TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP AGREEMENT

NATIONAL INTEREST ANALYSIS

July 2005

Prepared by the Ministry of Foreign Affairs and Trade,
in consultation with other government departments

ISBN: 0-477-03793-3
http:/www.mfat.govt.nz/foreign/tnd/ceps/cepindex.html

CONTENTS

EXECUTIVE SUMMARY

i Background

Ministers from Brunei Darussalam, Chile, New Zealand and Singapore announced the conclusion of negotiations on the Trans-Pacific Strategic Economic Partnership Agreement (Trans-Pacific SEP) at the APEC Trade Ministers meeting in Jeju, Korea on 3 June 2005. As part of the same package, negotiations were also concluded on two associated agreements: an Environment Cooperation Agreement and a Labour Cooperation Memorandum of Understanding (MOU). Subject to ratification of the Trans-Pacific SEP by the signatories, the three agreements are expected to enter into force on 1 January 2006.

Formerly known as the Pacific Three Closer Economic Partnership (P3 CEP), negotiations were launched by the President of Chile and Prime Ministers of New Zealand and Singapore at the APEC Leaders Summit in 2002. The shared desire was to create a comprehensive, forward-looking trade agreement that set high-quality benchmarks on trade rules, and would help to promote trade liberalisation and facilitate trade within the APEC region.

The first round of P3 CEP negotiations was held in Singapore in September 2003. Later that year, Chile called for a pause while it consulted further with its private sector. Negotiations resumed in mid-2004 following the visit of Chilean President Ricardo Lagos to Singapore and New Zealand. Four further rounds of negotiation were held between August 2004 and April 2005. Brunei Darussalam, which observed the negotiations from the second round, asked to join the Trans-Pacific SEP as a founding member just before the final round of negotiations in April. In light of this decision to join late in the negotiations and its small size, Brunei Darussalam was given two years to negotiate its services and government procurement schedules and some flexibility on its obligations under the competition chapter.

The Trans-Pacific SEP builds on the New Zealand/Singapore Closer Economic Partnership (NZSCEP), which entered into force on 1 January 2001. The NZSCEP will continue to remain in force and New Zealand exporters and service suppliers will be able to take advantage of the provisions of either agreement.

This national interest analysis (NIA) assesses the Trans-Pacific SEP, Labour Cooperation MOU and Environment Cooperation Agreement from the perspective of their impact on New Zealand and New Zealanders.[1] It does not seek to address the impact on Chile, Singapore or Brunei Darussalam. Due to the existing NZSCEP, the NIA focuses primarily on the impact vis-à-vis Chile and Brunei Darussalam.

[1] The three agreements are considered as part of the one NIA, given that they were negotiated as part of a package, they enter into force on the same day, and if a party withdraws from one of the agreements it is required to withdraw from all three.

ii Reasons for New Zealand to become a party to the treaties

The principal value for New Zealand in joining the Trans-Pacific SEP and the accompanying treaties on labour and environment, with Brunei Darussalam, Chile and Singapore, lies in:

- the removal of trade barriers on goods and services among the countries
- the framework the Trans-Pacific SEP establishes for resolving trade issues that may arise in the future
- the framework established by the Labour Cooperation MOU and the Environment Cooperation Agreement for discussing labour and environment issues
- the focus on strategic cooperation and the potential to leverage off the benefits of the three treaties through encouraging cooperation among the four partners in third markets
- the support the treaties give New Zealand's objective of broadening and deepening relations with Latin America and Asia
- the support the treaties give to New Zealand's wider trade policy interests in APEC and multilaterally
- the potential for expanding the membership of the Trans-Pacific SEP, Labour Cooperation MOU and Environment Cooperation Agreement in the future.

iii Advantages and disadvantages to New Zealand in becoming a party to the treaties

Advantages

- New Zealand will benefit from the removal over time of tariffs on all New Zealand exports to Chile and Brunei Darussalam.[2] In 2004 New Zealand exported goods to Chile valued at NZ$36.6 million, incurring NZ$2.2 million in duties. In the same year New Zealand exported NZ$3.55 million in goods to Brunei Darussalam, incurring NZ$50,000 in duties.[3]
- Key market access gains into Chile include:
    - on entry into force of the Trans-Pacific SEP Chile will eliminate duties on 89 percent of New Zealand's exports, with all remaining tariffs eliminated by 2017

[2] For exports to Brunei Darussalam, pending the outcome of further discussions, tariffs will remain on a short list of products (such as alcohol, tobacco and firearms) that it seeks to exempt on moral, human health and security grounds. New Zealand already enjoys duty-free access for all goods exported to Singapore under the NZSCEP.

[3] Trade data in this paper for Chile and Singapore is based on the year to June 2004. Statistics for Brunei Darussalam are for the year to December 2004. Calculations made assume that all trade will qualify for preference under the Trans-Pacific SEP.

- removal of these tariffs will help to level the playing field for a range of small/medium New Zealand exporters, who currently compete in the Chilean market with suppliers from countries that already have a trade agreement with Chile (including the United States, European Union and Mercosur[4])

- the immediate tariff elimination on coal, New Zealand's single biggest export to Chile in 2004, worth NZ$9.5 million and subject to duty payments of NZ$600,000

- the immediate tariff elimination on casein, infant milk powder and whey proteins, which accounted for half of New Zealand's dairy exports to Chile in 2004 (worth NZ$3.75 million in exports and subject to duty payments of nearly $225,000)

- the immediate tariff elimination on virtually all manufacturing exports, which are a key component of trade with Chile (worth NZ$6 million in exports in 2004 and subject to duty payments of NZ$370,000).

- Key market access gains into Brunei Darussalam include:

  - tariffs on 92 percent of New Zealand's current exports entering Brunei Darussalam duty-free now will be bound at zero on implementation of the Trans-Pacific SEP, with all remaining tariffs eliminated by 2015

  - the elimination of a high 20 percent tariff on most forestry products by 1 January 2010.

- Under the Trans-Pacific SEP it will be easier for New Zealand business people to operate in Chile, Singapore and eventually Brunei Darussalam.

- The Trans-Pacific SEP uses a "negative list" approach to scheduling services commitments. If a service sector is not listed in the services schedules (or excluded by provisions in the services or general exceptions chapters) then it is bound by the "national treatment",[5] "market access",[6] and "most favoured nation" (MFN) obligations. Use of a "negative list" approach to services commitments improves transparency.

- The Trans-Pacific SEP includes an MFN clause for services. Where applicable this means that New Zealand service suppliers will automatically receive the benefit of commitments Chile and Singapore (and eventually Brunei Darussalam) make in future free trade agreements (FTAs) that are more liberal than those in the Trans-Pacific SEP. This will help prevent our competitive position being eroded.

---

[4] Mercosur is a customs union comprising full members Argentina, Brazil, Paraguay and Uruguay. Chile and Bolivia became associate members of Mercosur in 1996.

[5] "National treatment" means that, in the relevant sector, the party agrees to treat foreign services and service providers no less favourably than domestic services and service providers. This is similar to the corresponding provision in the World Trade Organisations (WTO) General Agreement on Trade in Services (GATS).

[6] "Market access" requires Parties not to impose certain types of limits on the access that foreign service suppliers have to the domestic market. Essentially it is a commitment not to impose quantitative restrictions and limitations on the forms of legal incorporation. This is a reflection of the corresponding provision in the GATS.

- Overall, New Zealand has achieved broad parity on non-discriminatory treatment accorded to nationals (“national treatment”) with United States service providers as negotiated by Chile and Singapore in their recent trade agreements with the US.

- New Zealand businesses will be on a much firmer footing to compete for government procurement contracts in Chile and Singapore (and eventually Brunei Darussalam) under the “national treatment” provisions in the government procurement chapter.

- The Trans-Pacific SEP establishes mechanisms to enable the parties to work together more effectively to address barriers to trade in the areas of standards and conformance, sanitary and phytosanitary (SPS) issues and customs procedures. These include regular meetings and working groups on specific issues for regulators, other officials and technical experts.

- The Trans-Pacific SEP establishes a framework for leveraging off the opportunities established under the Trans-Pacific SEP through strategic cooperation and collaboration among the partners.

- As part of the Trans-Pacific SEP package, New Zealand has negotiated its first legally binding outcomes on labour and environment. In addition to supporting the goals of harmonising objectives for trade and environment and trade and labour, the labour and environment outcomes also establish mechanisms for cooperation, dialogue and consultation on labour and environment issues.

Disadvantages

- The Trans-Pacific SEP includes a “special safeguard” measure for dairy exports to Chile. The practical effect of the mechanism is limited, however. The mechanism will only apply during the period of tariff elimination; and if triggered the tariff rate will only rise to the current applied rate of six percent (which is not trade prohibitive).

- Liberalisation of Chilean tariffs on sugar products under HS 1701[7] occurs only if New Zealand has an exportable surplus in these products. Given that New Zealand is a net importer of the relevant products, this provision will mean that tariffs on these products will continue at current rates. In practice, however, New Zealand does not export such products to Chile. New Zealand only agreed to the provision on the basis that it did not impact on our trading interests.

- A few sectors of the New Zealand economy may experience a modest increase in competition from Chile and Brunei Darussalam imports (such as forestry and wine) but the impact will be minimal. Sixty-eight percent of Chile’s imports and 99 percent of Brunei Darussalam’s imports currently enter duty-free. Where New Zealand currently maintains high tariffs there are tariff phase-out periods to ease any adjustment.

- Market access commitments under the services chapter are restricted to each partner’s WTO obligations.

---

[7] HS 1701 is the classification of sugar products (in solid form) Harmonised Commodity Description and Coding System (HS) administered by Customs.

- Because of the complexities involved, it was decided to set aside investment and financial services from the negotiations for the time being. However, an important component of investment relating to services ("commercial presence") is covered by the services chapter.

iv Obligations

Key new obligations for New Zealand under the Trans-Pacific SEP include:

- the eventual elimination of tariffs on all goods originating from Chile and Brunei Darussalam, with up to a nine-year phase-out period on some goods
- rules of origin (ROO) using a change of tariff classification (CTC) approach, and for some products, notably textiles, clothing, footwear and carpet (TCFC), an additional requirement that products must meet a 50 percent regional value content (RVC).
- some new commitments in the services area beyond those in the WTO, but which are within current regulatory settings (see section 4.10, Box 1)
- the inclusion of a "ratchet" clause[8] and MFN clause under the services chapter
- binding procedures for open tendering in government procurement
- new mechanisms to allow parties to recognise that each country's SPS measures are equivalent, and to recognise measures put in place by each country to manage pests and diseases that occur regionally rather than nationally
- binding agreements on labour and environment, with provisions for cooperation, dialogue and consultation.

