Competition and Consumer Commission
ACPSEM	Australasian College of Physical Scientists and Engineers in Medicine
AMC	Australian Medical Council
ANMC	Australian Nursing and Midwifery Council
ANZCERTA	Australia-New Zealand Closer Economic Relations Trade Agreement
ANZFRMC	Australia and New Zealand Food Regulation Ministerial Council
ANZLF	Australia-New Zealand Leadership Forum
ANZTPA	Australia-New Zealand Therapeutic Products Authority
APEC	Asia Pacific Economic Cooperation
APRA	Australia Prudential Regulatory Authority
ASEAN	Association of Southeast Asian Nations

ASRB	Accounting Standards Review Board
CANZ	Canada, Australia and New Zealand
CER	Closer Economic Relations
CTC	Change in Tariff Classification
DCITA	Department of Communications, Information Technology and the Arts
DFAT	Department of Foreign Affairs and Trade
DIMA	Department of Immigration and Multicultural Affairs
EPSM	Engineers and Physical Scientists in Medicine
ERMA	Environmental Risk Management Authority
FRC	Financial Reporting Council
FRSB	Financial Reporting Standards Board
FRSC	Food Regulation Standing Committee
FSANZ	Food Standards Australia New Zealand
FTA	Free Trade Agreement
HCNC	Health Concern Non-Citizen
IASB	International Accounting Standards Board
IDC	Inter - Departmental Committee
LBSPG	Large Budget Screen Production Grant
NGA	National Gallery of Australia
NRMMC	Natural Resource Management Ministerial Council
NRMSC	Natural Resource Management Standing Council
NZ	New Zealand

NZAC	New Zealand Australia Connections
NZCC	New Zealand Commerce Commission
NZMED	New Zealand Ministry of Economic Development
OECD	Organisation for Economic Cooperation and Development
OGTR	Office of the Gene Technology Regulator
PISC	Primary Industries Standing Committee
RBNZ	Reserve Bank of New Zealand
ROO	Rules of Origin
SCIT	Standing Committee on Industry and Trade
SCORS	Standing Committee on Recreation and Sport
SCV	Special Category Visa
SEM	Single Economic Market
SRMC	Sport and Recreation Ministers' Council
TGA	Therapeutic Goods Administration
TPA	Trade Practices Act
TPIMC	Therapeutic Products Interim Ministerial Council
TTASAG	Trans-Tasman Accounting Standards Advisory Group
TTMRA	Trans-Tasman Mutual Recognition Agreement
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
USA	United States of America
WTO	World Trade Organisation



List of recommendations

2 Coordination and Setting the Agenda

Recommendation 1

The Committee recommends that DFAT investigate and report to the Minister for Foreign Affairs, Minister for Trade and the Treasurer on the feasibility of setting up a CER Coordinating Secretariat/Inter Departmental Committee (IDC).

Recommendation 2

The Committee recommends that parliamentary travel, between Australia and New Zealand, on Committee work with New Zealand relevance be treated as domestic travel.

3 Telecommunications

Recommendation 3

The Committee recommends that a Telecommunications Ministerial Council be established.

Recommendation 4

The Committee recommends that telecommunication be placed on the CER Work Program at the earliest opportunity.

4 Business and investment regulation

Recommendation 5

The committee recommends that withholding tax alignment be placed on the Work Program for Coordination of Business Law at the earliest opportunity.

Recommendation 6

The committee recommends that Competition Policy Harmonisation be placed on the Work Program for Coordination of Business Law.

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.

Coordination and Setting the Agenda

Introduction

- 2.1 Australia's relationship with New Zealand is one of the closest and most enduring our country has. This relationship, particularly with regard to CER, is kept vibrant and relevant by the variety of meetings and forums that are conducted between Ministers, officials and businesspeople of the two countries.

Australia – New Zealand Leadership Forum

- 2.2 The Australia – New Zealand Leadership Forum (ANZLF) brings together high-level business and community representatives, government ministers, parliamentarians and officials in an independent, second-track forum to discuss issues which impact on the trans-Tasman relationship and the future direction of the economic relationship.¹
- 2.3 At its April 2005 meeting the Forum endorsed the Single Economic Market (SEM) initiative that was commenced by the New Zealand and Australian Governments in 2004.
- 2.4 The evidence shows that the Forum is a well supported and influential arena in which companies and other participants are able to influence the agenda in relation to the Australia – New Zealand economic relationship

1 DFAT, *submission 7, Vol 1*, p.88.

- 2.5 The New Zealand Australia Connections (NZAC) Research Centre emphasises the value of the ANZLF and the need for the Australian Government to support such joint meetings:

The Australia New Zealand Leadership Forums, meeting annually since 2004, have lobbied consistently and worked in joint working parties with officials in Canberra and Wellington to make gains in combining competition regulation, accounting standards, investment requirements and to harmonise taxation and banking rules. Parliament should encourage this momentum to grow, especially the joint meeting of officials, regulators and the business community in order that the components of a single economic market are identified, problems isolated and deadlines set for their solution.²

- 2.6 In reviewing the list of participants in the ANZLF for 2006 held in Auckland for 5-6 May³ the Committee notes the absence of members of the Trade Sub Committee of the Australian Joint Standing Committee on Foreign Affairs, Defence and Trade and of members of the New Zealand Select Committee on Foreign Affairs, Defence and Trade.

Ministerial coordination

- 2.7 There is a comprehensive list of meetings attended by Australian and New Zealand Ministers “that contributes to the dynamic nature of the CER”⁴. These are:

- The Prime Ministers, Treasurer/Finance ministers, the Defence and Customs ministers meet annually; and
- Foreign ministers meet bi-annually.

- 2.8 In addition to the above, New Zealand Ministers participate in many of Australia’s State/Federal Ministerial Councils, such as the Primary Industries Ministerial Council (PIMC). There are joint Ministerial Councils in areas where there are joint agencies or agreements to implement joint agencies such as the Australia New Zealand Food Regulation Ministerial Council and the Therapeutic Product Interim Ministerial Council.⁵

2 New Zealand Australia Connections (NZAC) Research Centre, *submission 15, Vol 1*, p. 169.

3 DFAT, *submission 16, Vol 1*, p. 175-177.

4 DFAT, *submission, Vol 1*, p. 87.

5 NZ Government, *submission 9, Vol 1*, p. 101.

- 2.9 The Primary Industries Ministerial Council (PIMC) involves representatives from the Commonwealth, each of the states and territories of Australia, and NZ (which is a full member of the Council). PIMC facilitates a coordinated response to primary industry issues which are of concern to all states and NZ. PIMC is supported by the Primary Industries Standing Committee (PISC), consisting of the heads of departments concerned with agriculture, forestry, fisheries, fibre, food and aquaculture. Examples of the issues the Council discusses are joint food regulations, joint animal welfare strategies and trade issues. The Australian Government Minister for Agriculture, Fisheries and Forestry is the current Chair of the Council. ⁶
- 2.10 The Natural Resource Management Ministerial Council (NRMMC) co-chaired by the Australian Government Minister for Agriculture, Fisheries and Forestry and the Minister for the Environment and Heritage, is the principal body for the coordination of natural resource management issues across Australia and New Zealand. New Zealand is a full member of the Council. Issues addressed by the NRMMC include climate change, greenhouse emissions trading and marine pests. The NRMMC is supported by a Standing Committee (NRMSC) comprising heads of departments responsible for natural resource policy. ⁷
- 2.11 The Australia and New Zealand Food Regulation Ministerial Council (ANZFRMC) includes Ministers from the Australian and NZ Governments and Australian state and territory governments and is responsible for developing food regulatory policy. The Food Regulation Standing Committee (FRSC) provides policy advice to the Council. The Committee's membership reflects the membership of the Council, comprising the heads of departments for which the Ministers represented on the Council have portfolio responsibility, as well as the President of the Australian Local Government Association and Food Standards Australia NZ as observers. The Minister for Agriculture, Fisheries and Forestry is a member of the ANZFRMC, as are the Minister for Health and Ageing and the Parliamentary Secretary to the Minister for Health and Ageing. ⁸
- 2.12 The Therapeutic Products Interim Ministerial Council (TPIMC), comprising the Australian Parliamentary Secretary to the Minister for Health and Ageing, Christopher Pyne, and the New Zealand Minister for State Services, Annette King, was established to facilitate the

6 DAFF, *submission 17, Vol 1*, p. 199.

7 DAFF, *submission 17, Vol 1*, p. 199.

8 DAFF, *submission 17, Vol 1*, p. 199.

establishment of the Australia New Zealand Therapeutic Products Authority (for more detail see chapter 6).⁹

- 2.13 The Committee took evidence that the Prime Minister takes an active role in the relationship between New Zealand and Australia:

... the Prime Minister himself has an active dialogue with his New Zealand counterpart, so the leadership is provided in terms of the relationship with New Zealand. The leadership is provided from the top. It is the case that it is a very comprehensive relationship, and it might be the case that it has gained a certain momentum and a certain program of activity. I would not say that it drives itself, but it goes along with understood roles played by the various government agencies' portfolios.¹⁰

Coordination between officials

- 2.14 In addition to the extensive ministerial coordination outlined above officials from government and professional groups meet regularly to discuss issues relating to CER.

Trans - Tasman Accounting Standards Advisory Group (TTASAG)

- 2.15 On 30 January 2004, the Australian Treasurer, the Hon Peter Costello MP, and the New Zealand Minister of Finance, the Hon Dr Michael Cullen MP announced the formation of the Trans-Tasman Accounting Standards Advisory Group (TTASAG).¹¹
- 2.16 The Trans-Tasman Accounting Standards Advisory Group (TTASAG) advises the Australian and New Zealand accounting standard and oversight bodies on the setting up of trans-Tasman accounting standards. These discussions are carried out within the broader context of both jurisdictions' objective of adopting international accounting standards, and to maximise the influence of Australia and New Zealand in the development of international accounting standards and the international accounting standard setting process.¹²

9 Department of Health and Ageing, *submission 10*, Vol 1, p. 131.

10 Ms N Gordon-Smith, General Manager, Bilateral Trade Branch, International Divisions, Department of Agriculture, Fisheries and Forestry, *Evidence*, 16/06/06, p. 32.

