Australia and New Zealand government response to the joint productivity commissions' report on economic integration

Australia and New Zealand have a history of strong economic relations, based on diverse networks of well-developed links. This has seen our countries become two of the most economically integrated in the world and has contributed to the prosperity of both countries.

Australia and New Zealand marked the 30th anniversary of the Australia New Zealand Closer Economic Relations Trade Agreement (CER) in 2013. This significant milestone presented the opportunity to consider the future relationship and to assess the speed and direction of further integration between the two countries. In the lead up to this milestone, the Australian and New Zealand governments tasked their respective productivity commissions to undertake a joint scoping study to assess the economic relationship and provide advice on areas for future integration.

The final report, *Strengthening Trans-Tasman Economic Relations*, released in December 2012, presented a number of recommendations across existing work programmes and established relationships to help maintain the vibrancy of the relationship and deliver further benefits to both countries.

The report highlights the high degree of integration between the two countries and shows that the economic relationship has progressed to a point where many of the broad initiatives have been completed and few easy-wins remain. Further integration therefore requires targeted actions, as well as consideration of new and innovative areas for cooperation.

The Australian and New Zealand governments have considered the recommendations provided by the productivity commissions' final report, which cover trade in goods and services, the movement of capital and labour, and knowledge transfers and interactions between both governments. Both governments have agreed on a way to take forward the recommendations of the final report. Their successful implementation will provide benefits to the citizens and businesses of both countries.

The Australian and New Zealand governments' joint response to the recommendations is divided into two sections and detailed below:

- Section 1: recommendations receiving joint support, support in-part or being addressed under existing government arrangements; and
- Section 2: recommendations requiring further consideration.

Section 1: recommendations receiving joint support, support in-part, or being addressed under existing government arrangements

4.1 *The remaining outcomes in the business law single economic market program should be completed on time, unless it can be demonstrated that they would no longer generate net benefits.*

Positive progress has been made in the business law single economic market programme. This has been monitored by the Trans-Tasman Outcomes Implementation Group, jointly chaired by the Australian Treasury and the New Zealand Ministry of Business, Innovation and Employment.

In total, there are 26 outcomes, divided between short term outcomes (9), which have all been completed, and medium term outcomes (17) which are expected to be completed by the end of 2014. Achievements to date include the mutual recognition of registered auditors and recognised financial advisers, the alignment of trade mark registration procedures, and the establishment of a trans-Tasman proceedings regime.

With the high degree of existing market integration, momentum in some areas is slowing, including in financial services policy, business reporting, corporations law and intellectual property law. The Trans-Tasman Outcomes Implementation Group will continue to report progress six monthly to both governments. The future of the TTOIG will be considered when its mandate expires in 2014.

4.2 *The Australian and New Zealand governments should proceed with the implementation of a single application and examination process for patents. The trans-Tasman intellectual property reforms, particularly those relating to patents, should be evaluated within three years of implementation.*

The Australian and New Zealand governments will proceed with the implementation of single application and examination processes for patents with a review five years after implementation. This will ensure sufficient data on new initiatives are available for a comprehensive and meaningful review.

A bilateral arrangement establishing the framework for the single application and examination processes will be negotiated during 2014. Both Australia and New Zealand are aiming to introduce relevant legislative changes in early 2014.

Dependent on the commencement of the legislation and finalisation of the bilateral arrangement, it is proposed to launch the single application process in 2015. At the same time, a pilot programme for the single examination process will commence. It is expected that the pilot will run for 18-24 months, after which time an assessment will be made whether to fully implement the single examination process.

4.3 *The Australian and New Zealand governments should give priority to implementing those recommendations of the Australian Commission's 2009 review of the Trans-Tasman Mutual Recognition Arrangement that were accepted by governments.*

The TTMRA reduces regulatory impediments to the movement of goods and provision of services across the Tasman by allowing producers and people in registered occupations to meet only a single set of regulatory requirements to do business in Australia and New Zealand.

The Australian and New Zealand governments have already implemented changes to the special and permanent exemptions under the Trans-Tasman Mutual Recognition Arrangement (TTMRA), drawing on recommendations from the 2009 review. Both governments will continue working together on implementing or assessing other recommendations from this review.

