

No. 18 New Zealand - Free Trade in Goods

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA

Protocol to the Australia New Zealand Closer Economic Relations - Trade Agreement on
Acceleration of Free Trade in Goods

(Canberra, 18 August 1988)

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PROTOCOL TO THE AUSTRALIA NEW ZEALAND CLOSER ECONOMIC RELATIONS
- TRADE AGREEMENT ON ACCELERATION OF FREE TRADE IN GOODS

AUSTRALIA AND NEW ZEALAND (called "the Member States"),

NOTING their obligations under the Australia New Zealand Closer Economic Relations - Trade Agreement done at Canberra on 28 March 1983,¹ as amended by the Exchange of Letters at Canberra on 24 and 30 December 1987 concerning the introduction of the Harmonized Commodity Description and Coding System,² and including their obligations under mutual determinations and other arrangements made pursuant to the Agreement of 28 March 1983 (together referred to as "the Agreement"), and noting the general review which they have undertaken pursuant to Article 22 of the Agreement;

CONSIDERING that the Agreement has made a significant contribution to the expansion of trade between Australia and New Zealand and to the growth of their respective economies;

BELIEVING that the Agreement has strengthened further the closer economic relationship between the Member States;

NOTING that an acceleration in the programme for the reduction or elimination of tariffs, quantitative import restrictions and tariff quotas would contribute to a further expansion of free trade between the Member States;

RECOGNISING that the markets of the Member States are progressively achieving a higher level of integration and acquiring many of the characteristics of a single unified market;

WISHING to accelerate the existing programme under the Agreement for the elimination of tariffs, quantitative import restrictions and tariff quotas;

BELIEVING that the maintenance of anti-dumping provisions in respect of goods originating in the other Member State ceases to be appropriate as the Member States move toward the achievement of full free trade in goods between them and a more integrated market;

CONSIDERING that a further general review of the Agreement and all Protocols and other associated instruments in 1992 will further strengthen the closer economic relationship between the Member States;

DESIRING to conclude a Protocol to the Agreement to provide for such acceleration and further review;

HAVE AGREED as follows:

Article 1
Tariffs

1. Without limiting any existing obligation of either Member State under the Agreement to eliminate tariffs on goods originating in the territory of the other Member State by an earlier date, each Member State shall eliminate all tariffs on goods originating in the territory of the other Member State by 1 July 1990.
2. Notwithstanding any provisions of the Agreement providing for the modified application of these paragraphs to particular goods, paragraphs 1 and 2 of Article 4 of the

Agreement shall hereafter apply in respect of all goods originating in the territory of the other Member State other than those goods specified in the Annex for which these paragraphs shall apply from the modified date specified therein.

3. The Member States may mutually determine that the tariffs on particular goods originating in the territory of either Member State are to be eliminated by a date earlier than 1 July 1990.

Article 2

Quantitative import restrictions and tariff quotas

1. Without limiting any existing obligation of either Member State under the Agreement to eliminate quantitative import restrictions or tariff quotas on goods originating in the territory of the other Member State by an earlier date, each Member State shall eliminate all quantitative import restrictions and tariff quotas on goods originating in the territory of the other Member State by 1 July 1990. In particular, the Member States acknowledge that this provision supersedes paragraph 14 of Article 5 of the Agreement.

2. Notwithstanding any provisions of the Agreement providing for the modified application of these paragraphs to particular goods, paragraphs 1 and 2 of Article 5 of the Agreement shall hereafter apply in respect of all goods originating in the territory of the other Member State.

3. The Member States may mutually determine that the quantitative import restrictions or tariff quotas on particular goods originating in the territory of either Member State are to be eliminated by a date earlier than 1 July 1990.

4. This Article shall not apply to second hand goods which when new would not have been treated as originating in the Area. In determining whether such goods would have been treated as originating in the Area no account shall be taken of any value added in the Area as a result of repairs or refurbishing.

Article 3

Measures affecting agricultural trade

1. New Zealand shall eliminate by 1 July 1990 all monopoly import arrangements affecting the importation into New Zealand of fresh apples, pears and bananas originating in Australia.