11 Department of the Treasury, *submission 4*, Vol 1, p. 22.

12 NZ Government, *submission 9*, Vol 1, p. 109.

- 2.17 Membership of the Group includes representatives from the Australian Financial Reporting Council (FRC), Australian Accounting Standards Board (AASB), New Zealand's Financial Reporting Standards Board (FRSB) and Accounting Standards Review Board (ASRB), the professional accounting bodies and officials from the Australian Treasury and the New Zealand Ministry of Economic Development.¹³
- 2.18 TTASAG has met seven times. It is anticipated that the Group will meet approximately quarterly. To date the Group has focused on:
- the alignment of Australian and New Zealand financial reporting standards and how this can be progressed in light of the adoption of international accounting standards;
 - the extent to which Australia and New Zealand can influence the development of international accounting standards through their involvement with the International Accounting Standards Board (IASB) and related forums;
 - the broader legal framework governing financial reporting requirements in Australia and New Zealand and how those requirements could be more closely aligned; and
 - whether, in the longer term, there would be a move to joint institutions to ensure the maintenance of common standards in the two countries.¹⁴

Trans-Tasman Council for Banking Supervision

- 2.19 A Trans-Tasman Council for banking supervision was established in February 2005. In June 2005 it recommended legislative changes that would allow greater cooperation between the Reserve Bank of New Zealand (RBNZ) and the Australia Prudential Regulatory Authority (APRA) in fulfilling their respective statutory functions.¹⁵
- 2.20 Legislative changes have been supported by the governments on both sides of the Tasman. The next steps in the work programme of the Council are to oversee implementation of the legislative changes in both countries, to work on joint crisis management, and investigate any further impediments to the seamless provision of banking services.¹⁶

13 Department of the Treasury, *submission 4, Vol 1*, p. 22.

14 Department of the Treasury, *submission 4, Vol 1*, p. 22 – 23.

15 NZ Government, *submission 9, Vol 1*, p. 109.

16 NZ Government, *submission 9, Vol 1*, p. 109.

Trans – Tasman Court Proceedings and Regulatory Enforcement Working Group

- 2.21 The Trans-Tasman Court Proceedings and Regulatory Enforcement Working Group were established by the Prime Ministers of Australia and New Zealand to review the effectiveness and appropriateness of various procedural and regulatory arrangements. The Group's work aims to "reduce barriers to trans-Tasman commercial activity and support effective and efficient dispute resolution by enhancing legal cooperation in areas such as service of process, the taking of evidence, the recognition of judgments in civil and regulatory matters and regulatory enforcement."¹⁷
- 2.22 This group is working on issues which underpin a wide range of other legal coordination issues. Increased cooperation in areas such as consumer protection, competition law, securities regulation and therapeutics regulation will all be supported by improved enforcement of regulatory regimes across the Tasman, such as measures to enable, for example, the more effective enforcement of civil pecuniary penalties where a person in one country targets consumers or investors in the other country.¹⁸

Sport

- 2.23 The Australian Sports Anti-Doping Authority has a bilateral agreement with their New Zealand counterpart, the New Zealand Sports Drug Agency, which provides for reciprocal testing of New Zealand and Australian competitors.¹⁹
- 2.24 Australian and New Zealand are both involved with the Standing Committee on Recreation and Sport (SCORS) and the Sport and Recreation Ministers' Council (SRMC). SCORS meets twice annually and exchanges views on the nation-wide development and co-ordination of recreation and sport. It provides advice and administrative support to the SRMC.²⁰
- 2.25 The SRMC provides a forum for co-operation and co-ordination between the Commonwealth, State and Territory Governments on matters relating to the development of sport and recreation in Australia and, more recently, in New Zealand and Papua New Guinea. The SRMC is

17 NZ Government, *submission 9, Vol 1*, p. 110.

18 NZ Government, *submission 9, Vol 1*, p. 110.

19 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

20 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

comprised of Commonwealth, State and Territory Ministers with responsibility for sport and recreation.²¹

Parliamentary cooperation

- 2.26 To date parliamentary cooperation has been relatively ad hoc. Inquiries, friendship groups and specific issues prompt visits between parliamentarians of the two countries. One obstacle to increased parliamentary meetings is the fact that travel to New Zealand is deemed as being 'overseas'.
- 2.27 It should be noted that this problem is not confined to parliamentarians alone. One example is that of biomedical engineers in the NSW public health system, whose experience would be greatly appreciated by young New Zealand engineers attending the Conference of Engineers and Physical Scientists in Medicine (EPSM) organised by their Australasian College (ACPSEM) for which Christchurch is the venue in 2008. As New Zealand is deemed to be 'overseas' by NSW health bureaucrats, funding for engineers to travel to the conference is proving difficult to access.²²
- 2.28 It is important that, wherever possible, such impediments are removed so as to improve and facilitate the knowledge transfer between Australia and New Zealand that is fundamental to CER.

International cooperation

- 2.29 The relationship between Australia and New Zealand extends far beyond domestic issues to a close and constructive working relationship on international issues including a strong cooperation on regional issues.

World Trade Organisation (WTO) – Doha Round

- 2.30 New Zealand and Australia work together closely on trade policy issues, to promote shared interests and maximise regional and international impact. Both countries regard securing an ambitious outcome from the

21 Department of Communications, IT and the Arts, *submission 22*, Vol 2, p.

22 New Zealand Australia Connections (NZAC) Research Centre, *submission 15*, Vol 1, p. 172.

World Trade Organisation (WTO) Doha Round of negotiations as their highest trade priority.²³

- 2.31 As agricultural exporters Australia and New Zealand face common challenges, such as global distortions to trade caused by prohibitive market access barriers and high levels of subsidies, along with increasing competition internationally for goods and services. In this context, the importance to both countries of getting a good result in the current WTO Round cannot be overemphasised.²⁴
- 2.32 Australia and New Zealand have shared objectives across a number of areas in these negotiations. On agriculture, our shared objectives are to substantially improve market access, including those products deemed the most politically “sensitive” (such as dairy and meat), substantially reduce domestic support and eliminate export subsidies.²⁵

Cairns Group

- 2.33 The Cairns Group has been an influential voice in the agricultural reform debate since its formation in 1986 and has continued to play a key role in pressing the WTO membership to meet in full the far-reaching mandate set in Doha.²⁶
- 2.34 New Zealand strongly supports the continued profile of the Cairns Group as a significant participant in the negotiations and appreciates the important role that Australia plays as Chair. New Zealand believes that the Cairns Group, under Australia’s leadership, is crucial to shared efforts to secure Australia and New Zealand’s joint objectives in the WTO, particularly for market access. This is important for both New Zealand and Australia’s direct trade interests.²⁷

APEC

- 2.35 New Zealand and Australia also have an active and cooperative relationship in APEC and share many objectives. We cooperate closely on trade and investment, for example, promoting FTA best practice and expanding APEC’s investment work. New Zealand looks forward to

23 NZ Government, *submission 9, Vol 1*, p. 105.

24 NZ Government, *submission 9, Vol 1*, p. 105.

25 NZ Government, *submission 9, Vol 1*, p. 105.

26 Department of Finance and Administration, *submission 14, Attachment 2*, p. 9 (held by Secretariat).

27 NZ Government, *submission 9, Vol 1*, p. 105.

supporting Australia in its role as chair in 2007 and maintaining a close dialogue on its themes and objectives for that year.²⁸

ASEAN

- 2.36 Complementing efforts in the WTO, NZ is currently negotiating jointly with ASEAN on an ASEAN-Australia/New Zealand Free Trade Agreement. These negotiations were launched in November 2004 and are due to be completed by March 2007. This is the first time that the CER partners have collaborated on an FTA with third countries, and reflects the recognition by ASEAN of the close integration between Australia and New Zealand – that it makes sense to deal with Australia and New Zealand as a grouping.²⁹

CANZ Group

- 2.37 The CANZ Group (Canada, Australia and New Zealand) is a way in which Australia, with Canada and New Zealand, are able to pool resources to push for outcomes in the United Nations (UN). This relationship has been described as “fundamental” to day to day operations in New York.³⁰

The committee's view

- 2.38 The Committee feels that the attendance by the Chairs and Deputy Chairs of the Trade Sub Committee of the Australian Joint Standing Committee on Foreign Affairs, Defence and Trade and of members of the New Zealand Select Committee on Foreign Affairs, Defence and Trade Committees to the ANZLF would greatly enhance the working relationship between parliamentarians and stakeholders and enhance the ability of the ANZLF to promote policy outcomes.
- 2.39 The Committee is aware that the Australian Government is not the organiser of the ANZLF and, as such, the Committee cannot make recommendation to the Government regarding ANZLF. However the Committee encourages the Australian Government, wherever possible, to

28 NZ Government, *submission 9, Vol 1*, p. 105.

29 NZ Government, *submission 9, Vol 1*, p. 106.

30 *Australia and the United Nations: Letter from New York*, H E Mr John Dauth, Australian Ambassador and Permanent Representative to the United Nations, 24 July 2002, p. 1.

put forward the view that the ANZLF should include parliamentary representation.

- 2.40 The submissions and evidence presented to the Committee show that the relationship between Australian and New Zealand is a broad and open one in which issues are able to be discussed in a constructive manner.
- 2.41 The Committee was concerned to note that there does not seem to be one driving force behind the implementation of CER. For example, a lot of the CER is business regulation integration and the Department of Treasury is behind this. The broader diplomacy is handled by the Department of Foreign Affairs and Trade with each individual government agency then being responsible for the development and implementation of CER policy and processes in their particular portfolio area.
- 2.42 Mr Peter Hooton from DFAT provide a comprehensive answer as to why there is no such driving force behind CER:

If you are looking for a single agent to assume responsibility for the full range of trans-Tasman activity, I think as a relationship it has long outgrown the capacity of any one department or agency to manage it on their own. Relationships between the different agencies on both sides of the Tasman are so good and so direct that it is simply not possible to monitor everything that goes on. In the case of my own department and of the High Commission in Wellington and, I would imagine, in the case of my colleagues from the New Zealand High Commission here in Canberra, we sometimes lament the fact that we do find it difficult to stay across the full range of exchanges and activities that are going on. But we tend to find out when something is not going particularly well. I think it is a particular role of my department to become involved when there are problems to be sorted out. When there are not problems then there really is no need to become involved, but when there are we certainly step in and do our best to resolve them. So in terms of identifying some sort of a point of coordination I think you could probably point the finger at Foreign Affairs and Trade.³¹

- 2.43 The Committee accepts the broad nature of the CER and the thrust of Mr Hooton's comments above. However the Committee believes that, given the closeness of the relationship between Australia and New Zealand DFAT should investigate the establishment of a CER Coordinating

31 Mr P Hooton, Assistant Secretary, Pacific Regional and New Zealand Branch, International Divisions, Department of Foreign Affairs and Trade, *Evidence*, 12/05/06, p. 41.

Secretariat or Inter – Departmental Committee (IDC). This should act as a clearing house and distribution point to stakeholders for the major decisions made at various meeting between Australian and New Zealand Ministers and officials. It will allow officers of Departments to “stay across” issues being worked on and should also serve to keep the momentum of the CER ongoing.

Recommendation 1

The Committee recommends that DFAT investigate and report to the Minister for Foreign Affairs, Minister for Trade and the Treasurer on the feasibility of setting up a CER Coordinating Secretariat/Inter Departmental Committee (IDC).

- 2.44 In order to travel to New Zealand the Committee wrote to the Trade Minister to gain his support for an overseas delegation. The Committee then wrote to the Speaker of the House of Representatives and the President of the Senate in order to gain their support for a request to the Prime Minister.
- 2.45 The Committee found it incongruous that travel for parliamentarians to New Zealand should be characterised as overseas. Technically this may be true but travel from the eastern states of Australia to the Northern Territory or Western Australia costs more and involves more travel time. To remedy this, and encourage closer parliamentary relations between Australia and New Zealand the Committee recommends that parliamentary travel, between Australia and New Zealand, on Committee work with New Zealand relevance, be treated as domestic travel.

Recommendation 2

The Committee recommends that parliamentary travel, between Australia and New Zealand, on Committee work with New Zealand relevance be treated as domestic travel.

Telecommunications

- 3.1 The telecommunications sector is one of the most vibrant and growing areas of business in the world today. The relationship between countries as close as Australia and New Zealand necessarily involves close cooperation in this area. The Committee took much evidence as to the 'state of play' between the two countries in the area of telecommunications.
- 3.2 Senior officials from the Australian Department of Communications, Information Technology and the Arts (DCITA) meet regularly with their counterparts in the New Zealand Ministry of Economic Development (NZMED) to discuss key issues of interest to both countries. ¹
- 3.3 In the past year there have been two meetings between DCITA and NZMED officials. Officials will meet again later this year in Wellington to discuss a wide range of issues relating to telecommunications policy and regulation. ²

¹ DCITA, *Submission 22, Vol 2*, p. 16.