Obligations in a number of other areas of the Trans-Pacific SEP are fully consistent with existing New Zealand practice. These include customs cooperation, trade remedies, competition and transparency measures. New Zealand's ability to regulate for national policy objectives is explicitly recognised. The Trans-Pacific SEP does not prevent New Zealand from taking measures it deems necessary to fulfil its obligations to Māori, or to support creative arts of national value.

v Economic, social, cultural and environmental effects

Economic effects

The Trans-Pacific SEP is assessed to make a small but positive contribution to New Zealand's economic growth prospects over time. This will derive both through modest trade benefits resulting from reciprocal liberalisation, and through dynamic productivity gains resulting from improvements in competitiveness.

[8] The "ratchet" clause means that, if a party liberalises a commitment in Annex III of its services schedule, it cannot make it more restrictive again. The liberalised measure then becomes bound as part of the commitments under the Trans-Pacific SEP.

The Trans-Pacific SEP should improve and create opportunities for New Zealand goods exporters to Chile and Brunei Darussalam, particularly those who have been at a competitive disadvantage to third-country suppliers already enjoying preferential market access. Among the sectors most likely to benefit are energy, agricultural and forestry technology, and manufacturing (especially machinery). Through encouraging intra-industry cooperation and investment, the Trans-Pacific SEP should also benefit the dairy, horticulture, forestry and fisheries sectors.

Social effects

The Trans-Pacific SEP is not expected to have any discernible negative social effects on New Zealanders. Tariff removal on sensitive sectors will be gradual – in particular, TCFC– and Chile and Brunei Darussalam have minimal exports to New Zealand in these sectors. Any impact on overall employment should be net positive. The Labour Cooperation MOU reaffirms the commitment of New Zealand, Chile, Singapore and Brunei Darussalam to sound labour policies and practices, and entails a political commitment not to weaken or reduce labour laws or standards to gain an unfair trade advantage.

Cultural effects

The Trans-Pacific SEP includes safeguards to ensure that there are no adverse effects on New Zealand cultural values or Māori interests.

Environmental effects

New Zealand has sufficiently robust environmental laws, policies, regulations and practices in place to manage any potential impacts. The Trans-Pacific SEP itself and the Environment Cooperation Agreement mutually support the goal of harmonising objectives for trade and the environment. The Environment Cooperation Agreement reinforces the parties' commitment to high levels of environmental protection, and entails a political commitment not to relax or weaken environment laws or standards to gain an unfair trade advantage.

vi Costs

Entry into force of the Trans-Pacific SEP will mean reduced tariff revenue to the New Zealand Government of around NZ$320,000 a year on imports from Chile and around NZ$1,800 a year on imports from Brunei Darussalam. Most of this reduction will occur on entry into force of the Trans-Pacific SEP in 2006. Some of the revenue otherwise forgone as a direct result of the Trans-Pacific SEP would have been forgone in any case under the effects of the unilateral tariff reduction programme scheduled for the period 1 July 2006 to 1 July 2009.

The ongoing operational costs of complying with the Trans-Pacific SEP are estimated at NZ$150,000 annually.

vii Future protocols

It is anticipated that the Trans-Pacific SEPAgreement will be amended following the conclusion of negotiations on investment and financial services. It is also possible it could be amended if the parties were to undertake further liberalisation in the area of trade in goods.

viii Implementation

A small number of legislative and regulatory amendments are required to align New Zealand's domestic legal regime with rights and obligations created under the Trans-Pacific SEP – in particular in respect of tariffs, ROO and government procurement.

ix Consultation

The study, preparation and negotiating phases involved extensive consultation between government agencies and with non-government stakeholders in New Zealand. A communication programme kept stakeholders informed of progress in the negotiations and provided opportunities for input.

1 DATE OF PROPOSED BINDING TREATY ACTION

The Trans-Pacific SEP and the Environment Cooperation Agreement and the Labour Cooperation MOU are open to signature by Brunei Darussalam, Chile, New Zealand and Singapore. The agreements will enter into force on 1 January 2006, provided at least two signatories have ratified by that date. If not ratified by two signatories by that date, the agreements will come into force for those parties 30 days after the deposit of the second instrument of ratification. It is proposed that New Zealand deposit its instrument of ratification to the Trans-Pacific SEP on the completion of its domestic processes for ratification.

2 REASONS FOR NEW ZEALAND TO BECOME A PARTY TO THE TREATIES

2.1 Direct benefits from enhanced trade and economic links with Brunei Darussalam, Chile and Singapore

A fundamental objective of New Zealand's trade policy is to expand the opportunities available to New Zealand exporters by removing barriers to trade, and to establish sound frameworks under which trade and investment linkages can flourish. Concluding bilateral agreements with key trading partners to remove trade barriers on a reciprocal basis is one of the avenues for achieving this objective. The Trans-Pacific SEP and accompanying agreements on labour and environment contribute to the government's goal of sustainable growth as set out in the Growth and Innovation Framework (GIF) – in particular its "international connectedness dimension.[9]

The pattern of New Zealand's exports to Chile is changing. As Chile has increased its milk production and has become a net exporter of dairy products, New Zealand's dairy exports, which have traditionally dominated our trade with Chile, have declined. While the decline in dairy exports has affected the overall level of New Zealand's trade, other exports have increased, such as agricultural technology and machinery. Trade in services, such as education services and tourism, has also increased, stimulated by direct air links, growing linkages between educational institutions and initiatives like the Working Holiday Scheme. The Trans-Pacific SEP will help facilitate these new opportunities.

Chile currently applies a flat tariff rate of six percent on virtually all imports.[10] While this tariff rate is not prohibitive, exporters indicated during consultation that they were operating on small margins in the competitive Chilean market and the six percent

---

[9] Ministry of Foreign Affairs and Trade Statement of Intent 2004/05 intermediate outcome II *"New Zealand's international connections facilitate sustainable economic growth through increased international trade, foreign investment and knowledge transfer",* notes that foreign trade, investment and technology transfer are critical to a durable economic growth path which will deliver to New Zealanders the standard of living and quality of life to which they aspire.

[10] Chile applies what is called a "price band mechanism" on imports of domestically sensitive products, wheat, vegetable oil, sugar and sugar products. The price band mechanism provides for Chile to operate a variable tariff rate that fluctuates between its WTO-bound rates and its six percent-applied MFN rate, depending on world and Chilean domestic price differentials. There are also a limited number of other products (mostly meat) on which Chile currently applies an MFN tariff rate of 25 percent.

tariff rate often represented a sizeable percentage of their profit margin.[11] Even though there are longer tariff phase-outs for some products where Chile has identified domestic sensitivities, by the end of the transition period (2017) New Zealand exporters will enjoy duty-free access to the Chilean market.[12] This will deliver real gains to New Zealand exporters to Chile.

Further, the Trans-Pacific SEP will level the playing field for exporters to Chile who were experiencing a duty disadvantage. New Zealand's main competitors in the Chilean market are the United States, European Union and Mercosur. Chile has negotiated FTAs with all three. Consultation with exporters during the negotiations indicated that levelling the playing field with Chile's FTA partners was a priority. As a benchmark, negotiators sought parity with the outcomes of the Chile/US FTA which is the most significant of Chile's recent FTAs.

Except for a number of dairy products, which are long recognised as very sensitive for Chile, New Zealand has received "United States parity" or better on nearly all products of export interest to New Zealand. This will help small/medium exporters gain a foothold in this emerging market.

Brunei Darussalam is already relatively open to New Zealand exports. Under the Trans-Pacific SEP, Brunei Darussalam will bind its current MFN-applied zero rates at zero and eliminate all the tariffs that it applies on other products by 2015.[13]

Beyond market access for goods, the Trans-Pacific SEP will provide more opportunities, and greater certainty and transparency, for New Zealand businesses wishing to operate in Chile, Singapore and eventually Brunei Darussalam. New Zealand service suppliers, and businesses bidding for government procurement contracts, will be guaranteed the same treatment as domestic suppliers in a much wider range of service sectors and areas of government procurement than before. The Trans-Pacific SEP also provides for MFN treatment for services (Article 12.5). Where applicable, this means that New Zealand service suppliers would receive the benefits of any additional liberalisation Chile, Singapore, or eventually Brunei Darussalam may commit to in future trade agreements with third countries.

The Trans-Pacific SEP provides a framework for resolving issues concerning technical barriers to trade (TBT) and SPS measures and for cooperating on a range of other trade-related issues such as intellectual property and competition. Some barriers identified by New Zealand exporters have been included in the immediate work programme of the TBT Committee (see sections 3.1.8 and 4.6).

It also provides a framework for the development of broader economic linkages and encourages strategic cooperation among the four countries. Particular attention has been given to economic, scientific, technology, educational, cultural and primary industry cooperation.

[11] Following the announcement of the conclusion of negotiations, Solid Energy (a major New Zealand exporter to Chile) released a positive statement noting that "lifting the tariffs should help us to improve our very low margins in this growing export market".

[12] In respect of certain sugar products, liberalisation of Chilean tariffs occurs only if New Zealand has an exportable surplus in sugar. This is unlikely to be the case as New Zealand is a net sugar importer.

[13] Pending the outcome of further discussions, Brunei Darussalam will retain tariffs on a short list of products (such as alcohol, tobacco and firearms) that it seeks to exempt on moral, human health and security grounds.

The Trans-Pacific SEP will also help reinvigorate our trading relationship with Singapore. It improves our existing NZSCEP by strengthening procedures around government procurement, enhancing provisions on competition and delivering new commitments on "national treatment" in some service sectors. Also, there were no labour and environment outcomes in the context of the NZSCEP.

2.2 Indirect benefits from advancing New Zealand's strategic interests

New Zealand, Chile, Singapore and Brunei Darussalam are all relatively small, open economies that depend significantly on foreign trade and investment. Because of the relatively low level of trade among the partners, a key objective of these negotiations has always been the potential strategic benefits.

The Trans-Pacific SEP is the first multiparty Trans-Pacific FTA. It builds a strategic economic partnership across the Pacific from Latin America to Australasia to Southeast Asia and it adds to New Zealand's credentials as an FTA partner.[14]

The Trans-Pacific SEP and accompanying labour and environment outcomes are intended to serve as both a building block and a model within APEC that is open for other economies to join. The decision by Brunei Darussalam to join all three agreements is a tangible illustration of this. Other APEC economies have followed the conclusion of the negotiations with interest.

This is New Zealand's first trade agreement with a Latin American country. It will put New Zealand's relationship with Chile, our closest Latin American partner, onto a new level of economic and political engagement, advancing one of the key pillars of the government's Latin America strategy of building economic linkages with that region.