The implementation of this recommendation will encourage occupational licensing systems that facilitate the efficient movement of labour within and between the two countries.

4.4 *Governments should publish a progress report on implementing accepted recommendations of the 2009 review of the Trans-Tasman Mutual Recognition Arrangement before the next review, scheduled in 2013.*

The Australian and New Zealand governments will work with jurisdictions to update a progress report before the next review of the TTMRA.

4.5 *Australian and New Zealand occupational regulators should share knowledge and lessons in developing efficient and effective occupational licensing systems. Relevant Australian and New Zealand regulators should be included in consultations around the development of national occupational licensing systems in the other country.*

The Australian and New Zealand governments support this recommendation. Officials will work with regulators, as appropriate, to encourage information sharing that will benefit the development of occupational licensing systems, noting that Australia is no longer pursuing a national system.

Both countries will cooperate and monitor changes in each other's occupational licensing systems, in consultation with relevant regulators.

4.6 *Given the long time it is taking to set up the Australia New Zealand Therapeutic Products Agency, the Australia and New Zealand governments should publish regular progress reports. Once the agency has been established, the governments should review the lessons for other potential regulatory harmonisation initiatives.*

The Prime Ministers have asked officials to review developments in the therapeutics sector with a renewed focus on harmonisation, deregulation, streamlined market approvals and reducing costs to business.

4.7 *The CER Investment Protocol should be enacted as soon as practicable.*

The CER Investment Protocol entered into force on 1 March 2013. The protocol is a highly ambitious investment agreement, and maintains CER's status as one of the world's most comprehensive free trade agreements. The protocol reduces compliance costs and provides greater legal certainty for trans-Tasman investors by providing higher thresholds at which foreign investments are to be screened.

New Zealand private investors undertaking business acquisitions now benefit from the higher screening threshold of A$1,078 million (indexed annually), up from A$248 million. In exchange, the screening threshold for Australian private investors in New Zealand is now NZ$477 million (around A$442 million, and indexed annually), up from NZ$100 million (around A$93 million).

4.9 *Where cost effective, quarantine and biosecurity agencies in Australia and New Zealand should continue to develop common systems and processes, and enhance their joint approach to risk analysis.*

The Australian Department of Agriculture and the New Zealand Ministry for Primary Industries work together closely, including through the Consultative Group on Biosecurity Cooperation (CGBC).

The CGBC generally meets once a year, and reports to relevant Ministers in Australia and New Zealand. Its key objectives are to identify differences in approaches to managing biosecurity risks that impede trade, and harmonise approaches where possible to facilitate trade and travel. To this end, Australia and New Zealand have agreed, where possible, to recognise each other's systems to manage risk, remove unnecessary trans-Tasman biosecurity controls, and implement a consistent approach to assessing biosecurity risks and managing imports from third countries.

In December 2012, the CGBC agreed to pursue five areas of focus for collaborative work over the following 3 years:

- governance process and scope in order to look at strategic aims.
- enhancing collaboration for funding and prioritising work programmes for the Centre of Excellence for Biosecurity Risk Analysis.
- foresight of risks (increasing preparedness).
- making risk return decisions (more targeted screenings and interventions).
- areas for mutually recognising systems for managing risk (reducing unnecessary costs to facilitate trade).

4.10 *The Australian and New Zealand governments should complete the review of the exclusions from the Trade in Services Protocol, to consider whether retaining each exclusion would generate net benefits. The review should be published.*

Both governments are working to finalise the review of the exclusions to the Trade in Services Protocol ('the protocol') and will publish the outcomes once finalised. Exclusions to the protocol are regularly reviewed to ensure scope for liberalising trade is tested.

The protocol, signed in 1988, brought services into the Australia New Zealand Closer Economic Relations Trade Agreement from January 1989. The protocol covers all services except those explicitly excluded.

4.16 *Governments should undertake systematic monitoring, data collection and benchmarking of ports' performance in Australia and New Zealand, building on existing initiatives.*

The Australian and New Zealand governments support this proposal, and will consider the implementation of additional monitoring systems for port performance. This will help identify opportunities to improve performance of ports and will encourage the sharing of good practice.