² DCITA, *Submission 22, Vol 2*, p. 16.

The New Zealand telecommunications market

- 3.4 The provision of telecommunications services in New Zealand was deregulated in 1989. The total telecommunications market in New Zealand was estimated at NZ\$ 7.3 billion in 2005. It is estimated that the market will grow by 5 to 6 % in the next two years. Data, Internet and Value Added Services grew by 8% and the mobile market grew by 13% during 2005. However, the fixed network voice market has been declining at levels consistent with global trends for fixed lines.³
- 3.5 There are two major fixed-line public telecommunications operators in New Zealand – Telecom New Zealand and TelstraClear. Telecom New Zealand has close to 80% of the local access market in fixed line voice and broadband.⁴
- 3.6 In 2005 there were 3.53 million mobile subscribers in New Zealand and the mobile penetration rate was 86%. The major mobile operators are Telecom Mobile (owned by Telecom New Zealand) and Vodafone New Zealand. The mobile market is highly concentrated and mobile phone charges are high by international standards. According to the OECD, in terms of mobile calls price, New Zealand ranks 29th out of 30 countries for high volume users and 23rd for low volume users.⁵

Telecommunications access arrangements

- 3.7 In developing access to telecommunications regimes Australia has relied on the telecommunications specific access regime in Part XIC of the *Trade Practices Act 1974* (TPA) whilst New Zealand, after previous provisions in their *Commerce Act 1986* proved unworkable, enacted the *Telecommunications Act 2001*.⁶
- 3.8 Services that must be supplied to access seekers on demand under the access regimes are known as 'regulated telecommunications services'. Once a service is designated (NZ) or declared (Aus), each country has a different procedural regime to deal with access issues. In Australia the Australian Competition and Consumer Commission

3 DCITA, *Submission 22*, Vol 2, p. 16

4 DCITA, *Submission 22*, Vol 2, p. 16

5 DCITA, *Submission 22*, Vol 2, p. 17

6 DCITA, *Submission 22*, Vol 2, p. 19

(ACCC), independent of the Australian Government, has the power to declare services. In NZ the New Zealand Commerce Commission (NZCC) can only recommend to Government that a service be designated with the final decision being left to the Government.⁷

- 3.9 Anti-competitive conduct is policed in Australia by the ACCC under Part XIB of the TPA. Under this legislation the ACC are able to issue 'competition notices' which are designed to stop anti-competitive conduct and allow the ACC and other parties to seek penalties and damages in the Federal Court.⁸ TPA parts XIB and XIC are the responsibility of the Minister for Communications.⁹
- 3.10 New Zealand relies on section 36 of the *Commerce Act 1986* which is a general restrictive trade provision. There is no provision in the legislation for a regulatory tool such as a competition notice.¹⁰
- 3.11 Two other issues where Australia is ahead of New Zealand on regulatory control and increased competition are:
- Number portability (see explanatory box below); and,
 - Operational separation (see explanatory box below).

7 DCITA, *Submission 22, Vol 2*, p. 19-20.

8 DCITA, *Submission 22, Vol 2*, p. 21.

9 Mr J Murphy, Executive Director, Markets Group, Department of the Treasury, *Evidence*, 12/05/06, p. 12.

10 DCITA, *Submission 22, Vol 2*, p. 21.

NUMBER PORTABILITY¹¹

New Zealand is one of the few countries in the OECD that does not have fully extended number portability. Number portability allows a customer to retain a phone number when changing operators, services or geographical locations. The concept is important for promoting competition and ensuring the availability of choice in a market. This issue has been on the agenda in New Zealand since 1992.

Number portability reduces the cost of customers changing suppliers and moving locations. For businesses and personal users, the cost and inconvenience of changing numbers is a major deterrent to changing carriers and service providers who are competing in the market place. Presently number portability is not mandated and limited to a small number of locations for fixed line. There is no number portability for mobile telephony and in some respects this is preventing the entry of a third mobile provider into the market. We understand that number portability will be available in New Zealand by 2007.

OPERATIONAL SEPARATION¹²

Operational separation involves a clear internal separation between a 'retail business' supplying services to end users, and a 'network business' supplying wholesale services to both the incumbent's retail business and its competitors. Operational separation puts up "Chinese walls" between the retail and wholesale divisions of the incumbent without actually breaking up the company into two separate entities. The intention of operational separation is not to stymie the commercial operation of the incumbent but to bring it onto a level playing field with its retail competitors.

11 DCITA, *Submission 22*, Vol 2, p. 22.

12 DCITA, *Submission 22*, Vol 2, p. 22.

Telstra Corporation/TelstraClear's position

- 3.12 Telstra Corporation and their New Zealand subsidiary TelstraClear (hereafter Telstra) made a detailed and comprehensive submission to the Committee. The main issues they address are:
- A common market for telecommunications services on both sides of the Tasman;
 - How telecommunications got left behind by CER;
 - Benefits of a common market for telecoms;
 - CER needs to keep evolving;
 - Importance of the telecommunications sector
 - Historical barriers to a trans – Tasman telecoms market;
 - Need for greater harmonisation of sectoral regulation; and
 - Greater coordination of telecoms regulation in the interim.

A common market for telecommunications on both sides of the Tasman

- 3.13 Telstra have difficulties encountered in the supply of seamless services between Australia and New Zealand and point to the lack of regulatory harmonisation, which they argue has been hampered by the Australian and New Zealand Governments.¹³ Specifically Telstra states that telecoms regulation “is a form of sectoral competition regulation, which to date has differed greatly between Australia and New Zealand.”¹⁴
- 3.14 Telstra's submission refers to the proposed Single Economic Market (SEM) and states that “it is time to work towards a common market for telecoms services.”¹⁵

How telecommunications got left behind by CER

- 3.15 Telstra contends that agreements such as WTO Basic Telecoms Agreement and regulatory Reference Paper as well as Australia's

13 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 65.

14 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 66.

15 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 66.

bilateral Free Trade Agreements (FTAs) deal more comprehensively with telecoms. Their submissions states:

Telstra submits that immediate steps should be taken to incorporate more detailed treatment of telecommunications into CER, at least consistent with the WTO Reference Paper, but preferably duplicating the more detailed approach of the existing telecommunications chapters in the FTAs that Australia has concluded with the US and Singapore.¹⁶

- 3.16 Telstra informed the Committee that, in their view, the excuse provided by the Australian and New Zealand governments for not including telecoms in CER Business MoU work program – that telecoms regulation has not yet ‘bedded in’ – is implausible given that the Australian regime has been in place for almost a decade and New Zealand is doing a ‘regulatory stocktake’.¹⁷

- 3.17 Mr Danny Kotlowitz, a solicitor for Telstra’s Regulatory Legal Group, gives the example of number portability as one area in which CER has not kept pace with a current FTA:

In the free trade agreement with Singapore, there is a list of behind-the border, domestic regulatory obligations. For example, there is an obligation to provide number portability. That means that when you go to a competing provider for your mobile, you get to take your number with you. In New Zealand, that is currently not available; it is not mandated.¹⁸

- 3.18 In Telstra’s opinion:

If CER had the same commitments as made under the Australia-US FTA, New Zealand consumers would have been enjoying the benefits of number portability in 2004, instead of still waiting for implementation of this critical pro-competitive measure.¹⁹

- 3.19 The submission by Australia’s Department of Communications, Information, Technology and the Arts echo these comments when it states in relation to new entrants to the New Zealand market that;

... a number of significant barriers exist in the mobile market. Entrants are obliged to have demonstrated plans to

16 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, pp. 68 - 69.

17 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 69.

18 Mr D Kotlowski, Solicitor, Regulatory Legal Group, Telstra, *Evidence*, 12/05/06, p. 11.

19 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 69.

build a national network that would give them access to regulated national roaming. Consequently, there are high fixed costs to entry into the mobile market. The absence of number portability is another key problem. New Zealand has some of the highest mobile termination rates amongst OECD countries and there is a lack of both wholesale and resale competition in the mobile services market. Australia has extended regulation to mobile termination charges. In New Zealand regulation is being proposed for non-3G networks only.²⁰

Benefits of a common market for telecoms

3.20 Telstra lists benefits of a common market for telecoms such as:

- Reduced charges by the elimination of international roaming charges;²¹
- The continuing ability to safeguard key differences in each countries' approach to telecommunications regulation in such areas as universal services and content regulation.²²

3.21 At this point Telstra see the mechanics of a single economic market for telecommunications as something that can be discussed in due course. What is important now is to identify a telecommunications SEM as a goal that can be achieved and worked towards:

...there are many possible paths to achieving a trans-Tasman single economic market for telecommunications – debate over institutional/structural issues such as whether to harmonise laws or amalgamate regulators, should be left aside for now. What is necessary now is to identify a common market as the goal and begin working towards that goal.²³

20 DCITA, *Submission 22, Vol 2*, p. 17.

21 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 72. Telstra estimate the savings to Australian consumers to be \$31 million per year.

22 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 72.

23 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 72.

CER needs to keep evolving

3.22 It is Telstra's belief that that:

CER's general development, and the achievement of a common economic market across all industry sectors, will be held back for so long as telecoms regulatory harmonisation is ignored by CER²⁴

Importance of the telecommunications sector

3.23 Telstra believes that telecoms are in danger of being put in the CER's 'too-hard basket'²⁵ and, given the importance of telecommunications to all aspect of business, suggests this would have a negative impact on the economic development of both countries.

Historical barriers to a trans – Tasman telecoms market

3.24 Until recently New Zealand had 'light touch' regulation of telecoms and Australia's regulatory regime was more mainstream in international terms.

3.25 It is Telstra's view that Australia is now tending towards over-regulation in international terms whilst New Zealand, with the introduction of the *Telecommunications Act* (2001), has abandoned the 'light touch' regulatory approach. As a result regulatory approaches in the two countries are now converging.²⁶

3.26 With New Zealand currently undergoing a 'regulatory stocktake' in relation to telecommunications in which many issues of divergence between Australia and New Zealand, such as unbundling of the local loop, will be addressed it is Telstra's view that CER "drive greater convergence, by setting a goal of achieving a common market in telecoms services to the benefit of both economies."²⁷

24 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 73.

25 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 74.

26 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 75.

27 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 75.

Need for greater harmonisation of sectoral regulation

- 3.27 Telstra believes that “claims that competition law has been harmonised under CER ring hollow for so long as that harmonisation has only occurred at the level of generic competition law.”²⁸

Greater coordination of telecoms regulation in the interim

- 3.28 Telstra envisages interim steps that can be taken along the way to realisation of a common market such as:
- greater institutional co-ordination;
 - greater pooling of expertise; and
 - formal consultative obligations.²⁹
- 3.29 Telstra is critical of the fact that, although the revised CER Business Law MoU adopts the above measures they are not being applied to telecoms because telecoms are not on the formal work program. This is despite the fact that a great deal of the time of the ACCC and the NZCC is devoted to telecoms Telstra believes that regulators are being asked to consult with each other but what they may discuss is being limited.³⁰

AAPT's position

- 3.30 AAP Telecommunications (AAPT) grew out of Australian Associated Press (AAP) in 1991 after the Australian telecommunications market commenced de-regulation. After various owners AAPT was fully acquired by Telecom New Zealand in 2000.
- 3.31 AAPT's submission is concerned expressly with “why the proposals in the Telstra submission are not in Australia's interest.”³¹ Specifically AAPT disagrees with following points made by Telstra:
- Non inclusion of telecommunications in CER
 - End user benefits of regulatory harmonisation
 - ⇒ International mobile roaming savings

28 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 76.

29 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 79.

30 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 79.

