

**CER (Services)
Summary Fact Sheet**

Table 1: Background Information

Parties	Australia, New Zealand	
Type of Agreement	Economic Integration Agreement	
Date of signature	18 August 1988.	
Date of entry into force	1 January 1989	
Review envisaged	Initial review required before 31 December 1990, and provision for regular review thereafter (Art 20).	
Website or contact addresses	The Protocol on Trade in Services to the CER Agreement is available at: http://www.dfat.gov.au/geo/new_zealand/anz_cer/215.pdf	
List of related WTO documents	MTN.GNS/W/47 S/C/N/66 WT/REG40/1 S/C/M/52 WT/REG40/3 WT/REG40/4 WT/REG40/M/1	Agreement Notification Standard format Terms of Reference Questions and Replies Communication from the Parties Minutes

Table 2: Scope and general aspects

Scope	Sectors	The Protocol applies to all services except those inscribed by the Parties in the Annex to the Protocol (Art. 2).
	Modes of supply	The Protocol regulates the provision of a service by or on behalf of a person of the other Member State within or into the territory of the first Member State (Art. 2.3).
	Definitions	A "person of a Member State" means (a) a natural person who is a citizen of, or ordinarily resident in, that State; (b) a body corporate established under the law of that State; (c) an association comprising or controlled by: (i) persons described in one or both of sub-paragraphs (a) or (b); or (ii) persons described in one or both of sub-paragraphs (a) or (b) and persons so described in relation to the other Member State.
	Positive/negative list	Negative list approach.
	Sector-specific rules	There are no sector-specific provisions.
	Sectoral exclusions	As at 9 March 1999 Australia maintains inscriptions for the following sectors/services: air services; coastal shipping; broadcasting and television; broadcasting and television (short-wave and satellite broadcasting); third party insurance; (compulsory third party motor vehicle insurance); and postal services. As at 30 October 1998, New Zealand maintains the following inscriptions: aviation (airways services); and shipping (coastal shipping).

Table 3: Provisions of the Agreement

Provision	Article	Additional information
MFN/National treatment	Art. 5 and 6	The Parties must accord to persons of the other Party and services provided by them, treatment no less favourable than that accorded in like circumstances to its own persons and services provided by them. The treatment a Party accords to persons of the other party may be different from the treatment the Party accords to its persons, provided that: (a) the difference in treatment is no greater than that necessary for prudential, fiduciary, health and safety or consumer protection reasons; and (b) such different treatment is equivalent in effect to the treatment accorded by the Party to its ordinary residents for such reasons. A Party proposing or according different treatment has the burden of establishing that such treatment is consistent with these requirements. For services inscribed in the Annex each Party must accord to persons of the other Party and services provided by them treatment no less favourable than that accorded in like circumstances to persons of third States.