Chile has established itself as a business platform for South America in a similar way to the way in which Singapore acts as a trade and services hub in Southeast Asia. The Trans-Pacific SEP will help raise New Zealand's profile in Latin America and make it easier for New Zealand businesses to use Chile as a platform to enter into South American markets.[15]

The Trans-Pacific SEP meets a benchmark achieved by very few bilateral trade agreements in eliminating tariffs on all traded goods. Comprehensive agreements of this kind fully comply with WTO requirements relating to goods commitments in regional trade agreements and can serve as building blocks towards liberalisation in the WTO.

Chile, Singapore and New Zealand are among the world's leading proponents of more market-orientated air services arrangements. This is the first trade agreement

[14] The Trans-Pacific SEP was welcomed by Meat & Wool New Zealand in a press statement following the announcement of the conclusion of negotiations: "Although current meat and wool trade interests with the countries concerned are not New Zealand's most significant internationally, we support the Government's efforts to utilise opportunities to build trade linkages in the region."

[15] The Trans-Pacific SEP was welcomed by the Latin American Business Council in a press statement following the announcement of the conclusion of negotiations. The business council noted that the trade agreement would "substantially raise New Zealand's profile in Chile", "encourage some New Zealand exporters to consider Chile as a gateway into other larger Latin American markets" and "enable our exporters to compete more effectively with the products of other exporting nations which already enjoy the benefits of free trade there, particularly the United States".

to include commitments on international air services and so sends a useful signal about the coverage of air services in future FTAs.

3 ADVANTAGES AND DISADVANTAGES TO NEW ZEALAND OF THE TREATIES ENTERING INTO FORCE

3.1 Advantages to New Zealand in entering into the Trans-Pacific SEP, Labour Cooperation Memorandum of Understanding and Environment Cooperation Agreement with Brunei Darussalam, Chile and Singapore

3.1.1 GOODS

Market access for goods exported to Brunei Darussalam, Chile and Singapore

The Trans-Pacific SEP provides for comprehensive tariff elimination among all four countries.[16] There are no quotas and only very limited provision for special agricultural safeguards. Where tariff elimination is subject to phasing, there is also scope within the Trans-Pacific SEP to accelerate tariff reductions in the future.

For New Zealand goods exporters to Chile

- New Zealand exported NZ$36.6 million in goods to Chile in the year to June 2004, incurring NZ$2.2 million in import duties (based on the flat six percent tariff rate). The top five exports were coal, machinery, chemical products, dairy and seeds.

- On implementation of the Trans-Pacific SEP, 89 percent of current New Zealand exports to Chile will enter duty-free. This will deliver immediate benefits to New Zealand exporters, including:

    - immediate elimination of the six percent tariff on coal. This was New Zealand's single biggest export to Chile in 2004, worth approximately NZ$9.5 million. The New Zealand exporter believes it could significantly increase exports as a result of tariff elimination

    - immediate elimination of the six percent tariff on a range of agricultural technology products, where New Zealand exports to Chile are steadily increasing, such as seeds, animal genetic material, veterinary vaccines, fungicides and timber preservatives

[16] For exports to Brunei Darussalam, pending the outcome of further discussions, tariffs will remain in place on a short list of products (such as alcohol, tobacco and firearms) that are exempted on moral, human health and security grounds. New Zealand already enjoys duty-free access for all goods exported to Singapore under the NZSCEP.

    - across the board, a saving to New Zealand exporters of an estimated NZ$1.96 million of duty paid.

- By 2017, Chile will remove all remaining tariffs. The certainty of reaching free trade on a scheduled date is valuable to New Zealand exporters in terms of forward business planning, as are the cumulative benefits of progressively reducing tariffs.

For New Zealand goods exporters to Brunei Darussalam

- New Zealand exported goods worth NZ$3.55 million to Brunei Darussalam in 2004, incurring duties estimated at NZ$52,000. The top five exports were dairy, iron and steel products, vegetables, machinery and vehicles.

- Ninety-two percent of New Zealand's exports to Brunei Darussalam currently enter duty free, including key exports such as dairy products, fruit and vegetables. On entry into force of the Trans-Pacific SEP Brunei Darussalam will bind these tariffs at zero.

- By 2015 Brunei Darussalam will reduce all tariffs to zero, except for a short list of products that it seeks to exempt on moral, human health and security grounds.

- Some of the tariff rates Brunei Darussalam currently applies are quite high and in sectors of export interest to New Zealand, including:

    - forestry products, where the current 20 percent tariff rate will be eliminated by 2010

    - some machinery and auto parts, where tariffs will be eliminated by 2015 at the latest.

More information on the market access outcomes is provided in section 5.1.

3.1.2 SERVICES

- Subject to specific reservations or exemptions in the services schedules of the Trans-Pacific SEP, New Zealand services suppliers will be entitled to access to the Chile and Singapore markets without quotas ("market access"), and be able to operate in Chile and Singapore (and eventually Brunei Darussalam) on the same basis as domestic suppliers ("national treatment"). [17]

- The Trans-Pacific SEP places disciplines on the partners' ability to require a foreign service provider to have a commercial presence as a precondition to operating in the market when the services can be delivered in other ways ("local presence").

- The Trans-Pacific SEP includes an MFN clause. Where applicable, this means that New Zealand service suppliers will automatically receive the benefit of commitments Chile and Singapore (and eventually Brunei

[17] The four "modes" of service supply referred to in this paper are: Mode 1: Cross-Border Trade: the service is supplied by a provider physically located in one country, to a consumer in another; Mode 2: Consumption Abroad: a customer travels to another country to consume a service. Mode 3: Commercial Presence: where a foreign service supplier establishes a juridical presence in another country to provide a service, through incorporation, branch offices, a joint venture or other form of business entity; and Mode 4: Movement of Natural Persons: the temporary movement of a person into a country in order to supply a service directly.

Darussalam) may make in future FTAs that are more liberal than those in the Trans-Pacific SEP. This will help prevent our competitive position being eroded by future preferential arrangements.[18]

- The Trans-Pacific SEP uses a "negative list" approach to scheduling services commitments. If a service sector is not listed in the services schedules (or is specifically excluded by provisions in the services or general exceptions chapters)[19] then it is bound by the "national treatment", "market access", MFN and "local presence" obligations. This type of approach provides legal certainty and greater transparency about the commitments that each party has made on services. The way in which the "negative list" works is explained further in section 4.10.

- Some reservations in the service schedule are also subject to a so-called 'ratchet' clause. The ratchet clause means that New Zealand will automatically receive the benefit of any future unilateral liberalisation other parties to the Trans-Pacific SEP make. Of course the mechanism also works the other way; but as a relatively more open country than many of our trading partners New Zealand is likely to benefit from this provision. How the clause works is explained further in section 4.10.

For New Zealand service suppliers to Chile

- Chile's schedule improves considerably on its "national treatment" commitments in the WTO.

- In particular, New Zealand service suppliers will now be able to operate in Chile on the same footing as domestic service suppliers (across modes 1, 2, 3 and 4) in the following sectors of export interest:

  - second-language training; corporate, business; and industrial training and skill upgrading, which includes consulting services relating to technical support, advice, curriculum and programme development in education

  - all research and development subsectors (subject to some conditions on field research permits)

  - health services in the private sector

  - wholesale, manufacturing and retail services

  - services incidental to agriculture, hunting and forestry

  - storage, transportation, refining and other incidental services in the mining and energy sectors

  - aircraft repair and maintenance services, selling and marketing of air transport services (including computer reservations), specialty air

[18] New Zealand's ability to enter into future liberalisation under existing trade agreements, such as CER, is, however, fully protected.

[19] Services supplied in the exercise of government authority (EOGA), government procurement and financial services are specifically excluded from the schedules in the services chapter (see section 4.10). The general exceptions chapter excludes a range of measures from the scope of the Trans-Pacific SEP that also apply to the services schedules (see section 4.17).

services, and a range of international and non-transportation air services

    - environmental consultancy services (“commercial presence” only)

    - a number of sporting and recreational services.

- Chile made commitments in the GATS to treat foreign service suppliers the same as local suppliers (that is, provide national treatment) for services relating to accounting, advertising, agriculture, computers, distribution, management consultancy and veterinarians. Those GATS commitments only apply if the service supplier has a commercial presence (mode 3) in Chile. The Trans-Pacific SEP extends the “national treatment” commitment for all these services to cross-border supply from New Zealand (mode 1) and consumption in New Zealand (mode 2).

- Overall Chile’s “national treatment” commitments are almost the same as those given to the United States in their recent FTA, except with respect to some business services.

For New Zealand service suppliers to Singapore

- New Zealand’s service suppliers will be able to use the provisions under either the Trans-Pacific SEP or the existing NZSCEP (which took a “positive list”’ approach to listing services commitments).

- The Trans-Pacific SEP improves on the NZSCEP, with respect to national treatment, in the following sectors: tax-related services, contact lens practitioners, real estate, aircraft repair and maintenance services, selling and marketing of air transport services, specialty air services and a range of international and non-transportation air services.

- Overall, New Zealand has achieved broad parity (on national treatment) with United States service providers into Singapore, as negotiated in the recent US/Singapore FTA.

For New Zealand service suppliers to Brunei Darussalam

- Under the agreed conditions for entry, Brunei Darussalam will have two years from entry into force of the Trans-Pacific SEP to negotiate its services schedule. Until it has completed these negotiations Brunei Darussalam will not benefit from the commitments that Chile, New Zealand and Singapore have made in this area.

3.1.3 TEMPORARY ENTRY

- In order to facilitate business opportunities under the services chapter, each partner has reaffirmed its commitments under the GATS relating to the movement of business people. There is a commitment to review this chapter two years after entry into force of the Trans-Pacific SEP. The purpose of the review is to consider broadening the range of business people covered by the scope of the chapter.

3.1.4 INVESTMENT

- While the investment chapter was set aside for future negotiations, a key part of investment (relating to services mode 3 "commercial presence") is covered by the services chapter, leaving investment in goods as the main area outside the current scope of the Trans-Pacific SEP.

- With trade in services an increasingly significant element of trade in the Asia-Pacific region, capturing commercial presence in services is an important outcome of the Trans-Pacific SEP.

3.1.5 ROO

- Products must meet the ROO criteria in order to qualify for preferential tariff treatment under the Trans-Pacific SEP. This prevents goods from other sources entering "through the back door". The ROO are designed to facilitate exports and minimise compliance costs for exporters.

- For most of the market access schedule a specific CTC rule will be used to determine origin. For a limited range of products there are a mixture of CTC and RVC rules or alternative CTC/RVC rules.

- TCFC products must meet the CTC classification rule plus a 50 percent FOB[20] RVC rule. This means that at least 50 percent of the final value of the exported product must have been added by one or more of the parties.

- The overall outcome is consistent with the approach taken in the recent New Zealand/Thailand Closer Economic Partnership (NZTCEP). (See section 4.2 for an explanation of the CTC approach.)