31 AAPT, *Submission 28, Vol 2*, p. 61.

⇒ One contract one bill

- 3.32 AAPT's submission also offers ways to include telecommunications in CER on a sustainable basis.

Non inclusion of telecommunications in CER

- 3.33 AAPT argues that, if telecommunications requirements under the WTO are looked at Australia and New Zealand are at "similar stages of WTO compliance."³²

- 3.34 It is AAPT's position that the elements required in a Free Trade Agreement are fully provided for by current Australian and New Zealand Regulatory regimes;

But the extent to which there is perhaps an impediment to the 'one market' is that we have not yet even formally harmonised the trade practices requirements – the actual underpinning competition law. Talking about harmonising the specific regimes prior to that is a bit strange when we have not worked out issues about trans-Tasman enforcement for generic competition law. So it is hard to understand how you could actually build a trans-Tasman harmonisation for the specific before you have done the generic.³³

End user benefits of regulatory harmonisation

- 3.35 AAPT rejects the idea that regulatory harmonisation will provide any benefits to end-users. In relation to mobile roaming charges their view is that:

. . . there is nothing about harmonising the regime that would magically make that inbound roaming more competitive and there is actually nothing that would make it immediately covered by the regulatory regime because you would have to cover domestic mobile roaming, which neither regime has done . . . ³⁴

- 3.36 AAPT expressed bemusement as to Telstra's submission that regulatory harmonisation will promote the ability to have "one

32 AAPT, *Submission 28*, Vol 2, p. 67.

33 Mr D Havyatt, Solicitor, Head of Regulatory Affairs, AAPT Ltd, *Evidence*, 7/08/06, p. 6.

34 Mr D Havyatt, Solicitor, Head of Regulatory Affairs, AAPT Ltd, *Evidence*, 7/08/06, p. 3.

contract and one bill.” In AAPT’s view there “is nothing in the existing regime to stop a person who is a service provider writing one contract and offering one bill.”³⁵

- 3.37 AAPT’s believes that regulatory harmonisation is unnecessary as the end result of current regulatory regimes will be the same:

So we both have the same starting point and the same end point. It is a bit like we are both travelling from Sydney to Brisbane but one of us has chosen to do that journey via the New England Highway and the other has gone via the Pacific Highway. . . The call for harmonisation is bit like making a new road when we are already on pretty well laid out roads.³⁶

Including telecommunications in CER

- 3.38 The Committee was impressed with the effort put in by AAPT, in commissioning their own research into trans-Tasman business, to look at the “inclusion of telecommunications in CER on a sustainable basis.” The Committee notes that AAPT sees closer regulatory ties (but not necessarily harmonisation) as one way forward:

AAPT would further support regular meetings that include both policy departments and regulators to undertake “stocktakes” of the current institutional settings in both markets. However, we would note that these meetings are more likely to be productive if conducted on the “economy to economy” model of APECTEL than the “government to government” model more traditionally associated with international relations.³⁷

The committee’s view

- 3.39 The Committee notes the evidence from DCITA on the close ties between officials in Australia and New Zealand on telecommunications. In addition the Committee notes the lack of formal ministerial contact. Ministerial ties are already provided for in

35 AAPT, *Submission 28*, Vol 2, p. 68.

36 Mr D Havyatt, Solicitor, Head of Regulatory Affairs, AAPT Ltd, *Evidence*, 7/08/06, p. 3.

37 AAPT, *Submission 28*, Vol 2, p.

many other areas by Ministerial Councils and it is the Committee's recommendation that a Telecommunications Ministerial Council is established.

Recommendation 3

The Committee recommends that a Telecommunications Ministerial Council be established.

- 3.40 The Committee notes some quite divergent views on regulatory harmonisation and other issues relating to telecommunications in Australia and New Zealand. It is not the province of this Committee to adjudicate complex regulatory and technical issues. These are things best left to legal and technical experts. The Committee, however, is able to see, from the evidence gathered, that there is much room for more discussion on these issues.
- 3.41 The establishment of a Telecommunications Ministerial Council will be useful to address issues that are raised for time to come in the future. However, the Committee is of the view that telecommunications be placed on the CER Work program at the earliest opportunity to facilitate discussion of the complex technical and regulatory issues mentioned above.

Recommendation 4

The Committee recommends that telecommunication be placed on the CER Work Program at the earliest opportunity.

Business and investment regulation

- 4.1 Underpinning any analysis on business and investment regulation between Australia and New Zealand is the long term goal, articulated in January 2004 by the Australian Treasurer and the New Zealand Minister of Finance, of achieving a single economic market based on common regulatory frameworks.

Memorandum of Understanding on Business Law Coordination

- 4.2 The MOU was first signed in 2000 and covered the following areas as suitable for coordination:
- Cross recognition of companies;
 - Financial product disclosure regimes;
 - Cross border insolvency;
 - Stock market recognition;
 - Consumer issues;
 - Electronic transaction; and
 - Competition law.¹
- 4.3 A revised MOU, reaffirming original principles and acknowledging changes in the business environment, was signed in February 2006.

1 Department of the Treasury, *Submission 4, Vol 1*, p. 21.

- 4.4 New items on the work program include:
- Exploring the desirability of mutual disqualification of persons from managing corporations;
 - Coordination of anti-money laundering supervisory framework; and
 - Coordination of insurance regulation.²
- 4.5 The following four areas of the work program have progressed significantly:
- Accounting standards;
 - Cross-recognition of companies;
 - Mutual recognition of securities offerings; and
 - Cross-border insolvency.

Accounting standards

- 4.6 The Trans-Tasman Accounting Standards Advisory Group (TTASAG) (see chapter 2) has made a number of cross-appointments between Australian and New Zealand oversight and standard setting bodies.³ A cooperation and coordination Memorandum of Understanding has been agreed to and signed.⁴
- 4.7 The Group will be moving from a focus on standards to barriers to a single set of accounts for Australia and New Zealand.⁵

Cross-recognition of companies

- 4.8 Under the common law systems of Australia and New Zealand companies are already recognised as distinct entities.
- 4.9 New Zealand and Australian companies who are trans-Tasman operators must still comply with the full suite of reporting required of any foreign company.
- 4.10 The Australian Government has approved amendments to the *Corporations Act 2001* to eliminate duplication of New Zealand

2 Department of the Treasury, *Submission 4, Vol 1*, p. 21.

3 Department of the Treasury, *Submission 4, Vol 1*, p. 23.

4 NZ Government, *submission 9, Vol 1*, p. 110.

5 NZ Government, *submission 9, Vol 1*, p. 110.

company reporting in Australia. This needs to be consented to by the States before coming into law. New Zealand has indicated that they will be able to enact similar legislation in the future.⁶

- 4.11 Discussions between Australian and New Zealand company regulators on technical aspects of providing a secure link between databases are ongoing and initial progress has been made on options for change.⁷

Mutual recognition of securities offerings

- 4.12 A treaty for the mutual recognition of securities offerings was signed on 22 February 2006. This will allow an offer of securities being made in one country to be made in the other country with the same offer document provided that:

- The entry criteria for the recognition regime are satisfied; and,
- The offeror complies with the ongoing requirements of the recognition regime.

- 4.13 This treaty is not yet in force as domestic legislation in Australia and regulations in New Zealand need to be enacted.⁸

Cross border insolvency

- 4.14 The Australian Government will adopt the United Nations Commission on International Trade Law (UNCITRAL) Model Law on cross-border insolvency. The Model Law will provide effective and efficient mechanisms for dealing with cases of cross-border insolvency.⁹ A draft bill for public comment is due to be released later in 2006.

- 4.15 New Zealand officials are currently developing draft legislation and have offered information sharing and further cooperation in streamlining procedures under the Model Law.¹⁰

6 Department of the Treasury, *Submission 4, Vol 1*, p. 25.

7 Department of the Treasury, *Submission 4, Vol 1*, p. 25.

8 Department of the Treasury, *Submission 4, Vol 1*, p. 25.

9 http://www.treasury.gov.au/documents/1022/PDF/Corporate_Insolvency_Reform_attachment.pdf 12 October 2005.

10 Department of the Treasury, *Submission 4, Vol 1*, p. 25.

Banking supervision

4.16 The Joint Trans-Tasman Council on Banking Supervision (chapter 2) has recommended changes to Australian and New Zealand legislation in order to ensure that the Australian Prudential Regulation Authority (APRA) and the Reserve Bank of New Zealand (RBNZ) can support each other in performance of their regulatory responsibilities. These legislative changes are supported by both governments.

4.17 The committee was made aware of the following situation involving ANZ Bank:

The ANZ Bank recently merged with the Bank of New Zealand. Because of the way the regulator wanted things to happen prior to the agreement signed in Melbourne in February, ANZ was going to have to spend \$57 million this year and then another \$136 million over a period of three years to meet New Zealand banking regulations because it was a merger and not an acquisition. It defies the intelligence as to why the New Zealand regulators required ANZ to place a certain functioning part of their operation in a specific place in New Zealand when that function could take place within existing facilities within ANZ in Australia.¹¹

4.18 The committee is confident that the Joint Trans-Tasman Council on Banking Supervision will be able to look at situations such as this and address the underlying regulatory issues.

Competition policy

4.19 The Australian Government has provided in-principle support for recommendations made in the Productivity Commission's report *Australia and New Zealand Competition and Consumer Protection Regimes*.¹² The Australian Government sees progress as possible in the following areas:

- Improving the information sharing of the respective regulators;

11 Mr C Mackay, Executive Director, Australia New Zealand Business Council, *Evidence*, 12/05/06, p. 23.

12 <http://www.pc.gov.au/study/transtasman/finalreport/index.html> 13 January 2005

- ⇒ Statutory impediments in the *Trade Practices Act 1974* will be removed.
 - ⇒ Confidential or protected information will remain protected from unauthorised use or disclosure.¹³
 - Formalising existing policy dialogue;
 - ⇒ The Australian Competition and Consumer Commission (ACCC) and New Zealand Commerce Commission (NZCC) have proposed formal annual meetings.
 - Exploring options for greater dialogue between the regulators;
 - ⇒ The ACCC and NZCC have agreed to develop a protocol to enhance cooperation in relation to the approval of merger applications involving trans-Tasman issues.¹⁴
- 4.20 It is noted that Competition policy harmonisation is not specifically addressed and this is discussed below in the “Issues arising” section.

Taxation

- 4.21 The approach to the harmonisation of Australia and New Zealand’s taxation regimes has focussed on:
- Joint negotiation of tax information exchange agreements;
 - Triangular taxation reforms;
 - ⇒ Currently businesses in each country are able to participate in the imputation systems of the other.
 - Australia – New Zealand Tax Treaty
 - ⇒ The tax information exchange provisions of the treaty have been update to OECD standards by the protocol to the Australia - New Zealand tax treaty.
 - ⇒ This is the first tax treaty whereby Australia has agreed to assist the other jurisdiction in the collection of outstanding tax debts.
- 4.22 Imputation and franking credits and withholding tax issues are dealt with in greater detail below in the in the “Issues arising” section.

¹³ Department of the Treasury, *Submission 4, Vol 1*, p. 29.

¹⁴ Department of the Treasury, *Submission 4, Vol 1*, p. 29.

Issues arising

4.23 The committee had particular issues brought to its attention. These are:

- Investment protocol harmonisation;
- Imputation credits;
- Withholding taxes alignment;
- Common currency; and,
- Competition policy harmonisation.