Australia's Bureau of Infrastructure, Transport and Regional Economics (BITRE) systematically monitors and reports on Australia's container port performance through its Waterline series. BITRE has worked with industry and other stakeholders on additional performance indicators for Waterline (commencing with the January 2014 publication). BITRE has also published a report on Australia's bulk ports and is preparing to introduce a new publication series, Freightline, which will report supply chain based freight data commodity by commodity.

Likewise, New Zealand monitors and reports on New Zealand's container port performance as part of its Freight Information Gathering System. The System generates and publishes quarterly reports with container handling statistics for each port.

4.17 *The Australian and New Zealand governments should include in the next review of their respective telecommunications regulatory frameworks a terms of reference to examine barriers to trans-Tasman trade in telecommunication services and options for their removal.*

The two governments support this recommendation and are pursuing it within their respective review frameworks.

New Zealand is looking to address this issue as part of the telecommunications regulation review, which began in February 2013. Under the *Telecommunications Act 2001*, the review must "take into account experience in comparable jurisdictions and economic relations with Australia, weighed against what is appropriate for New Zealand conditions and the make-up and history of New Zealand's telecommunications markets". The work to examine economic relations will allow for the consideration of barriers to trans-Tasman trade in telecommunications services.

Australia will schedule a review of regulatory barriers to trans-Tasman trade in telecommunications services in 2017, considering progress achieved on Australia's National Broadband Network (NBN) upgrade.

4.18 *The Australian and New Zealand governments should consider removing remaining restrictions on trans-Tasman foreign direct investment. The policy rationale and the costs and benefits of any restrictions, including exceptions to national treatment left in place, should be made clear.*

Bilateral foreign direct investment is welcome and the Australian and New Zealand Governments will continue to monitor the effectiveness of the Investment Protocol which entered into force on 1 March 2013.

4.20 *Taxation of non-resident employees should be considered when the double taxation arrangements between Australia and New Zealand are next reviewed.*

The Australia and New Zealand tax treaty contains a provision requiring Australia and New Zealand to consult at five-yearly intervals to review the effectiveness of the treaty. The first consultation is due in March 2015 and will report back in 2016. Both Australia and New Zealand have agreed to canvas the taxation of non-resident employees in these consultations. Revised treaty rules may reduce compliance costs for businesses with employees active in both jurisdictions.

4.21 *The Australian and New Zealand governments should progress the further roll out of SmartGate and associated systems where it is cost effective to do so, focusing on departures from Australia and major regional airports.*

The Australian and New Zealand governments have introduced reciprocal fast-track entry for Australian and New Zealand ePassport holders, under their SmartGate systems. There are over 2 million trips per year across the Tasman by Australian and New Zealand residents. Fast-track border entry processes can reduce the costs and waiting times of trans-Tasman travel for eligible Australian and New Zealand citizen passengers.

New Zealand SmartGates are available for both arrivals and departures and can be used by eligible New Zealand and Australian citizens.

Australian SmartGates are available for arrivals only at the eight major international airports and can be used by eligible New Zealand and Australian citizens. Additional gates are being implemented in Brisbane and Darwin airports and are expected to be available by mid-2014.

A two-year, $8 million feasibility study to install automated departure gates at major Australian airports is well underway. Under the first phase, different technological options are being tested to determine the most up-to-date and suitable technology for departure gates. Once the best technological fit is identified, a limited trial will take place at Brisbane Airport from 1 July 2014, focussing on trans-Tasman flights.

Increasing use of automated border processing, especially for departures, is a key pillar of Australia's 'Blueprint for Reform 2013-2018'.

4.22 *The Australian and New Zealand governments should consider a 'trans-Tasman tourist visa' for citizens from other relevant countries who wish to travel to both countries. The charges for this visa should be based on a cost-recovery model, with agreed sharing of revenue and costs.*

The Australian and New Zealand governments recognise that implementing a single visa for entry to both countries would present a number of challenges, given significant visa systems and security differences. Further work would be required to assess the visa waiver arrangements in both countries and whether the benefits of implementing a trans-Tasman visa would outweigh the costs.