2. The Memorandum of Understanding between the Australian and New Zealand dairy industries set out as Attachment II to Annex E of the Agreement shall on 1 July 1990 cease to be an attachment to, or form any part of, the Agreement. From that date, trade in dairy products between the Member States shall be free and fair in all aspects, consistent with the principles and objectives of the Agreement and the expectations contained in the Exchange of Letters between Ministers of 17 August 1988.

3. From 1 July 1990, the provisions of Annex E of the Agreement, other than paragraphs 6 and 7 of that Annex, shall cease to apply.

Article 4

Anti-dumping action

1. The Member States agree that anti-dumping measures in respect of goods originating in the territory of the other Member State are not appropriate from the time of achievement

of both free trade in goods between the Member States on 1 July 1990 and the application of their competition laws to relevant anti-competitive conduct affecting trans-Tasman trade in goods.

2. From 1 July 1990, neither Member State shall take anti-dumping action against goods originating in the territory of the other Member State. In particular:

(a) neither Member State shall initiate or continue any investigations into anti-dumping complaints made in respect of goods originating in the territory of the other Member State;

(b) neither Member State shall levy new anti-dumping duties or impose other new anti-dumping measures in respect of such goods;

(c) each Member State shall revoke all existing instruments levying anti-dumping duties or imposing other anti-dumping measures in respect of such goods;

(d) each Member State shall release any exporter who has given undertakings in respect of such goods in connection with an anti-dumping investigation by that Member State from such undertakings; and

(e) each Member State shall terminate any anti-dumping investigations underway in respect of such goods and shall return any securities provided in connection with such investigations.

3. The Member States acknowledge that the application of paragraph 2 of this Article supersedes paragraphs 1-7 of Article 15 of the Agreement with respect to goods originating in the territory of the other Member State.

4. Each Member State shall take such actions as are appropriate to achieve the application of its competition law by 1 July 1990 to conduct referred to in paragraph 1 of this Article in a manner consistent with the principles and objectives of the Agreement.

5. In the event that either Member State cannot complete by 1 July 1990 the actions referred to in paragraph 4 of this Article, it may inform the other Member State before 1 July 1990 that the application of paragraph 2 by the first Member State may be delayed. In that event the Member States may agree an alternative date for the application of paragraph 2 by the first Member State, such date being the earliest practicable, and the second Member State may decide whether it too will delay the application of paragraph 2 of this Article.

Article 5 General review

The Member States shall undertake a general review of the operation of the Agreement (including all Protocols and other associated instruments) in 1992. Under the general review, the Member States shall consider:

(a) any aspects of the operation of the Agreement (including such Protocols and other associated instruments) which either Member State wishes to be considered, and

(b) the need for additional measures in furtherance of the objectives of the Agreement to facilitate adjustment to the new relationship,

with a view to preparing a consolidated single treaty instrument to encompass:

- (i) the Agreement and such Protocols and other associated instruments; and
- (ii) any changes agreed to be necessary as a result of the general review of the operation of the Agreement and such Protocols and other associated instruments.

Article 6
Status of Annex

The Annex to this Protocol is an integral part of this Protocol.

Article 7
Entry into force

This Protocol shall enter into force on signature.³³

IN WITNESS WHEREOF the undersigned, duly authorised, have signed this Protocol.

DONE in duplicate at Canberra on the eighteenth day of August One thousand nine hundred and eighty eight.

FOR AUSTRALIA:

[Signed:]
B. HAWKE

FOR NEW ZEALAND:

[Signed:]
D. LANGE

ANNEX

List of goods for which, in accordance with Article 1(2) of the Protocol, paragraphs 1 and 2 of Article 4 of the Agreement shall apply from the modified date specified below.

Modified date of application of paragraphs 1
and 2 of Article 4 of the Agreement

Description of goods

New Zealand Steel Limited Stage II
hot-rolled steel products which are identified
in Attachment V of Annex C of the
Agreement

1 October 1988