Investment protocol harmonisation

4.24 CER has resulted in a increase in trans – Tasman investment. Investment between Australia and New Zealand was A\$61.8 billion in 2004. Australian investment in New Zealand was estimated at A\$39.4 billion, while New Zealand's in Australia was A\$22.4 billion.¹⁵

4.25 New Zealand is Australia's third most important destination for foreign investment, and the sixth largest source of foreign investment in Australia. Australia is also the largest foreign investor in New Zealand. New Zealand and Australian investment in each other's countries contributes to economic growth and productivity.¹⁶

4.26 The committee notes that the Australian and New Zealand Finance Ministers have agreed to commence negotiations on the inclusion of an Investment Protocol in the CER. It is hoped that these negotiations will be completed by early 2007.¹⁷ The committee fully supports this initiative.

Imputation credits

4.27 The current treatment of imputation credits allows businesses in each country to participate in the imputation systems of the other. Relief from double taxation of dividends was given but the separation of the two tax systems was maintained.

4.28 The Australia New Zealand Business Council would like to see mutual recognition of franking and imputation credits and stated:

15 NZ Government, *Submission 9, Vol 1*, p. 103.

16 NZ Government, *Submission 9, Vol 1*, p. 103.

17 DFAT, *submission 7, Vol 1*, p.89.

Three years ago both governments introduced rules relating to trans-Tasman imputations such that the imputation of franking credits could be passed out from both countries' tax systems back to shareholders in their own jurisdictions. But that was on a pro rata basis and it really has had very little impact on business. What we are advocating is that both governments move towards looking at mutual recognition of franking and imputation credits such that tax paid in one country is treated as tax paid in the other and can be distributed as franking credits to shareholders in that country.¹⁸

- 4.29 The committee sought the view of the Department of the Treasury on this issue and found that mutual recognition of franking and imputation credits would result in lower tax receipts for Australia and could not be just offered to New Zealand. Treasury stated:

If you start recognising tax paid offshore and let that flow through to the shareholder level, then you lose that driver for companies to pay tax in Australia. Our concern was that it would be very difficult to just offer it to New Zealand. New Zealand are an important investment partner, but they are not our strongest. If we offered it to New Zealand, what would stop the US, the UK and other key investment partners asking for the same? Our colleagues sitting behind us said about \$1 billion in the New Zealand context. If you start looking at our serious investment partners, then you are looking at enormous amounts of money in terms of not just the tax you give up immediately but the restructuring that would result, meaning that there would no longer be the incentive to base and pay tax in Australia. On that basis it was not given a favourable response in the review of international tax arrangements.¹⁹

- 4.30 It was the view of the Australia New Zealand Business Council that detailed costings of mutual recognition of franking and imputation credits should be undertaken by both countries.²⁰

18 Mr T Walton, Representative, Australia New Zealand Business Council, *Evidence*, 12/05/06, p. 17.

19 Mr P McBride, Manager, Tax Treatises Unit, Department of the Treasury, *Evidence*, 12/05/06, p. 34.

20 Mr T Walton, Representative, Australia New Zealand Business Council, *Evidence*, 12/05/06, p. 17.

Withholding taxes alignment

- 4.31 During the negotiations that resulted in the amending Protocol to the Australia – New Zealand Tax Treaty, Australia suggested lowering the current rates of dividend, interest and royalty withholding tax between the two countries. New Zealand advised that the relevant policy is under review and is likely to be finalised in the near future. The amending protocol includes a most favoured nation clause which entitles Australia to a lower rate of withholding taxes should New Zealand agree to such a rate in any of its future tax treaties.²¹
- 4.32 The Australia New Zealand Leadership Forum (ANZLF) considers withholding tax to be one of the priority issues for the establishment of a Single Economic Market (SEM).²²

Common currency

- 4.33 The issue of a single currency is one that is perennially on the table for discussion between Australia and New Zealand. It is not currently a priority for either the Australian or New Zealand Governments.²³
- 4.34 The committee notes that in New Zealand there is a small but dedicated lobby group suggesting a common currency. Their suggestion however is that the US currency be used by both Australia and New Zealand.²⁴

Competition policy harmonisation

- 4.35 Qantas informed the committee that lack of competition policy harmonisation has cost the company an estimated AUD\$25 million.²⁵
- 4.36 The Productivity Commission's report *Australian and New Zealand Competition and Consumer Protection Regimes* released in December 2004 found that "major changes to the two regimes were not

21 Department of the Treasury, *Submission 4, Vol 1*, p. 33.

22 DFAT, *submission 7, Vol 1*, p.88 – 89.

23 Her Excellency Mrs K Lackey, High Commissioner, New Zealand High Commission, *Evidence*, 16/06/06, p. 52.

24 Mr C Mackay, Executive Director, Australia New Zealand Business Council, *Evidence*, 12/05/06, p. 20.

25 Qantas, *submission 11, Vol 1*, p. 142.

warranted” as “the regimes are not significantly impeding businesses operating in Australasian markets”.²⁶

4.37 The report further found that:

Full integration, requiring identical laws and procedures and a single institutional framework, would have implementation and ongoing costs, change the operation of existing national regimes and achieve only moderate benefits.²⁷

The committee view

4.38 It is the view of the committee that the mutual recognition of franking and imputation credits should not be re-reported on and should not be included on the work agenda of CER. The committee points to the following 3 reasons for its conclusion:

- This issue has already been analysed by the Department of the Treasury in the review of international tax arrangements and need not be scrutinised again under CER;
- the “significant cost to Australian revenue”²⁸ mutual recognition would have; and,
- the difficulty in offering mutual recognition to one country only.

4.39 There is still a case to be made that withholding tax alignment would be “a net benefit to Australia”²⁹ and New Zealand, whilst currently reviewing their policies on withholding tax, are focusing on other Single Economic Market (SEM) issues where they believe progress can be made.³⁰

4.40 The committee believes that the issue of withholding tax should be placed on the Work Program for Coordination of Business Law at the

26 Productivity Commission, *Australian and New Zealand Competition and Consumer Protection Regimes*, 16/12/2004, p. XIV.

27 Productivity Commission, *Australian and New Zealand Competition and Consumer Protection Regimes*, 16/12/2004, p. XIV.

28 Mr P McBride, Manager, Tax Treatises Unit, Department of the Treasury, *Evidence*, 12/05/06, p. 35.

29 Mr P McBride, Manager, Tax Treatises Unit, Department of the Treasury, *Evidence*, 12/05/06, p. 34.

30 Her Excellency Mrs K Lackey, High Commissioner, new Zealand High Commission, *Evidence*, 16/06/06, p. 47.

earliest opportunity to facilitate research and policy analysis on the benefits of withholding tax alignment.

Recommendation 5

The committee recommends that withholding tax alignment be placed on the Work Program for Coordination of Business Law at the earliest opportunity.

- 4.41 The committee does not recommend the adding of a common currency to the CER Agenda. Specifically the committee endorses the view held by Mr Mackay of the Australia New Zealand Business Council, that “When you adopt another country’s currency or a world currency then effectively you give away monetary policy”³¹. The committee does not believe the environment, either politically or economically, exists that would drive this issue in any meaningful way.
- 4.42 Much of the current work on trans-Tasman Competition Policy relates to information sharing and dialogue and the committee, whilst accepting what the Productivity Commission’s report *Australian and New Zealand Competition and Consumer Protection Regimes* says on the costs and impediments to full harmonisation of Competition policy, feels that the integration process would be furthered by adding Competition Policy to the CER agenda.

Recommendation 6

The committee recommends that Competition Policy Harmonisation be placed on the Work Program for Coordination of Business Law.

31 Mr C Mackay, Executive Director, Australia New Zealand Business Council, *Evidence*, 12/05/06, p. 20.

Trade, travel and tourism

Trade

- 5.1 In 2005, trans-Tasman merchandise trade was worth \$14.4 billion; trade in services another \$4.7 billion, and two-way investment was \$61.8 billion.¹
- 5.2 Australia's exports, worth \$9 billion, include refined petroleum (\$595m); computers and computer parts (\$534m); passenger motor vehicles (\$447m); and medicaments (\$419m). Imports from New Zealand, worth \$5.4 billion, include paper and paperboard (\$292m); crude petroleum (\$282m); non-monetary gold (\$229m); wood products (\$216m) and other food products (\$207m).²
- 5.3 A particular trade issue brought to the attention of the committee was that of Rules of Origin.

Rules of Origin

- 5.4 At the 2004 Closer Economic Relations meeting held in Queenstown, New Zealand, Australian and New Zealand Ministers agreed to adopt a Change in Tariff Classification (CTC) approach to the Rules of Origin (ROO) used in the Australia – New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). Following extensive consultation with industry throughout 2005, negotiations for the ROO

1 Department of Foreign Affairs and Trade, *New Zealand Country/Economy Fact Sheet*, p. 1.

2 Department of Foreign Affairs and Trade, *New Zealand Country/Economy Fact Sheet*, p. 1.

were concluded, and agreed to by Australia and New Zealand's Trade Ministers, in February 2006. The ROO amendments are scheduled to come into force on 1 January 2007.³

Factory Cost Method Rule of Origin (ROO) under ANZCERTA

Currently, Article 3 of ANZCERTA specifies that to be deemed originating goods, goods that are not wholly obtained in Australia or New Zealand must meet two requirements:

- a) The last process in the manufacture of the goods must be undertaken in Australia or New Zealand; and
- b) At least 50% of the factory or works cost of the goods consists of Australian or

New Zealand materials, labour and overheads, calculated as follows:

$$RVC = \frac{TC - VNM}{TC}$$

Where

- RVC is the regional value content
- TC is the total factory cost
- VNM is the value of non qualifying content (i.e. content that is not classified as from the region)

The total factory cost includes all material and labour costs directly associated with the manufacture of the good and overhead costs that can be assigned to the production of the good such as depreciation, licence fees and rent.⁴

3 Department of Industry, Tourism and Resources, *submission 29, Vol 2*, p. 72.

4 Department of Industry, Tourism and Resources, *submission 29, Vol 2*, p. 72-73.

Change in Tariff Classification (CTC) ROO

The proposed amended ANZCERTA Article 3 adopts a CTC ROO for all tariff items (though some tariff item ROOs also incorporate an RVC or chemical reaction requirement). Though the amended Article 3 is scheduled to start on 1 January 2007, manufacturers and importers/exporters are still able to use the factory cost method for verifying the origin of goods, if they choose to, up until 1 January 2012. The CTC approach to ROO is based on transformation of imported materials using the World Customs Organization's Harmonized System of Tariff Codes the HS Code. A CTC ROO requires an imported material to come from a different part of the HS Code than that of the exported product in other words, the materials undergo a specified change in tariff classification as a result of the production process. CTC rules may specify that changes are required at the chapter level (HS code two-digit), the heading level (four-digit) or the subheading level (six-digit). Examples of CTC rules in the proposed ANZCERTA ROO schedule are:

- CTC rule at chapter level:
 - “Change to heading 6603 from any other chapter”
- CTC rule at heading level:
 - “Change to heading 2712 from any other heading”
- CTC rule at subheading level:
 - “Change to subheading 370710 from any other subheading”⁵

5.5 In a submission to the Joint Standing Committee on Treaties' inquiry into ROO Albright and Wilson (Australia) Limited, a chemical company state that, if the change to CTC goes ahead, this would adversely affect their business by allowing a New Zealand detergent producer to purchase ingredients from China that, under CTC, will qualify for duty free entry into Australia. Accordingly this will:

. . . not only adversely affect trade across the Tasman (reducing exports from Australia to New Zealand) but will also jeopardise the ongoing viability of our manufacturing operation in Yarraville. It should be noted that other Australian exporters of detergent raw materials will probably be similarly affected, and local (Australian) producers of detergents will be disadvantaged by the ability of New

5 Department of Industry, Tourism and Resources, *submission 29*, Vol 2, p. 73.

Zealand competitors to enjoy lower cost inputs and duty free entry into Australia of finished detergent products.⁶

5.6 Accordingly Albright and Wilson (Australia) Limited requested that the RVC method be exclusively applied for a five year period.⁷

5.7 The committee also took evidence from the Department of Industry, Tourism and Resources regarding the issue of “Men’s and Boy’s Suits”. The Department was able to confirm that there would be “no impact”⁸ on this trade with the change in Rules of Origin classification.