The Australian and New Zealand governments do, however, have a longstanding cooperative relationship on immigration matters. Both governments are committed to facilitating the effective movement of people to and between both countries to support the delivery of significant international events whilst maintaining the integrity of the visa systems in place in each country. The Prime Ministers have agreed to allow international visitors attending the Cricket World Cup in 2015 to apply for a visa only once in order to be granted entry to both Australia and New Zealand. For the duration of the cup, visitors will apply for a trans-Tasman visa based on existing Australian rules. The Prime Ministers have asked officials to prepare a detailed plan for putting this arrangement in place as soon as possible.

Both governments will continue to work together to optimise visa arrangements.

4.23 *The Australian and New Zealand governments should give clear and coordinated, whole-of-government advice to Special Category Visa holders in Australia, and New Zealand citizens contemplating residence in Australia, both before and after arrival, on their obligations and entitlements.*

The provision of clear and up-to-date advice will assist and encourage New Zealand citizens to make informed decisions when considering migration to Australia. New Zealand citizens are currently able to access information on their rights when living in Australia on various government websites including the:

- Australian Department of Immigration and Border Protection ('Fact Sheet 17 – New Zealanders in Australia')[1]
- Australian High Commission in New Zealand ('Living in Australia')[2]
- New Zealand High Commission in Australia ('Living in Australia')[3].

[1] http://www.immi.gov.au/media/fact-sheets/17nz.htm
[2] http://www.newzealand.embassy.gov.au/wltn/LivingAust.html
[3] http://www.nzembassy.com/australia/new-zealanders-overseas/living-australia

The New Zealand and Australian governments will continue to work together to better inform New Zealand citizens and Special Category Visa holders on their obligations and entitlements in Australia. The Australian Government, in consultation with its New Zealand counterpart, is developing a communication strategy to implement this recommendation, with an expected completion date of December 2014.

4.24 *The Australian Government should address the issues faced by a small but growing number of non-Protected Special Category Visa holders living long term in Australia, including their access to certain welfare supports and voting rights. This requires policy changes by the Australian Government, including the development of a pathway to achieve permanent residency and/or citizenship.*

New Zealanders have virtually unrestricted access to travel, live, study and work in Australia, and have access to a number of government-funded services including Medicare and Commonwealth-funded education places. There are permanent visa options for New Zealand citizens creating the pathway for permanent residency. Information for New Zealanders living in Australia is publicly available on various government agency websites, including the High Commissions in both countries, and a new communication strategy is under development (see response to recommendation 4.23 above).

It is not expected that existing arrangements will be changed in the near future, beyond measures already announced. However, the Australian and New Zealand governments will continue to discuss areas for further consideration should opportunities become apparent.

4.25 *The Australian Government should seek to improve access of New Zealand citizens to tertiary education and vocational training through the provision of student loans, subject to waiting period and appropriate debt recovery provisions.*

The Australian Government supports New Zealand citizens who have lived, and who are likely to continue to live, in Australia having access to tertiary education and vocational education and training. The Australian Government already provides New Zealand citizens with access to Commonwealth supported university places and Australia will extend access to student loans under the Higher Education Loan Program (HELP) to long-term New Zealand residents in Australia under the terms announced in 2013. Both governments are committed to working towards a mechanism for assisting New Zealand to recoup unpaid student loans in Australia.

4.26 *Within the context of the CER, the Single Economic Market (SEM) and the Trans-Tasman Travel Arrangement (TTTA), the Australian and New Zealand governments should:*

- *review, and make more explicit, the principles governing access to social security*
- *further develop bilateral engagement on migration policies.*

The Social Security Agreement between Australia and New Zealand has a clear scope. Bilateral engagement on migration is close and on-going. Australia and New Zealand will continue to further develop bilateral engagement on migration policies at ministerial and officials' levels.

4.27 *The Australian and New Zealand governments should encourage government agencies to consider opportunities for trans-Tasman coordination in service delivery and regulation on a case-by-case basis.*

The Australian and New Zealand governments have a strong working relationship which allows for close cooperation, coordination and the exchange of ideas. This reflects current approaches in areas such as food regulation, biosecurity and border services. Both governments will continue to pursue greater knowledge transfer and increasing technical capability through a variety of forums, including the Australia and New Zealand chief executives' bilateral meetings and ministerial and secretary level bilateral discussions.

