

The Hon Philip Burdon MP  
Minister for Trade Negotiations  
Parliament Buildings  
Wellington  
NEW ZEALAND

Dear Philip

You will recall that, at our discussions in Canberra in August 1994, we agreed to complete the review of the Protocol on Trade in Services (the Services Protocol) to the Australia New Zealand Closer Economic Relations Agreement (Canberra, 18 August 1988) by an exchange of letters. I am writing to you to summarise the results of this review on Australia's part and to notify you of Australia's intention to modify certain services inscribed in the Annex to the Services Protocol in accordance with Article 10(2). These changes to the Australian inscriptions to the Services Protocol are set out in the attachment to this letter.

The 1994 Review of the Services Protocol was initiated at the annual Australia/New Zealand Trade and Economic Officials' Talks in Wellington on 25-26 July. This was in accordance with a commitment made by our two Governments at the 1992 review of the CER Agreement to review the Services Protocol in 1994. At that time it was agreed that the review would have a particular focus on inscribed services, with a view to liberalising trade in such services, where possible, by July 1995. At the Officials' Talks in Wellington, Australia and NZ officers advised of the state of play in regulatory policy for each of the inscribed services, and of the prospects for liberalisation. At the request of NZ officials, Australian officials undertook to follow up some aspects of several of Australia's inscriptions with the relevant Commonwealth agencies.

This follow up action has now been completed, and I am pleased to advise you of the following regarding Australia's inscriptions.

*Telecommunications*

A large part of the inscription for telecommunications can be removed to reflect more accurately current regulatory policy. I therefore wish to notify you, pursuant to Article 10(2), of Australia's intention to remove part of the telecommunications inscription from the Annex, effective from the date of this letter. In relation to the removal of the part of the inscription relating to Public Mobile Telecommunication Services (PMTS) licences, it should be noted that while current Government policy states that no additional PMTS licences are to be issued before 30 June 1997, this does not constitute a limitation on Australia's ability to fulfil its obligations under the terms of the Services Protocol. In the issuing of PMTS licences, New Zealand applicants have been and will continue to be afforded treatment equal to that afforded to Australian applicants. These modifications are reflected in the attachment to this letter.

### *Postal Services*

I also wish to notify you, pursuant to Article 10(2), of a modification to the inscription for postal services to reflect the Australian Government's recent decision to liberalise domestic and international postal services, effective from the date of this letter. Recent amendments to the *Australian Postal Corporation Act 1989* have changed the exceptions to Australia Post's reserved services, by reducing weight and price thresholds to competition, liberalising outgoing international mail arrangements, and exempting the movement of documents within document exchange services and the carriage of letters between offices of the same organisation by a third party. A review of the remaining limits on competition to Australia Post's operations will be undertaken in 1996/97.

The modified inscriptions are set out in an attachment to this letter.

### *Other*

It is likely that we will need to review Australia's inscriptions for airport services and worker's compensation insurance, in the event of proposed domestic economic reforms being adopted. The inscription for basic health insurance services might also need to be reviewed, once domestic reforms have been fully implemented.

With respect to airport services, access to provision of airport services is in general subject to policies of the Commonwealth, the Federal Airports Corporation and local airports owned and operated by local State authorities and bodies. The Australian Government has announced the proposed long-term leasing of Federal airports. A consultation draft of the Airport Regulatory Bill was released for comment on 17 August 1995. The Bill includes provisions which would allow up to 49% foreign ownership of individual Federal airports post-leasing. Following passage of the Airports Bill, expected to be either late in the year or early 1996, it may be appropriate to review the inscription for airport services.

The *Health Legislation (Private Health Insurance Reform) Amendment Act 1995* bill was passed through Parliament in May. The reforms give health funds the opportunity to offer insurance that covers 100% of the cost of private hospital and medical treatment, and will be phased in over the next two and a half years. It would therefore not be appropriate to review Australia's inscription for basic health insurance services until the reforms have been fully implemented (30 June 1997).

With respect to workers' compensation insurance, following a report by the Industry Commission the Australian Government is reviewing the options for national consistency in workers' compensation arrangements in Australia. If as a result the market is liberalised, the inscription may need to be reviewed.

I look forward to your advice as to the results of New Zealand's review of the CER Protocol on Trade in Services.

Yours sincerely

[signed]

Bob McMullan

## Attachment

Pursuant to Article 10(2) of the Protocol in Trade in Services to the Australia New Zealand Closer Economic Relations Trade Agreement of 18 August 1988, the Government of Australia hereby notifies the Government of New Zealand of the following modifications to Australia's inscriptions in the in the Annex to the Protocol:

### Telecommunications

The following text is hereby deleted from the Australian inscription under the heading "Telecommunications":

"Provision and maintenance of public telecommunications facilities for use within Australia and for use between Australia and other countries. In this context telecommunications facilities comprise:

- . Reserved line links and facilities ancillary to reserved line links, within the meaning of the *Telecommunications Act 1991* (The Act).
- . Public pay-phones.

Supply of telecommunications services by satellite based facilities within Australia or between Australia and a place outside Australia, except in accordance with the eligible service providers class licence issued by AUSTEL under Part 10 of the Act.

Supply of Public Mobile Telecommunications Services within the meaning of the Act, except in accordance with the eligible services class licence issued by AUSTEL under Part 10 of the Act.