5.8 In a supplementary submission to the inquiry the Department of Foreign Affairs and Trade stated that:

. . . the Australian and New Zealand Governments, and industry on both sides of the Tasman are of the view that the proposed adoption of new ANZCERTA ROO based on a change of tariff classification approach will bring significant benefits to trans-Tasman trade by reducing costs for business and simplifying the rules.⁹

5.9 The Joint Standing Committee on Treaties’ (JSCOT) *Report Number 80* commented that Albright and Wilson’s concerns should have been raised “much earlier in the negotiation stages.”¹⁰

5.10 JSCOT made a recommendation that “Austrade make greater use of its database of businesses to consult at a business level as was done during negotiations for AUSFTA.”¹¹

5.11 The Committee notes that JSCOT supported the Rules of Origin changes.

Infrastructure

5.12 An issue that came to the Committee’s particular attention whilst in New Zealand was that of infrastructure.

6 Albright and Wilson (Australia) Limited, *submission 6*, Joint Standing Committee on Treaties, Treaties tabled on 28 March 2006, p. 1 – 2.

7 Albright and Wilson (Australia) Limited, *submission 6*, Joint Standing Committee on Treaties, Treaties tabled on 28 March 2006, p. 2.

8 Department of Industry, Tourism and Resources, *submission 29*, Vol 2, p.75.

9 Department of Foreign Affairs and Trade, *submission 30*, Vol 2, p. 79.

10 Parliament of Australia, *Joint Standing Committee on Treaties: Report 80*, p. 18.

11 Parliament of Australia, *Joint Standing Committee on Treaties: Report 80, Recommendation 1*, p. 19.

- 5.13 In discussions the Committee was informed that very little infrastructure work; particularly work relating to roads, goes ahead in New Zealand without some participation by Australian firms. This is because of the relative size and expertise that Australian firms bring to any joint venture.
- 5.14 It was important that Australian firms join with a New Zealand counterpart in gaining infrastructure work because of the expertise in tendering and regulatory processes New Zealand firms brought to the partnership.

Travel

- 5.15 New Zealand is Australia's number one source of short-term visitors, with approximately 1 million visits by New Zealanders each year. There were approximately 875, 000 Australian visits to New Zealand in 2005.¹²
- 5.16 There are specific immigration agreements that facilitate the close relationship between Australia and New Zealand. These are:
- Trans-Tasman travel arrangement; and,
 - Permanent residence visas.

Trans-Tasman travel arrangement

- 5.17 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. 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.¹³
- 5.18 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

12 NZ Government, *Submission 9, Vol 1*, p. 103.

13 DIMA, *submission 13, Vol 1*, p.151.

passenger card, New Zealand citizens are considered to have applied for a visa.¹⁴

- 5.19 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.¹⁵
- 5.20 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.¹⁶
- 5.21 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).¹⁷

Permanent residence visas

- 5.22 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 or sponsor their family members for permanent residence.¹⁸
- 5.23 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

14 DIMA, *submission 13, Vol 1*, p.151.

15 DIMA, *submission 13, Vol 1*, p.151.

16 DIMA, *submission 13, Vol 1*, p.151. A New Zealand citizen 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.

17 DIMA, *submission 13, Vol 1*, p.151. 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).

18 DIMA, *submission 13, Vol 1*, p.152.

are not affected by these changes.¹⁹

- 5.24 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.²⁰

Tasman Networks Agreement

- 5.25 In April 2006 Qantas and Air New Zealand signed an agreement that would have seen them cooperate on network, schedule, pricing and marketing initiatives for Tasman operations. This agreement was referred to as the Tasman Networks Agreement (TNA) and did not involve any shareholding.²¹
- 5.26 In November 2006 the Australian Competition and Consumer Commission (ACCC) issued a draft decision proposing to deny authorisation of the Tasman Networks Agreement. The ACC stated that:
- ... limited benefits from the agreement will not outweigh what the ACCC considers will be significant detriment to consumers in the form of higher prices and reduced travel options at key times."²²
- 5.27 As a result of this decision Air NZ withdrew its application to the Australian Competition and Consumer Commission (ACCC) and Ministry of Transport (MOT) for approval to operate a codeshare with Qantas on trans-Tasman routes.

Border control

ePassports and automated border processing

- 5.28 In February 2007, it will be possible for both Australian and New Zealand ePassport holders to be immigration cleared using an

19 DIMA, *submission 13, Vol 1*, p.152.

20 DIMA, *submission 13, Vol 1*, p.152.

21 Qantas, *submission 11, Vol 1*, p. 143 and Department of Transport and Regional Services, *submission 5, Vol 1*, p. 46.

22 ACCC *Proposes to Deny Qantas/Air New Zealand Tasman Agreement*, ACCC News Release # 254/06, 3 November 2006.

automated border processing system known as SmartGate. New Zealand commenced the issuing of ePassports in November 2005.²³

Identity fraud/multiple identities

- 5.29 Members of the committee have had concerns brought to their attention about Pacific islanders who can, as a part of their culture, have multiple names which can create multiple identities. The concern is that these multiple identities could be used to make claims for benefits from Centrelink.
- 5.30 The committee were assured that whilst this is a possibility it is not something that would be “unique to the Pacific and/or New Zealand.”²⁴ For example an Australian could have Australian and British passports in different names.

Tourism

- 5.31 Tourism is a significant driver of two way trade and the majority of New Zealand visitors to Australia are holiday makers (959, 000 out of a total of 1, 249 000 arrivals in the 2004 - 2005 year). New Zealand visitors spent approximately A\$1.2 billion in the 2004 - 2005 year.²⁵
- 5.32 For the year ended May 2006, there were 2.395 million international visitor arrivals to New Zealand. Top contributing markets include - Australia (882,000), UK (309,000), USA (221,000), Japan (148,000), Korea (107,000) and China (96,000).²⁶
- 5.33 International visitors spent a total of \$6.5 billion in New Zealand for the year ended December 2005 (excluding international airfares). This is an increase of \$205 million (3%) on the previous year.²⁷
- 5.34 The committee took evidence on the extent of cooperation between Australia and New Zealand in promoting the two countries as tourist destinations. Whilst some cooperation is possible, such as in large overseas tourist expos, each country has a distinct “brand” and “it is

23 DIMA, *submission 13, Vol 1*, p.153.

24 Mr J Rees, Acting Assistant Director, Entry Policy, Department of Immigration and Multicultural Affairs, *Evidence*, 16/06/06, p. 18.

25 NZ Government, *Submission 9, Vol 1*, p. 103.

26 NZ Government, *Submission 23, Vol 2*, p. 37.

27 NZ Government, *Submission 23, Vol 2*, p. 37.

not feasible for Australia and New Zealand to work together on dual destination marketing initiatives.”²⁸

The committee view

- 5.35 The committee has sympathy for businesses that will suffer under the new Change in Tariff Classification (CTC) approach to the Rules of Origin (ROO) used in ANZCERTA as put in place by the Customs Legislation Amendment (New Zealand Rules of Origin) Act 2006. However, the overwhelming weight of evidence has been that these changes will be hugely beneficial to trans-Tasman trade.
- 5.36 After the discussions held in New Zealand, it was the Committees opinion that Australian companies wanting to get access to infrastructure work in New Zealand enter into joint ventures or other arrangements with New Zealand counterparts so as to provide essential knowledge in the regulatory environment and tendering process in New Zealand.
- 5.37 The committee is satisfied that any issues relating to multiple identities are not specific to our relationship with New Zealand and are being dealt with by the appropriate authorities.
- 5.38 Australia and New Zealand work very closely on immigration and border control. Data sharing arrangements are among the best in the world. The committee feels that initiatives to facilitate travel and improve border integrity have resulted in benefits to both countries.
- 5.39 The market for the tourist dollar in the southern hemisphere is one in which Australia and New Zealand compete and the committee does not feel that there is evidence for any closer ties than those that already exist.

28 NZ Government, *Submission 23, Vol 2*, p. 37.

Mutual recognition

Trans-Tasman Mutual Recognition Agreement

- 6.1 The Trans-Tasman Mutual Recognition Arrangement (TTMRA), drives regulatory coordination and contributes to 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.¹
- 6.2 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.²
- 6.3 The operation of the TTMRA is supported by a range of institutional arrangements, most importantly the COAG Ministerial Councils and the Senior Officials' process that support these. New Zealand

1 NZ Government, *submission 9, Vol 1*, p. 120.

2 NZ Government, *submission 9, Vol 1*, p. 120.

participates in the Ministerial Councils with full membership and voting rights when TTMRA issues arise.³

Mutual recognition of Aviation – Related Certification

- 6.4 In the area of aviation safety, Australia is building on the Single Aviation Market Arrangements of 1996 and the August 2002 air services agreement through the development of Mutual Recognition legislation with New Zealand. This legislation, being the *Civil Aviation Legislation (Mutual Recognition with New Zealand) Bill 2005* (the Bill), will amend the *Civil Aviation Act 1988* to implement Australia's part of the joint commitment between Australia and New Zealand for the mutual recognition of aviation-related certification.⁴
- 6.5 The Bill provides for the mutual recognition of Air Operator Certificates (AOCs), as issued by the Civil Aviation Safety Authority (CASA) in Australia and the Civil Aviation Authority of New Zealand (CAANZ). Under the proposed mutual recognition legislation, operators will need to hold only one AOC which will be known as an AOC with ANZA (Australian and New Zealand Aviation) privileges.⁵

Products

- 6.6 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;
 - industrial chemicals and dangerous goods;
 - motor vehicles; and,
 - gas appliances and radio communication standards.⁶

3 NZ Government, *submission 9, Vol 1*, p. 120.

4 Department of Transport and Regional Services, *submission 5, Vol 1*, p. 51.

5 Department of Transport and Regional Services, *submission 5, Vol 1*, p. 51.

6 NZ Government, *submission 9, Vol 1*, p. 120.

Australia New Zealand Therapeutic Products Authority

- 6.7 On 10 December 2003 the Governments of Australia and New Zealand signed a treaty establishing a joint scheme for the regulation of the quality, safety and efficacy of therapeutic products to resolve the special exemption for therapeutic goods.⁷
- 6.8 The joint scheme will be administered by the new Australia New Zealand Therapeutic Products Authority (ANZTPA), which will replace the Australian Therapeutic Goods Administration (TGA) and the New Zealand Medicines and Medical Devices Safety Authority (Medsafe). ANZTPA will be accountable to both the Australian and New Zealand Governments and will be recognised in law in both Australia and New Zealand. ANZTPA will be headquartered in Australia.⁸
- 6.9 The joint scheme will provide for the regulation of prescription, over-the-counter and complementary medicines, medical devices and other products such as some sunscreens, blood and blood components.⁹
- 6.10 The Australian position in the development of ANZTPA has been that:
- the harmonised system will be largely based on Australia's regulatory framework;
 - there will be no lessening of Australia's standards;
 - there will be clear opt-out provisions to preserve Australia-only action; and,
 - there will be no lessening of accountability to the Australian Minister and the Australian Parliament.¹⁰
- 6.11 Gene technology regulation in Australia and New Zealand will not be combined however Australia's regulator, the Office of the Gene Technology Regulator (OGTR) keeps in regular contact with their New Zealand counterpart the Environmental Risk Management Authority (ERMA).¹¹
- 6.12 Whilst in New Zealand Committee members discussed the setting up of the ANZTPA and whilst negotiating joint regulation of Therapeutic

7 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

8 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

9 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

10 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

11 Department of Health and Ageing, *submission 10, Vol 1*, p. 132.

Goods had been long and arduous the agreement reached was a model for other areas.