- The outcome is an improvement on the NZSCEP, which is based solely on RVC. New Zealand pursued a CTC model in these negotiations, as the latter has become the most common model internationally. By comparison with RVC, it is:

    - simpler and cheaper for business to apply, with less need to maintain costly records systems

    - easier for government to administer

    - inherently more predictable and consistent in terms of origin outcomes ("once qualify, always qualify").

- New Zealand exporters to Singapore will be able to use the ROO under either the NZSCEP or the Trans-Pacific SEP.

3.1.6 TRADE REMEDIES

Under the Trans-Pacific SEP all parties retain their existing WTO rights and obligations on anti-dumping and countervailing duties provisions and the use of "global safeguard" measures. For trade between New Zealand and Singapore the trade remedy provisions under the NZSCEP will apply. Under the NZSCEP, there is

---

[20] "Free on board" – describes the price of the good including all delivery, inspection or loading costs involved in putting the commodities on board the carrier for shipping to their export destination.

no recourse to "global safeguard" measures and there are modified provisions for anti-dumping.[21]

3.1.7 GOVERNMENT PROCUREMENT

- This area of the Trans-Pacific SEP takes an approach which is different to that in previous trade agreements New Zealand has negotiated. It will place New Zealand businesses on a firmer footing when competing for government procurement contracts in Chile, Singapore and eventually Brunei Darussalam.[22]

- The Trans-Pacific SEP applies to procurement by entities listed in each party's schedules for contracts valued at or above NZ$100,000 for most goods and services procurement and NZ$10 million for construction services.[23] There is a special exemption for Brunei Darussalam.[24]

- Above these thresholds the parties have agreed to follow certain procedures for open tendering. New Zealand's entities currently follow guidelines. To meet the requirements of the Trans-Pacific SEP, the introduction of mandatory procedures will be necessary.

- New Zealand companies will be able to compete on the same footing as domestic suppliers for government procurement contracts by the 20 core public sector departments (including their regional offices) in Chile's schedule and the 23 core public sector departments in Singapore's schedule.

- The list of departments in Singapore's schedule in the Trans-Pacific SEP is narrower than the coverage in the NZSCEP; however, the "national treatment" and procedural commitments are stronger. New Zealand companies will be able to use the treatment under either trade agreement as relevant.

- New Zealand's entity list covers the 35 core public service departments listed in the First Schedule to the State Sector Act 1988, plus the New Zealand Defence Force and New Zealand Police. Procurement of public education, health, welfare, and research and development services is excluded. The government procurement chapter does not apply to procurement by local government in New Zealand.

---

21 In the NZSCEP, the WTO rules apply to anti-dumping cases with WTO-enhanced provisions for de minimis margins of dumping (raised from two percent to five percent) and negligible imports (raised from three percent to five percent of total imports in cases that only involve the two parties) for either country. In addition reviews of the continued need for any anti-dumping and countervailing duties applied in either country are to be conducted after three years instead of the WTO-mandated five years.

22 Under the agreed conditions for entry, Brunei Darussalam will negotiate its government procurement schedule within two years of entry into force of the Trans-Pacific SEP. Until it has negotiated its schedule it will not benefit from the commitments that other parties have made in this area.

23 The Trans-Pacific SEP expresses the value thresholds in IMF Special Drawing Rights (SDRs). These are IMF SDR50,000 and IMF SDR 5 million. The respective New Zealand dollar equivalents are approximated above and may change with currency fluctuations.

24 On completion of its schedules the provisions of the government procurement chapter will apply to it only for procurement of goods and services above $250,000 in Brunei Darussalam dollars, or NZ$210,000 at current exchange rates.

3.1.8 TRADE FACILITATION, REGULATORY ENVIRONMENT AND TRANSPARENCY

- The cost of complying with technical regulations can constitute as significant a barrier to trade in goods as tariffs. Without formal arrangements, it is difficult to engage with other countries at the technical level in a way that will produce tangible solutions to adverse impacts of technical regulations and standards and conformance requirements on trade flows.

- The Trans-Pacific SEP establishes mechanisms, such as regular meetings and working groups on specific issues for regulators, other officials and technical experts to work together more effectively to address barriers to trade in the areas of standards and conformance, SPS issues and customs procedures.

- The parties have already established a committee to look at standards and conformance issues, and have agreed to focus their initial efforts on electrical safety and electromagnetic compatibility of electrical equipment; grading programmes for the purposes of marketing beef; and shoe labelling. The first two priority areas were requested by New Zealand in response to domestic consultation and are of interest to exporters to Chile.

- The Trans-Pacific SEP includes new mechanisms to allow parties to recognise that each country's SPS measures are equivalent, and to recognise measures put in place by each country to manage pests and diseases that occur regionally rather than nationally. This will allow for more streamlined and speedy resolution of bilateral issues. The provisions are based on the New Zealand/European Union Sanitary Agreement, but represent a new approach for New Zealand in a full trade agreement. The provisions are explained further in section 4.5.

- The intellectual property provisions support more certainty over the provision and enforcement of intellectual property rights (IPR). The provisions build on the existing NZSCEP and are similar to the recent NZTCEP. For example, the Trans-Pacific SEP encourages cooperation between relevant agencies for the enforcement of IPR and the exchange of information on infringements. The intellectual property provisions recognise that IPR are important in supporting economic activity and development, in reducing distortions and impediments to legitimate trade and in supporting the transfer and dissemination of knowledge and technology.

- The competition provisions promote adherence to competition principles and encourage the development of a cooperation agreement among the parties. The outcome builds on the existing NZSCEP, and is similar to the recent NZTCEP agreement. These provisions reinforce the implementation of other parts of the Trans-Pacific SEP such as services, government procurement and intellectual property. In light of its small size (and lack of a competition authority), Brunei Darussalam has been granted flexibility on its implementation of the commitments in the competition chapter.

3.1.9 STRATEGIC COOPERATION

- The Trans-Pacific SEP has a strong focus on strategic cooperation. It establishes a framework for mutually beneficial cooperation among the parties, including a focus on innovation, research and development, and collaboration in third markets. Particular attention has been given to economic, scientific, technological, educational, cultural and primary industry cooperation.

- The fact that New Zealand and Chile share production and export interests in some primary sectors, such as dairy, forestry, horticulture, wine and fisheries, means that, while the two countries compete in international markets, there is also value in collaboration to enhance competitiveness, market access and innovation. New Zealand primary producers can achieve a greater scale of production to supply their international marketing networks through working together with Chilean producers.

- The strategic partnership chapter of the Trans-Pacific SEP will give practical impetus to such collaboration beyond merely the primary industry area, identifying activities that will encourage policy dialogue and sharing of experience, sectoral, scientific and research networks and joint work between New Zealand, Chile, Singapore and Brunei Darussalam.

3.1.10 OTHER OUTCOMES IN THE TRANS-PACIFIC SEP

- Consistent with NZSCEP and the recent NZTCEP, the Trans-Pacific SEP:

    - maintains and reinforces New Zealand's existing rights and obligations under the various WTO Agreements. As well as providing mechanisms for bilateral cooperation, each party still retains its rights to use mechanisms available within WTO frameworks (for example, in the areas of TBT, SPS and trade-related aspects of intellectual property rights (TRIPS))

    - recognises the government's right to regulate for national policy objectives

    - maintains New Zealand's right to take measures it deems necessary to accord more favourable treatment to Māori, including in fulfilment of its obligations under the Treaty of Waitangi

    - does not preclude partners from taking measures necessary to protect national treasures or specific sites of historical or archaeological value or to support creative arts of national value

    - includes robust and transparent dispute settlement provisions.

3.1.11 LABOUR AND ENVIRONMENT

- In line with the Government's frameworks on integrating labour and environment standards in trade agreements,[25] New Zealand has concluded, as part of the Trans-Pacific SEP package, a legally binding Labour Cooperation MOU and a legally binding Environment Cooperation Agreement. This ensures that the Trans-Pacific SEP mutually reinforces the objective of raising working standards and improving environmental protection in the member countries.

[25] http://www.mfat.govt.nz/foreign/tnd/newissues/labour/labourframework.html
http://www.mfat.govt.nz/foreign/tnd/newissues/environment/envframework.html

- These are New Zealand's first legally binding labour and environment outcomes in the context of a trade negotiation. Both agreements are directly linked to the Trans-Pacific SEP. If a party withdraws from the Labour Cooperation MOU or the Environment Cooperation Agreement it is required to withdraw from the Trans-Pacific SEP, and vice versa.

- The Labour Cooperation MOU and Environment Cooperation Agreement have similar structures and provisions to the labour and environment arrangements negotiated with Thailand in the context of the recent NZTCEP. They include commitments not to weaken or derogate from labour or environment laws or standards to gain an unfair trade advantage, or to use them for protectionist purposes.

- Both the Labour Cooperation MOU and the Environment Cooperation Agreement establish mechanisms for ongoing cooperation and dialogue, and for addressing any issues that may arise in these fields that may involve Ministers.

- The Labour Cooperation MOU and the Environment Cooperation Agreement also provide opportunity for the New Zealand Government to seek input on implementation from union representatives and non-government organisations (NGOs) and make provision for public participation in cooperation activities.

3.2 Disadvantages to New Zealand in entering into the Trans-Pacific SEP, Labour Cooperation MOU and Environment Cooperation Agreement with Brunei Darussalam, Chile and Singapore

3.2.1 MARKET ACCESS – EXPORTS

New Zealand did not consider that a special transitional safeguard on dairy products imported into Chile was warranted given the low tariff levels and extended phasing periods involved. Its inclusion was necessary, however, to secure Chile's agreement to tariff elimination in the dairy sector. Its practical effect is expected to be limited. The mechanism will only apply during the period of tariff elimination; and if triggered the tariff rate will only rise to the current applied rate of six percent (which is not considered to be trade prohibitive). Moreover, due to the built-in volume-based growth mechanisms, the level of exports above which the safeguard can be triggered is well in excess of current trade.

Under provisions relating to Chile's price band mechanism, liberalisation of current Chilean tariffs on sugar products under HS 1701 occurs only if New Zealand has a global exportable surplus in these products. Given that New Zealand is a net importer of the relevant products, in effect this provision will mean that tariffs on these products will continue at current rates. New Zealand only agreed to the provision on the basis that no significant New Zealand exports are affected by it.

3.2.2 MARKET ACCESS – IMPORTS

Any trade agreement involving reciprocal tariff removal can create adjustment effects for import-competing sectors deriving from increased exposure to foreign suppliers, at the same time as export-focused sectors secure improved access to offshore markets.

The assessment is that any adjustment effects arising from the Trans-Pacific SEP with Brunei Darussalam, Chile and Singapore are not likely to be significant. This reflects the following factors.