4.28 *The Australian and New Zealand governments should seek beneficial opportunities to undertake joint benchmarking. In particular, they should determine an appropriate approach for New Zealand to participate in the Report on Government Services produced under the auspices of COAG, and also in regulatory benchmarking studies undertaken in Australia.*

Benchmarking can help identify opportunities for improvement and the sharing of good practice. The Australian and New Zealand governments support this recommendation and will continue to work together in identifying beneficial joint benchmarking opportunities, particularly where encouraging best practice regulation for example in areas such as joint food regulation and biosecurity systems.

5.1 *The Australian and New Zealand governments should create clearer leadership and oversight of CER, including of issues relating to the trans-Tasman labour market and associated movement of people. The enhanced leadership and oversight should build on existing governance arrangements and the annual meetings of Prime Ministers and other ministers.*

Both governments support strong leadership and active monitoring of the relationship. However, the current decentralised approach to CER works well, as evidenced by the close trans-Tasman cooperation that is the hallmark of the relationship. Both governments consider that a renewed focus on closer integration and better coordination within existing arrangements will deliver the best results.

The existing annual leaders' meeting, annual CER ministerial meeting, twice-yearly foreign ministers' meetings, and New Zealand ministerial membership of COAG councils provide a comprehensive, effective and flexible framework for leadership and oversight of CER.

5.2 Regulatory proposals at the national level should consider opportunities for trans-Tasman collaboration or alignment that would lower costs or deliver benefits for businesses and people active on both sides of the Tasman.

The uniquely joined-up nature of the trans-Tasman relationship means that collaboration comes naturally. The Australian and New Zealand governments support these trans-Tasman considerations being maintained and encouraged. There are numerous mechanisms that encourage trans-Tasman consultation on regulatory reform, such as the Council of Australian Governments, the Memorandum of Understanding on the Coordination of Business Law, and the Trans-Tasman Mutual Recognition Arrangement.

Council of Australian Governments (COAG)

Recognising the close relationship and the importance of the pursuit of trans-Tasman objectives, New Zealand ministers are able to attend relevant COAG councils.

Memorandum of Understanding (MoU) on the Coordination of Business Law

There is an MoU between the Australian and New Zealand governments on the Coordination of Business Law. This was first signed in 2000 and most recently updated in 2010.

Trans-Tasman Mutual Recognition Arrangement

The Trans-Tasman Mutual Recognition Arrangement (TTMRA) is an important driver for regulatory coordination. The TTMRA Users' Guide includes a section on the roles and responsibilities of key stakeholders, including regulators and government departments, and the need for them to consult early with trans-Tasman counterparts on TTMRA implications.

Domestic Policy Development Guidelines

New Zealand's Regulatory Impact Analysis (RIA) Handbook outlines the need to consult with relevant agencies on proposals that have TTMRA implications or that could affect New Zealand's international obligations.

Australia's Best Practice Regulation Handbook is being redrafted. As part of this redraft, guidance will be included prompting agencies to consider, where relevant, opportunities for trans-Tasman regulatory alignment as an option for lowering costs or delivering benefits for businesses and the community on both sides of the Tasman. The revised handbook will be released in early 2014.

5.3 *The Australian and New Zealand governments should continue to identify and take opportunities for coordinated action to achieve beneficial regional and multilateral integration, and greater leverage in international rule making and standard setting.*

Australia and New Zealand already work closely together in a range of regional and multilateral fora and will continue to do so where appropriate opportunities arise and our positions and views are like-minded.

5.4 The Australian and New Zealand governments should undertake five-yearly public reviews of CER to take stock of what has been achieved and learnt, and to ensure that the agenda remains relevant and forward looking.

Five yearly reviews could provide useful information on lessons learnt from CER initiatives, and help to shape future opportunities. The ability to undertake regular reviews would be subject to resourcing requirements.

Ahead of the 2015 Leaders' meeting both governments will consider how to progress the five-yearly reviews of CER, including identifying opportunities for further collaboration between the productivity commissions.