Food Standards Australia New Zealand

- 6.13 Food Standards Australia New Zealand (FSANZ) is a Commonwealth statutory authority established under the *Food Standards Australia New Zealand Act 1991* to develop joint food standards for Australia and New Zealand. Since December 2002, food businesses have used a common Australia New Zealand Food Standards Code developed and administered by FSANZ, and underpinned by the treaty.¹²
- 6.14 The Code includes food standards pertaining to the microbiological safety of food; the composition of food, including contaminants, residues, additives and other substances; information about food, including labelling and advertising; and the interpretation and application of standards.¹³
- 6.15 These food standards apply to all foods produced or imported for sale in Australia and New Zealand. The Code does not include joint standards for maximum residue limits for agricultural and veterinary chemicals in food, food hygiene, primary production or export requirements relating to third country trade.¹⁴
- 6.16 In specified circumstances separate food standards may be applied by Australia or New Zealand.¹⁵
- 6.17 The Code does not replace separate quarantine systems in Australia and New Zealand. The single Code is intended to reduce compliance costs for business operating across the Tasman.¹⁶
- 6.18 The committee is aware of a situation where a natural health product that cannot be imported with ease from the United States can be easily imported from New Zealand. The issue that arises is whether a natural health product is classed as a food or a therapeutic good¹⁷ and the distortion that occurs in the treatment for import for each class of good.

12 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

13 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

14 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

15 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

16 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

17 See comments by Dr David Graham, National Manager, Therapeutic Goods Administration, Department of Health and Ageing, *Evidence*, 16/06/06, p. 40.

Occupations

- 6.19 There is no list of specific occupations covered under the Arrangement. The Arrangement covers all occupations for which some form of legislation-based registration, certification, licensing, approval, admission or any other form of authorisation is required by individuals in order to legally practice an occupation. The only exception applies to medical practitioners, though in the case of doctors trained in Australia and New Zealand, mutual recognition-type arrangements apply.¹⁸
- 6.20 Under the Arrangement, registration can be subject to conditions to achieve equivalency of occupations. If a registration authority considers that the qualifications, skills and competencies of a person registered in a jurisdiction are deficient in an area, the Arrangement makes provision for a registration authority to impose conditions on registration, or to postpone or decline registration.
- 6.21 Provisions enabling a registration authority to refuse registration require reasonable grounds to form the view that the risk posed to public health and safety could not be addressed by conditional registration. In that case, the occupation would not be considered "equivalent". Additionally, a registration authority may refuse the grant of registration if false or misleading information is submitted through the application process.

Doctors

- 6.22 In developing the TTMRA, it was agreed that medical practitioners be exempted from the arrangement as mutual recognition-type arrangements were already in place in Australia at that time.¹⁹
- 6.23 Under Australian Government and complementary State and Territory laws, a doctor who is registered without conditions in one State or Territory can practise in another participating state (but must register with the relevant Medical Board and pay a registration fee).²⁰
- 6.24 The Australian Medical Council (AMC) is a national body which advises State and Territory Medical Boards on uniform approaches to

18 DFAT, *submission 16*, Vol 1, p. 174.

19 Department of Health and Ageing, *submission 10*, Vol 1, p. 134.

20 Department of Health and Ageing, *submission 10*, Vol 1, p. 134.

the registration of medical practitioners, and accredits medical courses in Australia and New Zealand.²¹

- 6.25 The AMC also conduct examinations of overseas-trained doctors to assess their medical knowledge and clinical skills against Australian and New Zealand standards, defined as the level of attainment required of newly qualified graduates of Australian medical schools who are about to commence intern training.²²
- 6.26 The Department of Health and Ageing has told the committee that it is their view that:
- . . . simply extending the Australian mutual recognition arrangements to include New Zealand would not provide adequate quality assurance in respect of doctors in this latter category, since unlike New Zealand-trained doctors, there is no assurance that their training meets AMC standards.²³
- 6.27 The Department of Health and Ageing therefore supports the continued exemption of medical practitioners from the TTMRA.²⁴

Nurses

- 6.28 Nationally agreed principles underpin State and Territory nursing legislation which includes the requirement for assessment against the Australian Nursing and Midwifery Council (ANMC) competencies for the initial registration of registered and enrolled nurses.²⁵
- 6.29 The ANMC Collaborative Advisory Panel provides advice to the ANMC and Australian and New Zealand nurse regulatory authorities, and informs processes for their recognition of overseas qualified nurses. This process of collaboration, and the provision of advice, improves the standards for the purpose of mutual recognition, supporting the TTMRA.²⁶

21 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

22 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

23 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

24 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

25 Department of Health and Ageing, *submission 10, Vol 1*, p. 135.

26 Department of Health and Ageing, *submission 10, Vol 1*, p. 135.

The skills shortage

- 6.30 Like Australia, New Zealand is suffering from a skills shortage, particularly in the medical professions.²⁷
- 6.31 The New Zealand Australia Connections (NZAC) Research Centre points to the need to increase ‘skilled people’ mobility, and suggests that:
- ... flexible movement between Australia and New Zealand, means reforms to superannuation portability and taxation regimes between the governments. Thought needs also to be given to drawing in regional labour from the Pacific under training arrangements or special ‘guest worker’ provisions, both to satisfy the growing demand for labour to service the economy, and to address the pressures that the Pacific Islands will continue to place on the regional security environment. Such a change would be a radical departure and fraught with social and political questions not easily answered, but now would be a good time to begin a public discussion of such an idea.²⁸
- 6.32 The committee sought further information on the role of pacific labour in Australia. Significantly, the Senate Employment, Workplace Relations and Education References Committee tabled its *Perspectives on the future of the harvest labour force* report.
- 6.33 The committee took as an exhibit²⁹ the Department of Employment and Workplace Relations submission to Senate Employment, Workplace Relations and Education References Committee submission to the abovementioned inquiry. This submission had a comparison of Australia and New Zealand’s skill lists. This comparison shows that the lists are “broadly similar”³⁰ showing that

27 NZ Government, *submission 23, Vol 2*, p. . and Her Excellency Mrs K Lackey, High Commissioner, New Zealand High Commission, *Evidence*, 16/06/06, p. 54.

28 New Zealand Australia Connections (NZAC) Research Centre, *submission 15, Vol 1*, p. 169.

29 *Exhibit 7*. Department of Employment and Workplace Relations submission to Senate Employment, Workplace Relations and Education References Committee *Inquiry into Pacific Region Seasonal Contract Labour*.

30 *Exhibit 7 - Attachment B “Comparison of Australia’s and New Zealand’s Skill Lists”*, Department of Employment and Workplace Relations submission to Senate Employment, Workplace Relations and Education References Committee *Inquiry into Pacific Region Seasonal Contract Labour*.

Australia and New Zealand are, in effect, in competition for the same skill sets.

The committee view

- 6.34 The committee is of the view that the mutual recognition regime in place for food standards and therapeutic products are well developed and serve the interests and safety of Australians and New Zealanders alike. The committee is confident that anomalies, such as that mentioned above concerning a natural health product, are relatively uncommon and, where they do occur, are being adequately addressed if required.
- 6.35 The evidence presented to the committee regarding the recognition of occupations and the existence of a skills shortage in New Zealand shows that, whilst much is being done to increase the ability of workers moving between Australia and New Zealand, the skills shortage in both countries may be addressed by using Pacific Island labour but this will be a decision specific to each country and the Committee believes this will not affect relations under the CER.
- 6.36 The committee believes that, whilst everything has been done within CER to facilitate trans-Tasman skill sharing, nothing can be added to the CER to affect the current skill shortages faced by Australia and New Zealand.

Concluding remarks

Keeping the momentum

- 7.1 The breadth of the CER and the vision of the SEM is a testament to the close relationship between Australia and New Zealand.
- 7.2 The committee did hear criticism of the CER process. Much of this related to the speed of implementation of agreements:
- ... it certainly does need the political will on both sides to keep momentum and to ensure that the Australian and New Zealand presence in world best practice is evident. That is where, over the years, we have had some problems in focusing attention on CER.
- Our principal concern is in the delays in completing elements of the CER. There are matters outstanding under the services protocol.¹
- 7.3 Whilst the committee has not agreed with all of the criticism of the CER we believe that the momentum issues should be addressed by either the setting up of a CER Coordinating Secretariat/ Inter - Departmental Committee or, in the event either of these are found to be infeasible, this report itself will place a focus on and affect the momentum of the CER.

1 Mr C Mackay, Executive Director, Australia New Zealand Business Council, *Evidence*, 12/05/06, p. 15.

A world class agreement: springboard to world trade

- 7.4 What came strongly out of the evidence was that ANZCERTA is a world class trade agreement. It is worth quoting some of the evidence to this effect:

The World Trade Organisation ('WTO') has described CER as the "world's most comprehensive, effective and multilaterally compatible free trade agreement."²

CER represents *the* model for other free trade agreements.³

- 7.5 CER provides a base from which further opportunities for global trade can be :

CER and the additional initiatives on Trans-Tasman integration are only to a degree about the Australian and NZ markets. In reality they are about creating a base for exporting goods and services to the international market. Together the Australian and NZ markets for most products are relatively small. In the international market the opportunities are much greater.⁴

CER has strengthened the trans- Tasman relationship, facilitated trade and investment, and stands ready as a platform for a regional, combined integration into larger regional economies and global networks.⁵

CER has created an 'Australasian market', giving New Zealand and Australian businesses a springboard to expand their exports to the rest of the world. Australia is the first offshore market for many New Zealand businesses and

2 Telstra Corporation Limited/TelstraClear Limited, *Submission 6, Vol 1*, p. 66.

3 New Zealand Australia Connections (NZAC) Research Centre, *submission 15, Vol 1*, p. 168.

4 Fonterra Cooperative Group, *Submission 2, Vol 1*, p. 8.

5 New Zealand Australia Connections (NZAC) Research Centre, *submission 15, Vol 1*, p. 168.

likewise, New Zealand provides a straightforward first market for many Australian companies.⁶

- 7.6 The economies such as China and India with cultural and business barriers that are often difficult to cross are particularly important to Australia and New Zealand. The close trans- Tasman business and trade relationship(s) that have been engendered by CER will, as outlined above, only serve to strengthen joint approaches to trade and investment in North and South Asia.⁷

More than trade: a cultural exchange

- 7.7 As well as being a world class trade agreement the CER provides more than trade benefits. The agreements that make up CER work towards cultural linkages and broaden the cultural exchange between the two countries.
- 7.8 Along these lines under the current protocols for the movement of professionals between the two countries, Australia and New Zealand have a healthy exchange of cinema and film professionals. Major films shot in New Zealand (e.g., *Lord of the Rings*, *King Kong* etc) have had significant Australian participation.⁸
- 7.9 Australia and New Zealand entered a film co-production Memorandum of Understanding (MOU) in 1994. The effect of this arrangement is that a film or television program approved as an official co-production is regarded as a national production of each of the co-producing countries and is therefore eligible to apply for any benefits or assistance available.⁹
- 7.10 These agreements help Australian producers and producers from other countries work creatively together and share the costs and risks of film production. An agreement can also assist to increase the output of high quality productions.¹⁰
- 7.11 Australia currently has eight film co-production agreements in place, six are treaties and two are MOU (having less than treaty status). As