- 68 percent of imports from Chile and 99 percent of imports from Brunei Darussalam already entered New Zealand duty-free in 2004.
- New Zealand's market access schedule is based on the recent NZTCEP outcome. Under the Trans-Pacific SEP, tariffs are reduced in four main groups: some on implementation of the Trans-Pacific SEP, some by 2008, some by 2010 and the remainder by 2015.
- The areas where New Zealand currently maintains high tariffs are in the longer phase-out categories. In particular:
  - tariffs on TCFC products will be phased out over a nine-year period and preference will apply only to goods in this sector that meet the ROO requiring 50 percent Chile/Brunei Darussalam/Singapore/New Zealand content as well as a CTC.
  - tariffs on whiteware, plasterboard, steel and certain steel products, aluminium and certain aluminium-based products, and automotive parts will be phased out in 2010.
- Some of the revenue otherwise forgone as a direct result of the Trans-Pacific SEP will be offset by the effects of the unilateral tariff reduction programme scheduled to take place over the period 1 July 2006 to 1 July 2009.
- Chile and Brunei Darussalam together account for a tiny proportion of TCFC imports (less than half a percent).
- WTO-based anti-dumping and countervailing duty measures will continue to be available to address any unfair trade from Chile or Brunei Darussalam.

3.2.3 SERVICES/TEMPORARY ENTRY

Chile, New Zealand and Singapore's "market access" commitments for services under the Trans-Pacific SEP are limited to each party's WTO obligations. New Zealand would have preferred a more ambitious outcome on market access but it was not possible to secure the agreement of all the parties to this approach.

Each party's "temporary entry" commitments are also limited to its WTO obligations. New Zealand would have preferred to widen the scope of the chapter, but once again it was not possible, at this stage, to secure the agreement of all the parties to this approach.

3.2.4 INVESTMENT/FINANCIAL SERVICES

The absence of agreed outcomes on investment and financial services at this stage is regrettable. As with any negotiation, however, all sides need to reach agreement, and in this case concluding investment and financial services was not feasible at this point.

That said, as mentioned in section 4.10, significant elements of investment in relation to services are already included under the trade in services chapter through obligations and commitments in respect of mode 3, "commercial presence".

Chile and Singapore have commitments to New Zealand on financial services through the GATS. Singapore also has additional commitments in the NZSCEP that will remain in effect.

There is a commitment to negotiate both these areas within two years.

3.2.5 BROADER TRADE GOALS

New Zealand would have preferred to achieve more ambitious and timely outcomes in a number of areas, such as WTO-plus "market access" commitments on services and faster tariff phase-out periods. However, the Trans-Pacific SEP does provide for review (including a specific provision to review the implementation of the services chapter every two years with a view to progressive liberalisation) and includes specific provision for the acceleration of tariff liberalisation.

4 OBLIGATIONS

The Trans-Pacific SEP provides for the liberalisation of trade between the parties, and imposes a general obligation on New Zealand to work with Chile, Singapore and Brunei Darussalam to implement the provisions of the trade agreement. The specific obligations that New Zealand will take on in each chapter of the Trans-Pacific SEP are set out below in the sequence in which they appear in the Trans-Pacific SEP. Also included in this section are the obligations arising from the accompanying Labour Cooperation MOU and Environment Cooperation Agreement.

4.1 Trade in goods

New Zealand is required to eliminate its customs duties (or tariffs) on goods originating from Chile and Brunei Darussalam in accordance with the phase-out schedules in Annex I to the Trans-Pacific SEP, and may not increase existing customs duties[26]. There is provision for parties to consult to consider accelerating the agreed phasing of tariff elimination (Article 3.4).

The Trans-Pacific SEP imposes obligations, consistent with WTO requirements, to ensure that all fees and charges are commensurate with the cost of the services provided, and that any non-tariff measures are consistent with WTO rights and obligations (Articles 3.8, 3.9 and 3.10). The parties agree to eliminate, and not reintroduce, all forms of export subsidy for agricultural goods (Article 3.11).

4.2 ROO

The Trans-Pacific SEP sets out rules for determining whether goods traded among the Trans-Pacific SEP parties qualify as originating goods and therefore receive tariff preferences under the Trans-Pacific SEP.

[26] Under the existing NZSCEP, New Zealand has already eliminated customs duties for Singapore.

For most of this Trans-Pacific SEP the ROO use a CTC modality. Under CTC a finished export good will, in principle, receive the benefit of tariff preference on entry into the other partner country, if it is classified in a different tariff category from all its input materials sourced from third countries. Annex 2 to the Trans-Pacific SEP details the precise form of CTC that will apply to a particular good.

For some products there are additional RVC rules where the product must meet CTC plus an additional RVC requirement. TCFC must meet CTC plus a 50 percent RVC.

For a number of chemical, plastic, foodstuff, furniture, motor vehicle and machinery products an RVC test will apply if imported inputs and finished goods are classified in the same tariff category. For products subject to "outward processing"[27] in Singapore, only RVC rules apply. The RVC threshold on these products is 45 percent. Traders should check the specific rules applicable to their particular products.

Under the Trans-Pacific SEP New Zealand is obliged to require producers, exporters and importers to maintain all records relating to the origin of goods for at least three years. New Zealand's legislation currently requires maintenance of records for five years.

In order to qualify for preferential access under the Trans-Pacific SEP, the producer or exporter must complete either a Declaration of Origin or Certificate of Origin stating which country the invoiced goods originate from. The templates for these documents are in Annex 4.C and Annex 4.D to the Trans-Pacific SEP respectively. The exporter or producer may choose which form they would like to complete. The certificates are self-generated and do not require verification from a third party.

4.3 Customs procedures

The Trans-Pacific SEP contains provisions to ensure predictability, consistency and transparency in the application of customs laws and administrative procedures, ensuring efficient and economical administration and the expeditious clearance of goods. Provisions are also included on customs cooperation and information sharing.

4.4 Trade remedies

The Trans-Pacific SEP does not affect New Zealand's rights to apply anti-dumping, countervailing and safeguard measures, consistent with WTO rights and obligations for trade with Brunei Darussalum and Chile. Parties are to provide "courtesy advice" of any initiated "global safeguard" investigation and the reasons for it. (For trade between New Zealand and Singapore, the provisions of the NZSCEP apply.)

4.5 SPS measures

The Trans-Pacific SEP includes new mechanisms to allow parties to recognise that each country's SPS measures are equivalent, and to recognise measures put in place by each country to manage pests and diseases that occur regionally rather than nationally. This will allow for more streamlined and speedy resolution of bilateral SPS issues. The recognition of equivalence and regionalisation under the Trans-Pacific SEP will be developed through Implementing Arrangements (Article 7.4.5).

[27] Singapore outsources the labour-intensive elements of its manufacturing (mostly machinery and electrical appliances) to its neighbouring countries. These products would not meet the CTC criteria.

The Trans-Pacific SEP emphasises communication between the competent authorities of each party (Articles 7.12 and 7.13), including the establishment of a committee on SPS matters (Article 7.4). There are specific procedures outlined in the chapter concerning notification, verification, import checks and provisional measures.

Decisions on matters affecting biosecurity and food safety will continue to be made and enforced in accordance with New Zealand's existing regulatory regime. The right of each country to determine the level of protection it considers appropriate is also preserved.

4.6 TBT

New Zealand's existing rights and obligations under the WTO TBT. Agreement are maintained under the Trans-Pacific SEP. These include our right to adopt or maintain technical regulations necessary to ensure national security, the prevention of deceptive practices and the protection of human health or safety, animal or plant life or health, or the environment.

The parties will promote trade facilitation through joint work on standards, technical regulations and "conformity assessment" procedures. They are encouraged to work towards harmonisation or equivalence of technical regulations and standards (Articles 8.6 and 8.8) and towards acceptance of the results of each other's conformity assessment procedures (Article 8.9). Where a party does not accept equivalence or the results of a "conformity assessment" procedure, it must explain the reasons for its decision (Article 8.8). The parties will use international standards as a basis for their technical regulations (Article 8.7).

In a side arrangement to the Trans-Pacific SEP, the parties have established a committee to discuss TBT issues and have agreed to focus their initial efforts on electrical safety and electromagnetic compatibility of electrical equipment, grading programmes for the purposes of marketing beef, and shoe labelling.

4.7 Competition

The Trans-Pacific SEP promotes fair competition in line with the APEC principles of non-discrimination, comprehensiveness, transparency and accountability, and encourages the development of a cooperation agreement among the parties.

For transparency purposes Annex 9.A contains a list of measures or sectors that are exempted from the application of each party's general competition law and which may affect the benefits of the Trans-Pacific SEP. It does not include exemptions from each party's competition law that are covered in other chapters of the Trans-Pacific SEP. Only New Zealand and Singapore list exemptions in this Annex. Chile has indicated that it does not have any relevant exemptions.

4.8 Intellectual property

The Trans-Pacific SEP reaffirms the rights and obligations of each party under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and other multilateral intellectual property agreements to which all parties are members (Article 10.3). The parties agree to cooperate and share information with respect to IPR and policies, and their enforcement and promotion (Article 10.7).

Terms listed in Annex 10.A are recognised (in the country that listed them) as geographical indications (GIs) for wines and spirits. A footnote to Article 10.05 clarifies that the listed terms will be able to be protected in New Zealand and Singapore subject to our domestic systems and consistent with the TRIPS Agreement. In New Zealand the effect is simply to protect the status quo. Should Chile seek protection in New Zealand of these terms as GIs, it would need to follow the standard procedures under New Zealand legislation.

The Trans-Pacific SEP reaffirms each party's right to adopt appropriate measures to prevent the abuse of IPR and anti-competitive practices that might arise from such abuse, and to prevent the misleading use of country names. It recognises the right of a country to adopt appropriate measures to protect traditional knowledge, consistent with international obligations including the TRIPS Agreement (Article 10.3).

The parties are required to provide reproduction rights, and communication to the public rights, to copyright owners and phonogram producers that are consistent with the World Intellectual Property Organisation (WIPO) Copyright Treaty and WIPO Performances and Phonograms Treaty (Article 10.3). The parties shall also afford an opportunity for interested parties to oppose the application of a trademark and request cancellation of a registered trademark (Article 10.4).

4.9 Government procurement

The Trans-Pacific SEP establishes a government procurement market among the parties, for procurement by the entities listed in each party's schedule for contracts above SDR50,000 for most goods and services procurement and SDR5 million for construction services.[28]

Above these thresholds the parties have committed to follow general procedures for open tendering that will improve transparency. These procedures are consistent with New Zealand's government procurement guidelines. Subject to a few exceptions, a party will also grant treatment no less favourable to goods, services and suppliers of the other parties than that granted to its own goods, services and suppliers (Article 11.4).

New Zealand's schedule covers the 35 core public service departments listed in the First Schedule to the State Sector Act 1988, plus the New Zealand Defence Force and New Zealand Police. Procurement of public education, health, welfare, and research and development services is excluded. The chapter does not apply to procurement by local government.