Section 2: recommendations requiring further consideration

4.8 *The Australian and New Zealand governments should:*

- *waive CER Rules of Origin for all items for which Australia's and New Zealand's Most Favoured Nation tariffs are at 5 per cent or less*
- *consider reducing any tariffs that exceed 5 per cent to that level.*

Australia and New Zealand have simplified CER Rules of Origin (ROO) through two recent reviews, and consultations with stakeholders have not indicated that the compliance costs associated with CER ROO are posing a problem for businesses. This is a complex issue, and the governments agree that no action will be taken at this time.

A decision on the second part of the recommendation will be deferred pending the finalisation of the Australian Government's Tax Reform White Paper, which is due to be completed prior to the next Federal election. Further, all Australian tariffs are scheduled to be reduced to 5 per cent or lower from 1 January 2015, with the exception of a specific duty of $12,000 on second hand motor vehicle imports.

4.11 *The Australian and New Zealand governments should remove the remaining restrictions on the single trans-Tasman aviation market.*

Australia and New Zealand established a Single Aviation Market in 1996, allowing virtually unrestricted services between and within the two countries. This arrangement was expanded with the negotiation of an "Open Skies" Air Services Agreement which came into force in 2003, removing restrictions on Australian and New Zealand airlines operating services beyond the other country.

Both Australia and New Zealand have policies of negotiating liberal air services agreements which provide airlines with opportunities ahead of actual demand. Both countries support an open and competitive market.

This recommendation may be considered in greater detail in the context of the Australian Government's Competition Policy Review.

4.12 *The Australian and New Zealand governments should:*

- *ensure that the objective of air services policy is explicitly directed at promoting net benefits for the community*
- *pursue the most liberal air services agreements possible, by negotiating reciprocal open capacity and all air freedoms, including cabotage where appropriate*
- *revise designation and ownership requirements.*

The New Zealand Government has already addressed this recommendation through the New Zealand International Air Transport Policy Statement. Parts one and two of this recommendation are also consistent with the Australian Government's current approach to negotiating air service agreements, which seek to increase global liberalisation while recognising the need to protect Australia's national interest.

Part three of this recommendation may be considered in greater detail in the context of the Australian Government's Competition Policy Review.

4.13 *The Australian Government should reconfigure the Passenger Movement Charge as a genuine user charge for border services. The New Zealand Government should review its border passenger charges to achieve full and transparent cost recovery, in line with existing arrangements for cargo.*

The Australian Government's decision on this recommendation will be deferred pending the finalisation of the Tax Reform White Paper.

In New Zealand, previous reviews, including an extensive ministerial committee review in 2005, have determined that the Crown would meet the costs of passenger movement processing, and airlines would meet the full costs of aviation security.

4.14 *The Australian and New Zealand governments should remove — preferably on a coordinated basis — the exemption for international shipping ratemaking agreements from legislation governing restrictive trade practices.*

A decision on this recommendation will be deferred pending finalisation of processes in both Australia and New Zealand.

In New Zealand, amendments to remove the shipping exemption are in the Commerce (Cartels and Other Matters) Amendment Bill which is currently awaiting its second reading in the New Zealand Parliament.

In Australia, the Government's position will be deferred pending the outcomes of the Competition Policy Review.

4.15 *When reviewing the restrictions on competition for coastal shipping, the Australian Government should adopt a broad cost-benefit framework and draw on the experience of New Zealand with its different regulatory approach.*

A decision on this recommendation will be deferred pending further work on reducing costs and red-tape and improving efficiency of the shipping industry in 2014.

The New Zealand Government would be happy to share information and experiences with the Australian Government.

4.19 *The Australian and New Zealand governments should* ***either****:*

- *initiate a process, preferably with a clear deadline, for determining whether there is an efficient, equitable and robust mechanism that would ensure a satisfactory distribution of the gains from the mutual recognition of imputation credits (MRIC);* ***or***
- *announce that MRIC will not go ahead if they consider that such a mechanism is infeasible.*

The Australian and New Zealand Prime Ministers have agreed that mutual recognition of imputation credits will be referred to Australia's Tax Reform White Paper.