6 NZ Government, *submission 9, Vol 1*, p. 98.

7 See comments by New Zealand Australia Connections (NZAC) Research Centre, *submission 15, Vol 1*, p. 169.

8 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

9 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

10 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

of March 2006, 84 co-productions with a total budget of approximately \$808 million have gone into production.¹¹

- 7.12 Since the inception of the MOU with New Zealand, eight productions (four feature films and four mini-series) have been undertaken, representing a total budget of \$38.46 million.¹²
- 7.13 The Australian Government's refundable film tax offset (the offset) and New Zealand's Large Budget Screen Production Grant (the LBSPG) are almost identical programs aimed at attracting large-budget film and television productions to each country.
- 7.14 The National Gallery of Australia has developed the exhibition *Constable: Impressions of Land, Sea and Sky* in partnership with the Museum of New Zealand, Te Papa Tongarewa (Te Papa). Te Papa are the second venue for the exhibition and will share the international freight costs with the NGA. Depending on the success of this venture for both Australia and New Zealand, the NGA may seek to send other exhibitions to New Zealand.¹³
- 7.15 This is the first time that the Australian Government initiative, Art Indemnity Australia, and the New Zealand Government Indemnity Scheme have been used together to underwrite the tour of a single exhibition to both countries.¹⁴
- 7.16 A trade agreement reached between Australia and New Zealand over 20 years ago has grown to oversee complexities undreamt of at the time of original signing. The agreement can be enhanced by taking the disparate portfolio contact points and making their outcomes more accessible to each other. The recommendation for a Secretariat/Inter-Departmental Committee should go some way to doing this. Expansion of the agreement, particularly in the area of telecommunications, can be effected with closer Ministerial, official and business contacts. Where there has not been the expected level of contact the committee has made appropriate recommendations.
- 7.17 The Committee has been impressed and proud of the way in which the relationship between Australia and New Zealand has been managed by Ministers, Departmental officials and business leaders alike.

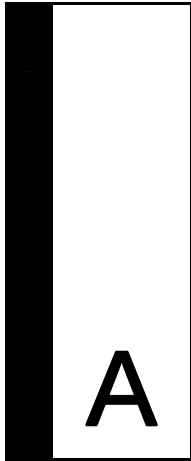
11 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

12 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

13 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

14 Department of Communications, IT and the Arts, *submission 22, Vol 2*, p.

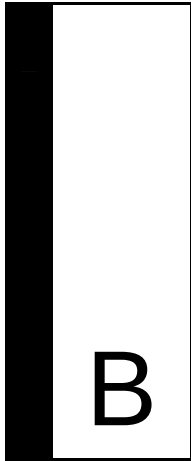
**Senator Alan Ferguson
Chair
December 2006.**



Appendix A – Submission List

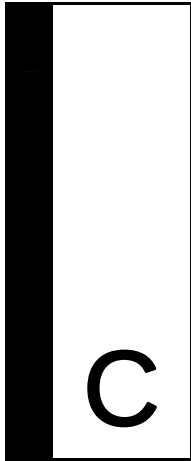
- 1 Dr John Knight
- 2 Fonterra Cooperative Group
- 3 Australia-New Zealand Business Council
- 4 Department of the Treasury
- 5 Department of Transport and Regional Services
- 6 Telstra Corp LTD/ TelstraClear LTD
- 7 Department of Foreign Affairs and Trade
- 8 Air New Zealand Limited
- 9 New Zealand Government
- 10 Department of Health & Ageing
- 11 QANTAS Airways
- 12 Australian Chamber of Commerce and Industry
- 13 Department of Immigration and Multicultural Affairs
- 14 Department of Finance and Administration
- 15 School of History, The University of Canterbury
- 16 Department of Foreign Affairs and Trade SUPPLEMENTARY
(to Submission No. 7)
- 17 Department of Agriculture, Fisheries and Forestry

- 18 Unisys Australia Pty Ltd
- 19 Apple and Pear Australia Ltd
- 20 Air New Zealand Limited SUPPLEMENTARY (to Submission No. 8)
- 21 Department of the Treasury SUPPLEMENTARY (to Submission No. 4)
- 22 Department of Communications, IT and the Arts
- 23 New Zealand Government
- 24 Department of Health & Ageing
- 25 Department of Immigration and Multicultural Affairs
- 26 Department of Agriculture, Fisheries and Forestry
- 27 Fonterra Co-operative Group
- 28 AAPT Limited
- 29 Department of Industry, Tourism and Resources
- 30 Minister for Trade
- 31 Department of Communications, IT and the Arts SUPPLEMENTARY (to Submission No. 22)



Appendix B – Exhibits List

- 1 Dr John Knight
Photograph of an Otago orchard
(Related to Submission No. 1)
- 2 Dr John Knight
Personal Opinion - Dr J Knight
(Related to Submission No. 1)
- 3 Dr John Knight
appendices
(Related to Submission No. 1)
- 4 New Zealand Government
- 5 New Zealand High Commission Canberra
- 6 New Zealand Government
New Zealand High Commission
- 7 Department of Employment & Workplace Relations
Pacific Region Seasonal Contract Labour



Appendix C – List of Hearings and Witnesses

Friday, 12 May 2006 - Canberra

Australian New Zealand Business Council

Mrs Rosemary Howard, Executive Committee Member

Mr Tim Walton

Australia-New Zealand Business Council

Mr Chris Mackay, Executive Director

Department of Foreign Affairs and Trade

Mr Peter Hooton, Assistant Secretary, Pacific Regional and New Zealand Branch

Mr Hans Saxinger, Director, New Zealand Section

Ms Sonja Weinberg, Executive Officer - Trade and Economic, New Zealand Section South Pacific, Africa and Middle East Division

Department of the Treasury

Mr Bradford Archer, Manager, Energy, Transport and Communications Unit

Mr Ian Beckett, Manager, Trade Policy Unit, Foreign Investment and Trade Policy Division

Mr Steve French, General Manager, Competition and Consumer Policy Division

Mr Paul McBride, Manager, Tax Treaties Unit

Mr Jim Murphy, Executive Director, Markets Group

Ms Sandra Patch, Senior Advisor, Competition Policy Framework Unit, Competition and Consumer Policy Division

Ms Ruth Smith, Manager, Market Integrity Unit, Corporations and Financial Services Division

Miss Celia Street, Policy Analyst, Consumer Policy Framework Unit, Competition and Consumer Policy Division

Mr Damien White, Manager, Prudential Policy - Banking Unit

Telstra

Mr Danny Kotlowitz, Solicitor, Regulatory Legal Group

Dr Tony Warren, General Manager, Regulatory

Friday, 16 June 2006 - Canberra

Air New Zealand Limited

Mr Rick Osborne, General Manager, Government and International Affairs

Mr Michael Reed, General Manager, Australia

Department of Agriculture, Fisheries and Forestry

Ms Nicola Gordon-Smith, General Manager, Bilateral Trade Branch, International Division

Ms Sian Hewitt, Acting Manager, South East Asia, New Zealand and Pacific Section, International Division

Ms Gael MacNaughtan, Policy Officer, South East Asia, New Zealand and Pacific Section, International Division

Department of Health & Ageing

Mr Richard Eccles, First Assistant Secretary, Primary Care Division

Ms Jennifer McDonald, Assistant Secretary, Food and Healthy Living

Mr Andrew Stuart, First Assistant Secretary, Population Health Division

Department of Health and Ageing

Dr David Graham, National Manager, Therapeutic Goods Administration

Department of Immigration and Multicultural Affairs

Mr John Rees, Acting Assistant Secretary, Entry Policy

Mr Peter Speldewinde, Director, Skilled Migration

Department of Transport and Regional Services

Mr Stephen Borthwick, General Manager, Aviation Markets, Aviation and Airports Division

Ms Merrilyn Chilvers, General Manager, Aviation Operations, Aviation and Airports Division

Mr John Doherty, Executive Director, Aviation and Airports Division

Mr Wayne Kelly, Aviation and Airports Division

New Zealand Government

Mrs Kate Lackey HE, High Commissioner, New Zealand High Commission

New Zealand High Commission Canberra

Ms Paula Wilson, Counsellor

QANTAS Airways

Mr David Hawes, Group General Manager, Government and International Relations

QANTAS Airways Ltd

Mr Trevor Long, Manager, Group Border Facilitation

Monday, 7 August 2006 - Canberra

Individuals

Mr Greg Clarke, Director - Skills Analysis & research Strategy Branch, Department of Education Science & Training

AAPT Limited

Mr David Havyatt, Head of Regulatory Affairs

Department of Communications, IT and the Arts

Mr Royden Clogstoun, Assistant Manager

Ms Caroline Greenway, Manager

Mr Phiip Mason, A/g General Manager

Mr Stephen Richards, Manager - Film Incentives & International Section

Mr Bill Scott, Manager

Department of Education Science & Training

Dr Anne Byrne, Branch Manager - Skills Analysis & Research Strategy Branch

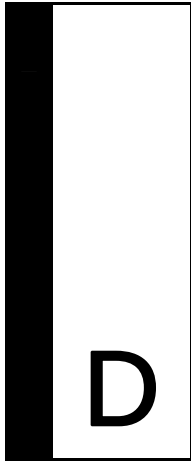
Mr Peter Mulligan, Director - International Policy & Recognition Branch

Department of Employment & Workplace Relations

Ms Anni Chilton, Director - TRA Policy & Research Branch

Mr Ivan Neville, Assistant Secretary

Ms Jane Press, Director - Migration Policy & Analysis Section



Appendix D

Trade Sub-Committee visit to New Zealand—Meetings

Tuesday, 25 July 2006—Auckland

- 9.00 am Air New Zealand
- 9.45 am Australian Consulate
 - ⇒ Austrade
 - ⇒ Immigration
 - ⇒ Consular services
- 10.45 am NZ Infrastructure Industry
 - ⇒ Austrade
 - ⇒ Ontrack
 - ⇒ Minter Ellison
 - ⇒ Manukau City Council
 - ⇒ Wespac Bank
 - ⇒ Leighton Contractors
- 12.15 pm Phillips Fox and Trans Tasman Business Circle
- 2.00 pm Qantas Ltd
- 3.15 pm Fonterra Co-operative Group Ltd

Wednesday, 26 July 2006—Wellington

- 9.00 am Australian High Commissioner
- 10.00 am Hon. Lianne Dalziel, Minister for Commerce, Small Business and Women's Affairs
- 11.00 am New Zealand Ministry of Foreign Affairs and Trade
- 1.30 pm Hon. Jim Anderton, Minister of Agriculture, biosecurity, Fisheries and Forestry
- 2.00 pm Attendance at Parliamentary Question Time
- 3.45 pm Hon. David Cunliffe, Minister of Immigration and Telecommunications
- 4.30 pm Hon. Phil Goff, Minister of Trade, Defence and Pacific Island Affairs
- 7.30 pm Reception at the Australian High Commissioner's Residence

Thursday, 27 July 2006—Wellington

- 9.00 am Hon. Michael Cullen, Deputy Prime Minister, Attorney-General, and Minister of Finance
- 9.45 am Department of Labour
- 11.30 am New Zealand Foreign Affairs, Trade and Defence Select Committee
- 3.50 pm Trade Sub-Committee departs New Zealand