Negotiations on Brunei Darussalam's commitments under this chapter are to be concluded within two years of entry into force of the Trans-Pacific SEP (Article 20.5). Pending conclusion of those negotiations, the chapter – and associated commitments of New Zealand, Chile and Singapore – will not apply in respect of Brunei Darussalam.

4.10 Trade in services

The Trans-Pacific SEP seeks to facilitate expansion of trade in services between New Zealand, Chile and Singapore (and eventually Brunei Darussalam). This is achieved through establishing provisions for transparency and progressive liberalisation. But the Trans-Pacific SEP recognises the right of the parties to

[28] At current exchange rates this equates to NZ$100,000 and NZ$10 million respectively.

regulate services and the role of governments in providing and funding public services. The chapter on services excludes services supplied in the exercise of government authority,[29] government procurement and financial services, and some air transportation services (Article 12.3).

Negotiations on Brunei Darussalam's services schedules are to be concluded within two years after entry into force of the Trans-Pacific SEP. Until it has completed these negotiations it will not benefit from the commitments that Chile, New Zealand and Singapore have made under the services chapter.

Subject to reservations or exceptions, the Trans-Pacific SEP establishes the general obligations of national treatment (Article 12.4) and market access (Article 12.6). Where applicable, these obligations entitle Singaporean and Chilean (and eventually Brunei Darussalam) service suppliers wishing to operate in New Zealand to the same market access and national treatment as New Zealand suppliers.

Subject to reservations or exceptions, under the Trans-Pacific SEP a country cannot require a service supplier of another country to establish a local presence (for example, a representative office) or be resident, as a condition for the supply of a service in its market (Article 12.7). Article 12.7 is entitled "local presence".

The Trans-Pacific SEP also provides for MFN treatment (Article 12.5). Where applicable, this means that Singaporean and Chilean (and eventually Brunei Darussalam) service suppliers would receive the benefits of additional liberalisation New Zealand may commit in future trade agreements with third countries.

Under the Trans-Pacific SEP each party enters a "negative list", which allows it to list reservations to the scope of its services obligations. Each party's schedule has two parts. The first part (Annex III of the Trans-Pacific SEP) sets out existing legislative measures that restrict the access of foreign service suppliers – for example, by imposing quotas that restrict market access and/or caveat national treatment. These reservations are subject to the so-called "ratchet" clause. This means that New Zealand is required to automatically extend the benefit of any future unilateral liberalisation of a measure listed in Annex III to the other parties. The liberalisation becomes the new level of commitment in the Trans-Pacific SEP and cannot be taken away from Chilean and Singaporean (and eventually Brunei Darussalam) service suppliers – even if the measure is repealed or made more restrictive in the future. Unless specifically reserved against, Annex III reservations are also subject to the MFN clause.

The second part of the schedule lists sectors that are exempted from the provisions relating to national treatment, MFN treatment, market access and "local presence" obligations. (These are listed in Annex IV to the Trans-Pacific SEP.) The "ratchet" clause does not apply to any of these reservations. In these areas each government retains the full right to regulate in a restrictive or discriminatory way, as it deems necessary. New Zealand's services reservations are detailed in Box 1 below.

There are provisions to ensure that domestic regulation is administered in a reasonable, objective and impartial manner, to avoid unnecessary TBT

[29] Services supplied in the exercise of governmental authority are defined as a service supplied neither on a commercial basis nor in competition with one or more service suppliers. Such services can be provided directly by central or local government or by NGOs to whom authority to deliver those particular services is delegated.

(Article 12.10), and to encourage recognition of professional qualifications and registration (Article 12.11).

BOX 1: NEW ZEALAND'S RESERVATIONS ON TRADE IN SERVICES

New Zealand's commitments were drawn up on the basis of the same 10 guiding principles that were used to guide the preparation in 2003 of New Zealand's initial offer in the WTO Doha Round services negotiations, and revised services offer that was tabled in June 2005.

Overall, New Zealand has made some new commitments, in the area of national treatment, in a number of service sectors that go beyond our current WTO obligations, including services relating to business tax planning, collection agencies, computer repairs, credit reporting, energy distribution and mining, speciality design, telephone answering, and some private sector health services provided by professional such as dentists, pharmacists, nurses and chiropractors. New Zealand's market access commitments are limited to our current WTO GATS obligations.

None of these new commitments goes beyond New Zealand's current regulatory environment or policy settings in any respect.

The schedule will benefit Chilean service suppliers (and eventually Brunei Darussalam) more than those from Singapore, who already enjoy most of these benefits under the existing NZSCEP.

Below is a summary of some of the reservations that New Zealand has taken. To recap, the Annex III list of reservations details existing legislation – or "non-conforming measures" – that restrict the access of Chilean or Singaporean service suppliers, and which New Zealand wishes to maintain in respect of commitments under the Trans-Pacific SEP. Each reservation describes the measures in detail, and the obligations of the Trans-Pacific SEP from which they are being exempted.

The Annex IV list of reservations contains service sectors to be exempted or "carved out" from the obligations of the trade agreement.

New Zealand's **Annex III** reservations include:

- the thresholds and categories that trigger scrutiny by New Zealand's overseas screening regime. These include certain categories of land regarded as sensitive or requiring specific approval, acquisition of any land worth more than NZ$10 million and commercial fishing quota or annual catch entitlement
- Telecom shareholding
- marketing and distribution services relating to kiwifruit under the Kiwifruit Industry Restructuring Act 1999 and dairy and beef farming under the Dairy Industry Restructuring Act 2001
- registration of patent attorneys, and Universal Postal Union (UPU) designation under the Postal Services Act 1998.

New Zealand's **Annex IV** reservations include:

- social services established for a public purpose, covering childcare, health, income security and insurance, public education, public housing, public training, public transport, public utilities, social security and insurance, and social welfare

- the provision of public law enforcement and correctional facilities
- water, including the allocation, collection and treatment and distribution of drinking water
- the sale of state-owned enterprises or assets
- the criteria used for assessing applications under the overseas investment screening regime
- existing bilateral or multilateral agreements (such as the Australia/New Zealand Closer Economic Relationship or CER) and any future negotiations relating to aviation, fisheries and maritime matters
- measures in respect of the foreshore, seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, Exclusive Economic Zone and issuance of maritime concessions in the continental shelf
- protected areas, including land and water, set up for heritage management purposes, public recreation and scenery protection, and species owned or protected under enactments by the Crown
- animal welfare, and the preservation of plant, animal and human life and health. This includes food safety, animal feeds, food standards, biosecurity, biodiversity and certification of plant or animal health status
- cultural heritage of national value, including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections of museums, galleries, libraries, archives and other heritage-collecting institutions; public archives; library and museum services; and preservation of historical or sacred sites or historical buildings
- fishing, and activities of foreign fishing vessels
- agricultural export marketing, cooperative dairy company and quota allocation schemes for rights to export agricultural products
- publicly funded legal services, firefighting services, research and development services carried out by state-funded tertiary institutions or Crown research institutes for public purposes, testing and analysis services, immigration advice, postal services, public broadcasting services, film and television productions, adoption services, hospital services, maternity and midwife services, gambling, betting and prostitution, maritime and port services
- use of educational terms and titles protected by statute
- nuclear energy.
- market access commitments limited to WTO GATS obligations.

4.11 Temporary entry

In order to facilitate business opportunities under the services chapter, each party has reaffirmed its commitments under the WTO GATS relating to the movement of business people. There is a commitment to review this chapter two years after entry into force of the Trans-Pacific SEP (Article 13.5). The purpose of the review is to consider broadening the range of business people covered by the scope of the temporary entry chapter. [30]

4.12 Transparency

There are obligations ensuring transparency of laws, regulations, procedures and administrative rulings (Article 14.2). Due process requirements are established for administrative proceedings and reviews or appeals (Articles 14.3 and 14.4). These transparency provisions are consistent with New Zealand's existing law and administrative practice.

4.13 Dispute settlement

The Trans-Pacific SEP includes a robust and transparent dispute settlement mechanism to resolve any disputes that arise regarding the interpretation or implementation of the Trans-Pacific SEP, with provision for the establishment of an arbitral tribunal should consultations fail to settle the dispute. Model rules of procedure for arbitral tribunals are provided in Annex 15.A.

4.14 Strategic partnership

The parties agree to establish a framework for cooperation as a means to expand and enhance the benefits of the Trans-Pacific SEP (Chapter 16). Particular focus will be given to economic, scientific, technological, educational and primary industry cooperation. Cooperative activities may be undertaken between two or more of the parties. An Implementing Arrangement to the Trans-Pacific SEP details initial areas of focus and activities that have been agreed by the parties on the basis of consultation with relevant agencies within each country.

4.15 Institutional provisions

The Trans-Pacific SEP establishes a Strategic Economic Partnership Commission to oversee the implementation and interpretation of the Trans-Pacific SEP. The Commission is to meet once a year (or at another time as mutually agreed), at either ministerial or senior official level (Article 17.2.1(b)). The Commission will review the economic relationship and partnership among the parties and any proposal to amend the Trans-Pacific SEP within the first two years after entry into force of the Trans-Pacific SEP and at least every three years thereafter.

4.16 General provisions

The Trans-Pacific SEP will not undermine New Zealand rights and obligations in the WTO (Article 18.2).

---

[30] While linked to the services chapter, it is useful to note that the "ratchet" clause and "MFN" clauses under the services chapter do not apply to the temporary entry chapter.

Consistent with New Zealand's commitments in the WTO and in the NZSCEP, the Government will be obligated to take "all necessary measures" to ensure observance of the Trans-Pacific SEP by local government (Article 18.4).[31]

New Zealand, Singapore and Brunei Darussalam will endeavour to consider recognition of Chilean spirits Pisco, Pajarete and Vino Asoleado as "distinctive products" of Chile, one year after entry into force of the Trans-Pacific SEP (Article 18.5).

4.17 General exceptions

Provided that such measures are not used for trade protectionist purposes, the Trans-Pacific SEP will not prevent New Zealand from taking measures necessary to protect human, animal or plant life or health, or public morals. This also applies to measures to prevent deceptive practices, protect national works, items or specific sites of historical or archaeological value, to provide support for creative arts of national value or to conserve exhaustible natural resources.

The Trans-Pacific SEP will also not prevent New Zealand from taking any actions it considers necessary to protect its "essential security interests", or to respond to a "serious balance of payments and external financial difficulty" (Articles 19.1 to 19.3).

Taxation measures are excluded from the Trans-Pacific SEP, and any bilateral agreement on the avoidance of double taxation, such as New Zealand has with Chile, takes precedence (Article 19.4).