Market access	Art. 4	The Protocol requires a Party to grant market access rights to persons of the other Party and services provided by them no less favourable than those allowed to its own persons and services provided by them.
Elimination of discriminatory measures	Art. 8 and 10	The Parties are prohibited from introducing measures that constitute a means of arbitrary or unjustifiable discrimination against persons of the other Party or a disguised restriction on trade in services between them. They are committed to reviewing the status of services inscribed in the Annex with a view to the liberalisation of their trade. A Party may at any time, either upon request of the other Party, or unilaterally, remove in whole, or in part, its inscribed services by notifying the other Party in writing of its intention to do so.
Treatment of third party suppliers	Art. 14	Third party suppliers may be denied the benefits of the Agreement in accordance with Art. 14.
Denial of benefits	Art. 14	Subject to prior notification and consultation, a Party may deny the benefits of the Protocol to persons of the other Party providing a service if it establishes that the service is indirectly provided by a person who is not of either Party.
Standards/mutual recognition	Art. 9	The Parties commit to endeavour to ensure that licensing and certification measures will not have the purpose or effect of impairing or restraining, in a discriminatory manner, access of persons of the other Party to licensing or certification. They must also encourage the recognition of qualifications obtained in the other Party, for the purpose of licensing and certification requirements for the provision of services. In practise the Parties have pursued these commitments by providing for the mutual recognition of each others' registration to practise an occupation through the Trans-Tasman Mutual Recognition Arrangement signed in 1996, a less-than-treaty status instrument.
Safeguard mechanisms (intra-trade)	Art. 16	Art. 16 requires a Party to notify the other Party in writing, as far in advance as possible, of any proposed or actual measure that it considers might materially affect the operation of the Protocol.
Domestic regulations	Art. 13	The Parties must promptly make public all laws regulations, judicial decisions and administrative rulings pertaining to trade in services. They also commit to providing the maximum possible opportunity for comment by interested parties on proposed laws, regulations, procedures and administrative rulings affecting trade in services.
Subsidies and State aid	Art 5 and Art. 11	The National Treatment obligations of the Services Protocol do not impose obligations or confer rights on either Party with respect to subsidies. The Parties are prohibited from introducing new, or expanding existing, export subsidies and incentives or other assistance measures having a direct distorting effect on bilateral services trade. They also commit to work towards the elimination of any such measures by 30 June 1990.
IPR	None	
Government Procurement	Art. 5	Government procurement arrangements between the Parties are governed by a separate, Government Procurement Agreement (of less-than-treaty status). The National Treatment obligations do not impose obligations or confer rights upon either Party with respect to government procurement.
Competition	Art. 12	When a Party maintains a monopoly for the provision of a service inscribed by it in the Annex, the services of the monopoly must be available to persons of the other Party for normal business activities in respect of price, quality and quantity under transparent and non-discriminatory conditions. The Parties must endeavour to prevent monopoly service providers under their direct control from using revenues from their monopoly activities to subsidise services they may provide in competition with persons of the other Party.

Investment	Arts. 2.2, 3, 7, 8.	The Protocol applies subject to the foreign investment policies of the Parties. Provision of a service includes rights of establishment. Each Party must accord to persons of the other Party the right to select their preferred form of commercial presence, in accordance with applicable laws/regulations. Article 8 (see above) also applies to measures requiring commercial presence as a condition for the supply of a service.
General reservations	Art. 15 and 18	The Protocol allows, provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on services trade, the adoption by a Party of measures necessary: to protect its essential security interests; to protect public morals and to prevent disorder or crime; to protect human, animal or plant life or health; to prevent unfair, deceptive or misleading practices; in pursuance of obligations under international agreements; or to secure compliance with laws and regulations relating to customs enforcement, to tax avoidance or evasion, or to foreign exchange control. The Protocol's provisions do not apply to any taxation measures.
Level of Government	None	
Accession	Art. 22	The Parties may agree to the association of any other State with the Protocol. The terms of such association are to be negotiated jointly between the Parties and the other State..
Dispute resolution	Art. 19	The Parties, at the written request of either, must promptly enter into consultations with a view to seeking an early, equitable and mutually satisfactory solution if the Party which requested the consultations considers that: (a) an obligation under the Protocol has not been, is not being, or may not be, fulfilled; or (b) the achievement of any objective of the Protocol is being, or may be, frustrated.
Relations with other trade agreements	None	
Institutional provisions	None	

Table 4a: Australia's imports of services from New Zealand

Sector	Imports (2007-08)	
	Value	% of total
	A\$m	by sector
Transportation services	588	23.5
Travel services	1,556	62.2
Communication services	30	1.2
Construction services	0	0
Insurance services	91	3.6
Financial services	0	0
Computer and information services	24	1.0
Royalties & licence fees	34	1.4
Other business services	166	6.6
Personal, cultural & recreational services	4	0.20
Government services	8	0.30
Total	2,501	100.0

Table 4b: New Zealand's imports of services from Australia

Sector	Imports (2007-08)	
	Value	% of total
	A\$m	by sector
Transportation services	527	15.2
Travel services	2,084	60.0

Communication services	55	1.6
Construction services	np	-
Insurance services	73	2.1
Financial services	38	1.1
Computer and information services	88	2.5
Royalties & licence fees	np	-
Other business services	484	13.9
Personal, cultural & recreational services	83	2.4
Government services	3	0.1
Total	3,475	100.0

np = not published

Source: Australian Bureau of Statistics Cat No. 5368.0, International Trade in Goods and Services, Australia