Supply of eligible services by use of interconnected radiocommunications networks, except in accordance with the eligible services class licence issued by AUSTEL under Part 10 of the Act.

Only two general carrier licences within the meaning of the Act will be issued before 30 June 1997.

Only three Public Mobile Telecommunications Services licences within the meaning of the Act will be issued before mid 1995."

### Postal Services

The inscription of Australia for postal services is hereby amended to reflect the Australian Government's recent decision to liberalise domestic and international postal services.

The amended inscription will read as follows:

The Australian Postal Corporation (Australia Post) has, under section 29 of the *Australian Postal Corporation Act 1989*, the exclusive right to carry letters for reward within Australia and between Australia and other places outside Australia, ie services reserved exclusively for Australia Post. Section 30 of the Act sets out a number of exceptions to the reserved services of Australia Post. Following amendments to the Act which took effect on 5 December 1994, the main exceptions to Australia Post's reserved services are letters weighing more than 250 grams; the carriage of letters in Australia or internationally where the charge or fee is at least four times the standard letter rate; the collection of mail in Australia for delivery to another country; the movement of documents within document exchange services; and the carriage of letters between offices of the same organisation by a third party.

## II

Minister for Trade Negotiations  
Parliament Buildings  
Wellington New Zealand

27 September 1995

Senator the Honourable Bob McMullan  
Minister for Trade  
Parliament House  
CANBERRA

Dear Minister

Thank you for your letter of 26 September 1995 advising of the removal of certain services inscribed in the Australian annex to the Protocol on Trade in Services ("The Services Protocol") to the Australia New Zealand Closer Economic Relations Trade Agreement. In accordance with Article 10(2) of the Services Protocol, I am now writing to notify you of modifications to New Zealand's inscriptions to the Protocol relating to Aviation and Shipping. New Zealand's updated inscription list reflecting these modifications is set out in the annex to this letter. Accordingly, this annex will replace the existing annex of New Zealand inscriptions to the Services Protocol. The modifications are as follows:

Under **Aviation** the New Zealand inscription on Airways Services needs to be modified to reflect the provisions of the Civil Aviation Amendment Act 1992, which allow the monopoly position of Airways Corporation of New Zealand as provider of area control, approach control, and flight information services to be revoked by Order in Council.

I also wish to notify you of a modification to New Zealand's inscription on **International Carriers Flying Cabotage**. The modification reflects the provisions of the Air Facilitation (Domestic Passengers and Cargo) Act 1994, under which New Zealand is in a position to grant cabotage rights (although in accordance with Article 7 of the Chicago Convention these rights would not be exclusive to Australia). The modified inscription also deletes the reference in the existing annex - now erroneous in view of developments in Europe - to cabotage rights not having been granted by any country in the world.

On **Shipping**, the passage of the Maritime Transport Act 1994 has affected New Zealand's position in relation to control shipping by enabling foreign ships to carry cargo on the New Zealand coast. Accordingly we wish to modify the New Zealand inscription on **Coastal Shipping** to reflect this change.

The modifications noted above, as set out in the annex to this letter, will take effect from the date in this letter.

Yours sincerely

[signed]

Philip Burdon

## ANNEX

### SERVICES INSCRIBED BY NEW ZEALAND

(Where an activity is described further, the exemption in terms of Article 2.4 of the Services Protocol applies to the description only)

#### **Aviation**

*Airways Services:* Under the Civil Aviation Act 1990, the Airways Corporation of New Zealand is the sole provider of area control services, approach control services, and flight information services. The Civil Aviation Amendment Act 1992 repealed these provisions, but with effect from a date (or dates) to be specified by Order(s) in Council which may be made only on the recommendation of the Minister for Transport. Such recommendation(s) may be made only following consultation with the Civil Aviation Authority and if the Minister is satisfied that an appropriate safety regulatory regime is in place in respect of the services concerned.

*International carriers flying cabotage:* Following the passage of the Air Facilitation (Domestic Passengers and Cargo) Act 1994, New Zealand is in a position to grant cabotage rights, but these rights could not be exclusive to Australia.

#### **Communications**

*Telecommunications:* The Articles of Association of the Telecom Corporation of New Zealand Limited, which can only be amended with the consent of the Government, limit the shareholding by any single entity to 49.9 percent.

#### **Postal Services**

New Zealand Post has a statutory monopoly on the carriage of letters weighing 200 grams or less. The main exemption to the monopoly is that anyone is able to carry letters 200 grams or less provided they charge a minimum fee of \$(NZ).80 per letter.

#### **Shipping**

*Coastal Shipping:* The Maritime Transport Act 1994 allows cargo or passengers (coastal cargo) to be picked up from one port in New Zealand and carried to another by three categories of ship. These are:

New Zealand ships;



ships coming to New Zealand to load cargo for unloading overseas or to unload cargo which is loaded overseas;

ships which the Minister for Transport authorises to trade on the coast when there are no ships from either of the above two categories available to carry coastal cargo. Authorisation to carry coastal cargo must be obtained from the Minister of Transport well in advance of the intended carriage.

Authorisation to carry coastal cargo is subject to compliance with other relevant provisions of the Maritime Transport Act and with other law, including the Resource Management Act, the Immigration Act, and border control legislation.