Provided that such measures are not used for trade protectionist purposes, there is also a general exception to ensure that the Trans-Pacific SEP will not prevent New Zealand from taking measures it deems necessary to fulfil its obligations to Māori, including under the Treaty of Waitangi.

4.18 Final provisions

Negotiations for a chapter on investment and financial services, with associated country-specific commitments, are scheduled to commence within two years after entry into force of the Trans-Pacific SEP (Articles 20.1 and 20.2).

Brunei Darussalam will join the Trans-Pacific SEP as a founding member, initially under provisional application (Article 20.5). Conditions under which this will occur are set out in the final provisions chapter and an associated exchange of letters. These conditions include longer time frames for Brunei Darussalam to prepare its list of reservations for the trade in services chapter and to implement the government procurement chapter, as well as flexibility in respect of obligations on competition policy.

An accession clause provides for any APEC member economy or other state to join the Trans-Pacific SEP on terms to be agreed between the four parties (Article 20.6).

A party may withdraw from the Trans-Pacific SEP six months after providing written notice to the other parties (Article 20.8).

[31] As noted in section 4.9, the government procurement chapter will not apply to local government.

4.19 Notification to WTO

Upon signature, New Zealand, Chile and Singapore will need to notify the Trans-Pacific SEP to the WTO as a free trade area within the meaning of GATT Article XXIV (goods) and GATS Article V (services).

4.20 Labour Cooperation MOU among the parties to the Trans-Pacific SEP

Negotiations have been concluded on a Labour Cooperation MOU among the parties to the Trans-Pacific SEP. The binding MOU aims to improve understanding and encourage dialogue on labour matters promote sound labour policies and practices and the capacity and capabilities of the partners. A further key objective is to promote better understanding and observance of the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work at its Follow-up (1998).

The parties agree not to use labour laws or practices for trade protectionist purposes, nor to encourage trade or investment through persistently failing to enforce or administer their labour laws and regulations. Each party will ensure that administration and enforcement of labour laws and regulations are fair, equitable and transparent.

There are mechanisms for undertaking cooperative activities and for resolving any issues that may arise through the implementation of the MOU. If an issue arises the parties will seek to resolve it through dialogue, consultation and cooperation. There is scope to seek a special meeting at ministerial level. Each party may invite its non-government sector or relevant organisations to take part in cooperative activities or consult with its public over the operation of the MOU.

In a ministerial side letter to the MOU, it is specified that if a party withdraws from the MOU then it will also withdraw from the Trans-Pacific SEP and viceversa.

4.21 Environment Cooperation Agreement among the parties to the Trans-Pacific SEP

Negotiations have been concluded on an Environment Cooperation Agreement among the parties to the Trans-Pacific SEP. The binding Environment Cooperation Agreement aims to encourage sound environmental practices and improve the capacity of each country to address environmental matters through cooperation and dialogue.

The parties agree that it is inappropriate to set or use their environmental laws, regulations, policies and practices for trade protectionist purposes or to relax or fail to enforce their environmental laws and regulations, to encourage trade and investment. The parties will also promote public awareness of their environmental laws, regulations, policies and practices domestically.

Cooperative activities will play an important role in the operation of the Environment Cooperation Agreement, but there are also mechanisms for resolving issues that may arise. A party may request a special meeting of the interested parties or refer the issue to a special meeting of the Strategic Economic Partnership Commission. The Commission may include Ministers. The special meeting shall produce a report.

Each party may consult with the public over the operation of the Environment Cooperation Agreement and may invite its non-government sector or relevant organisations to take part in cooperative activities. There is also scope to potentially invite relevant experts to provide information to meetings of the parties.

In a ministerial side letter to the Environment Cooperation Agreement, it is specified that if a party withdraws from the Environment Cooperation Agreement then it will also withdraw from the Trans-Pacific SEP, and viceversa.

5 ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL EFFECTS

5.1 Economic effects

5.1.1 INTRODUCTION

The Trans-Pacific SEP is likely to have a small but positive impact on the New Zealand economy. The economic impacts of the Trans-Pacific SEP are assessed in sections 5.1.3 and 5.1.4 under a framework outlined in section 5.1.2 below that was first developed for consideration of the NZTCEP.

5.1.2 RELATIONSHIP BETWEEN TRADE AND MACROECONOMIC PERFORMANCE

Trade is an important factor in driving our national economic performance. Changes in trade can impact on the economy – for example, by affecting levels of prices, income or employment. Trade also affects macroeconomic performance in terms of the dynamics of the economy's growth, stability and distribution. Extensive economic research has demonstrated that trade and growth are positively related, and an economy's openness to trade has been linked to the explanation of differences in the economic growth rate of countries.

5.1.2.1 STATIC EFFECTS

The direct impact of trade liberalisation on economic growth may be described as the "static" effects. These include the gains derived from:

- lowered tariff and non-tariff barriers in export markets generating higher export returns and volumes
- domestic tariff liberalisation generating efficiency gains from a better allocation of resources ("allocative efficiency"), cheaper consumption and competitive effects.

Where improved market access under trade agreements enables exporters to achieve net increases in the value of their exports, this may translate directly into higher Gross Domestic Product (GDP), job growth and income. Moreover, the opportunity for local companies to increase market size through greater exports can increase productivity and efficiency through economies of scale. This may be achieved, for example, by the introduction of new processing technologies to service the larger market.

Output and productivity levels rise when resources shift to the more efficient sectors of the economy as tariffs reduce. In a previously tariff-protected sector, imports will be cheaper and can be expected to expand their share of the market. Domestically focused firms with higher cost structures shielded by tariff protection will respond by increasing their efficiency, reducing output sufficiently to reduce their costs or shifting resources into more competitive production. Over time, these processes will lead to greater specialisation and increase comparative advantage. These effects are primarily driven through simple tariff removal, suggesting that countries that liberalise the most are likely over time to benefit the most. At the same time there are likely to be phases of adjustment that affect sectors in different ways.

The extent to which domestic prices change as a consequence of FTAs depends on the size of the distortions being removed. It is also dependent on the degree of competition already prevailing in the domestic market. In general, lower tariffs will result in lower domestic prices. Producers gain access to intermediate goods, thus making their finished products more competitive in the domestic and export markets.

When an economy liberalises under preferential trade agreements, the gains may be reduced or even reversed due to the phenomenon of trade diversion. This describes situations where imports are sourced from FTA partners due to the margin of preference they enjoy over more efficient producers. Where the FTA partners are already internationally competitive suppliers, however, the risk of trade diversion and thus welfare reduction is lower.

The quantitative impact on New Zealand exporters to Chile of changes to the Chilean tariff regime and the impact on New Zealand domestic sectors of changes to the New Zealand tariff regime are considered in section 5.1.3.2.

5.1.2.2 “SECOND-ORDER” EFFECTS

An increase in openness to trade helps spur productivity increases and growth within a country through more efficient allocation of resources, the stimulation of innovation and the transfer of knowledge and technology between countries. Productivity increases derived from the more efficient allocation of resources following tariff removal (“allocative efficiency gains”) are considered to be static gains and were described in section 5.1.2.1.

The other source of productivity growth flowing from trade agreements is ‘dynamic productivity gains’. These effects are harder to quantify. They accumulate over time and may be attributable to the downstream effects of trade agreements, rather than the immediate impacts driven by tariff removal and improvements in market access alone. They are known as “second-order” effects. How they are generated is outlined in the paragraph below.

Trade and investment may be stimulated through both the market access liberalisation provisions of FTAs and improvements in the regulatory framework brought about by the FTAs which increase transparency, fairness and predictability for businesses. As a result of the facilitation of increased trade and investment flows, companies are more exposed to competition and international benchmarking and develop stronger links with international business partners. Such exposure helps maintain New Zealand companies at the leading edge in terms of best practice across a range of issues (innovation, technology, knowledge, research and product/service development, etc). Spillovers from this process into the domestic economy can include the generation of ongoing productivity improvements (dynamic productivity gains) across the wider economy.

The “second-order” effects relating to the regulatory frameworks for bilateral trading relationships under FTAs are of particular relevance. These gains in the case of the Trans-Pacific SEP are assessed in section 5.1.4.

5.1.2.3 MEASURING THE MACROECONOMIC IMPACT OF FTAS

FTAs impact on the macroeconomic indicators that measure the growth and trade flows of our economy.

Economic theory suggests that the most relevant measure of the quantifiable impact of FTAs on the New Zealand economy as a whole is through the change in “welfare” (that is, the value to New Zealand consumers of a FTA in terms of enhanced income). The preferred welfare indicator is “real consumption” – the aggregated quantity of goods and services that the household can consume given current and future income flows. Changes in real GDP reflect only changes in the overall level of economic activity and not changes in net national income or welfare.

In broad terms, the magnitude of the macroeconomic effect of FTAs will be determined by the following factors:

- the contribution of exports and imports to the economy
- the size of the barriers to trade being addressed in the FTA
- the relative significance of bilateral trade between the two countries
- the extent of dynamic productivity improvement.

5.1.3 STATIC EFFECTS ON THE NEW ZEALAND ECONOMY OF THE TRANS-PACIFIC SEP

When applied to the Trans-Pacific SEP, the framework for assessing the economic impacts suggests that the Trans-Pacific SEP will make a small but positive contribution to New Zealand’s economic growth prospects over time.

5.1.3.1 MAGNITUDE OF EFFECTS

The section below applies the first three factors outlined in section 5.1.2 to the Trans-Pacific SEP and explains why the overall impact of the Trans-Pacific SEP on the New Zealand economy is expected to be limited in terms of magnitude.

Contribution of trade to the New Zealand economy

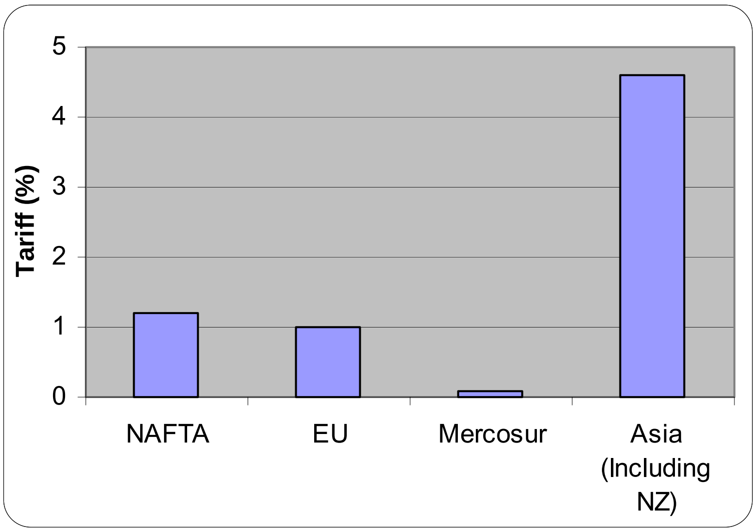
Overseas trade makes a fundamental contribution to the New Zealand economy. Exports of goods and services account for 32 percent of GDP, while imports of goods and services account for 33 percent of GDP.

Size of barriers to trade being addressed in the Trans-Pacific SEP

Chile

As Chile maintains a relatively low, uniform tariff regime of six percent on virtually all products,[32] the tariff barriers to New Zealand exports are not considered high. However, there are two factors to take into account. First, Chile's tariffs apply to all imports from New Zealand (that is, no New Zealand exports enter Chile tariff-free). Second, because of Chile's extensive network of trade agreements with other countries, most countries competing with New Zealand exporters pay negligible or zero import duty into Chile. The average applied tariffs on imports into Chile by region on a trade-weighted basis are set out in Figure 1.

FIGURE 1: CHILE'S AVERAGE APPLIED TARIFFS



Data Source: Santiago Chamber of Commerce

Singapore

As Singapore currently provides duty-free access for New Zealand exports under the existing SNZCEP, there are no barriers to trade in goods to be addressed.

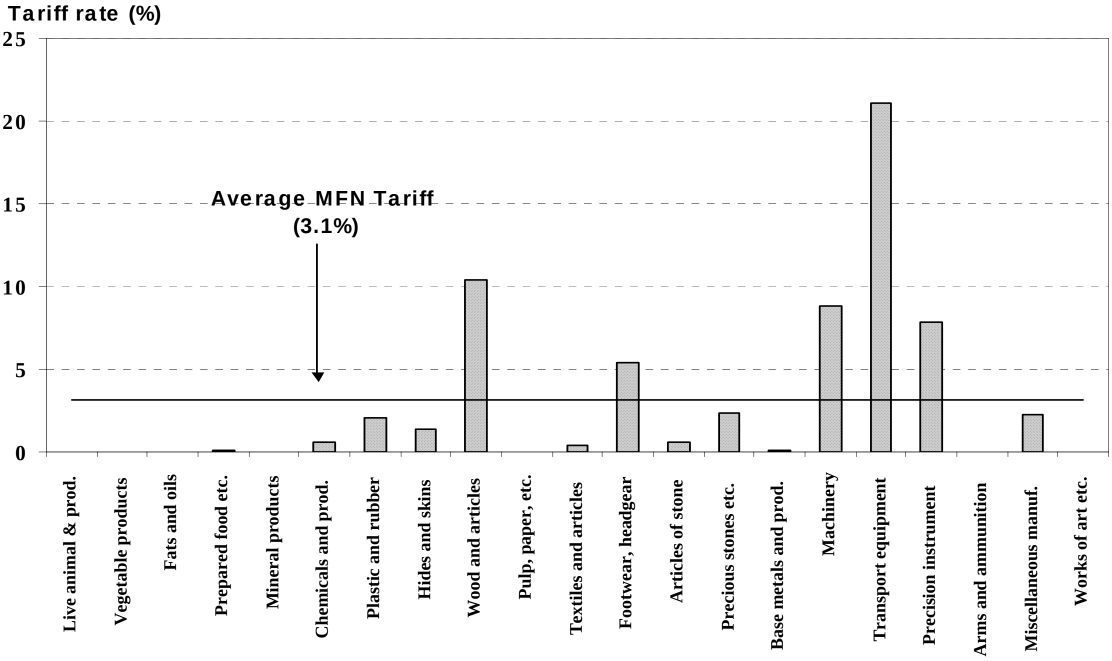
Brunei Darussalam

Brunei Darussalam's tariffs are generally low. The WTO Secretariat report of 2000 puts the average ad valorem tariff rate at 3.1 percent. For a number of product lines, applied tariff rates are at zero, but for other products (notably wood products,

[32] Chile applies what is called a "price band mechanism" on imports of domestically sensitive products, wheat, vegetable oil, sugar and sugar products. The price band mechanism provides for Chile to operate a variable tariff rate that fluctuates between its WTO bound rates and its six percent applied MFN rate, depending on world and Chilean domestic price differentials. There are also a limited number of other products (mostly meat) on which Chile currently applies an MFN tariff rate of 25 percent.

machinery and auto parts) tariffs range up to 20 percent. Brunei Darussalam also applies some specific tariff rates to products such as tea, coffee, alcohol and tobacco.

FIGURE 2: SIMPLE AVERAGE APPLIED TARIFF RATES IN BRUNEI DARUSSALAM (2002)



Note: Calculations exclude specific duties (87 tariff lines).

Data Source : WTO Secretariat estimates, based on data provided by the authorities of Brunei

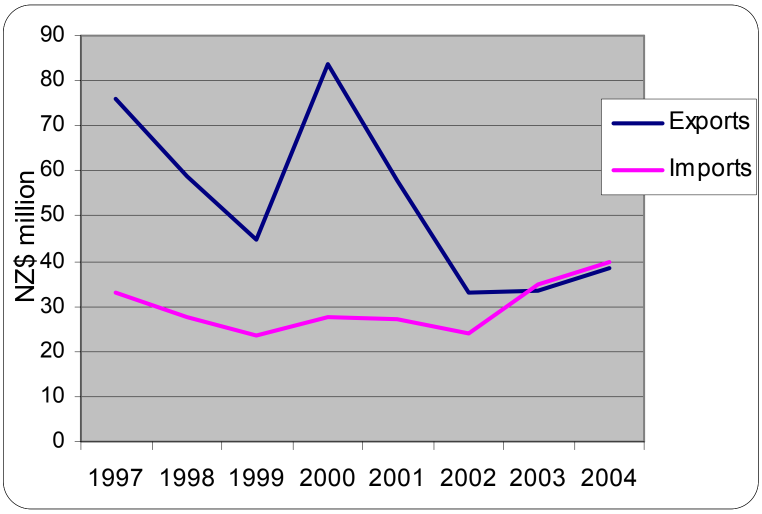
Relative significance of bilateral trade with Trans-Pacific SEP partners

Chile, Singapore and Brunei Darussalam are relatively small but dynamic economies that depend significantly on external trade. As a proportion of New Zealand's trade in 2004 they rank as follows:

- Chile – 51st among New Zealand's export destinations, though 36th for non-agricultural exports, and 47th among New Zealand's sources of imports.
- Singapore – 20th among New Zealand's export destinations, and 9th for imports.
- Brunei Darussalam – 115th among New Zealand's export destinations, and 20th for imports.

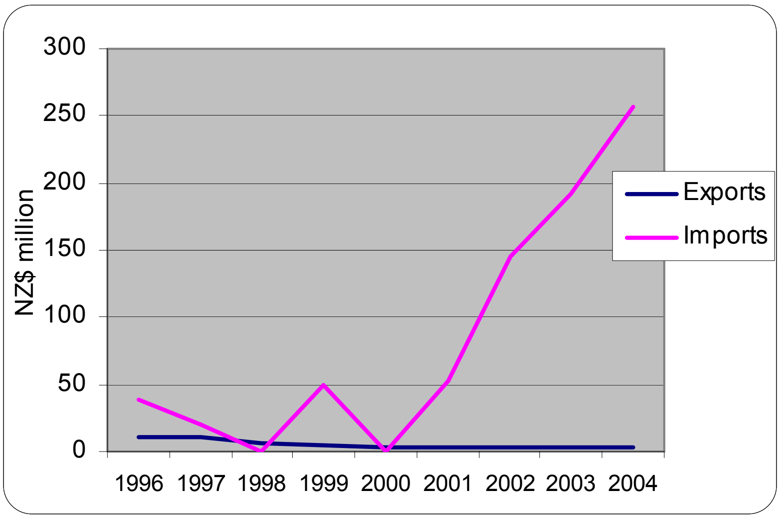
The pattern of bilateral trade with New Zealand since 1996 is set out in Figure 3 and Figure 4 for Chile and Brunei Darussalam respectively.

FIGURE 3: NEW ZEALAND'S BILATERAL TRADE WITH CHILE



Data Source: World Trade Atlas

FIGURE 4: NEW ZEALAND'S BILATERAL TRADE WITH BRUNEI DARUSSALAM



Data Source: World Trade Atlas

Detailed data on the composition of bilateral trade is set out in the tables below.

TABLE 1: TOP TEN NEW ZEALAND EXPORTS TO CHILE

Product	Export value (NZ$ million 2004)	% of total exports
Coal	9.5	26
Machinery	4.4	12
Chemical products	4.1	11
Dairy (HS Chapter 4)	3.5	10
Seeds	2.7	7
Miscellaneous food items	2.2	6
Electrical machinery	1.8	5
Pharmaceutical products	1.2	3
Albumins	1.0	3
Lactose	0.8	2
Subtotal top ten exports	**31.2**	**85**
Total exports	**36.6**	**100**

Data Source: World Trade Atlas

TABLE 2: TOP TEN NEW ZEALAND IMPORTS FROM CHILE

Product	Import value (NZ$ million 2004)	% of total imports
Fruit and nuts	10.1	27
Other fish products	8.8	23
Copper	3.0	8
Beverages	2.8	7
Wood	2.2	6
Fish and seafood	2.2	6
Preserved food	1.7	4
Prepared meat and fish	1.4	4
Inorganic chemicals	1.1	3
Plastics	0.7	2
Subtotal top ten imports	**34.0**	**90**
Total imports	**37.9**	**100**

Data Source: World Trade Atlas

TABLE 3: TOP NEW ZEALAND EXPORTS TO BRUNEI DARUSSALAM

Product	Export value (NZ$ million 2004)	% of total exports
Dairy	1.72	48.34
Iron and steel products	0.62	17.46
Vegetables	0.33	9.17
Machinery	0.19	5.37
Vehicles	0.17	4.84
Prepared meat and fish	0.10	2.85
Aluminium	0.09	2.55
Medical instruments	0.05	1.4
Electrical machinery	0.05	1.31
Fruit and nuts	0.04	1.01
Subtotal top ten exports	**3.36**	**94.3**
Total exports	**3.55**	**100**

Data Source: World Trade Atlas

TABLE 4: TOP NEW ZEALAND IMPORTS FROM BRUNEI DARUSSALAM

Product	Import value (NZ$ million 2004)	% of total imports
Crude oil	256.10	99.96
Knit apparel	0.04	0.02
Machinery	0.03	0.01
Total imports	**256.17**	**100**

Data Source: World Trade Atlas

5.1.3.2 SPECIFIC MARKET ACCESS OUTCOMES

The Trans-Pacific SEP will result in the removal of tariffs, and reduction of other impediments to bilateral trade with Chile and Brunei Darussalam over time, matching the duty-free access that already exists between New Zealand and Singapore. Because the duty-free status of New Zealand Singapore bilateral trade is maintained, this section focuses on market access outcomes in respect of Chile and Brunei Darussalam.

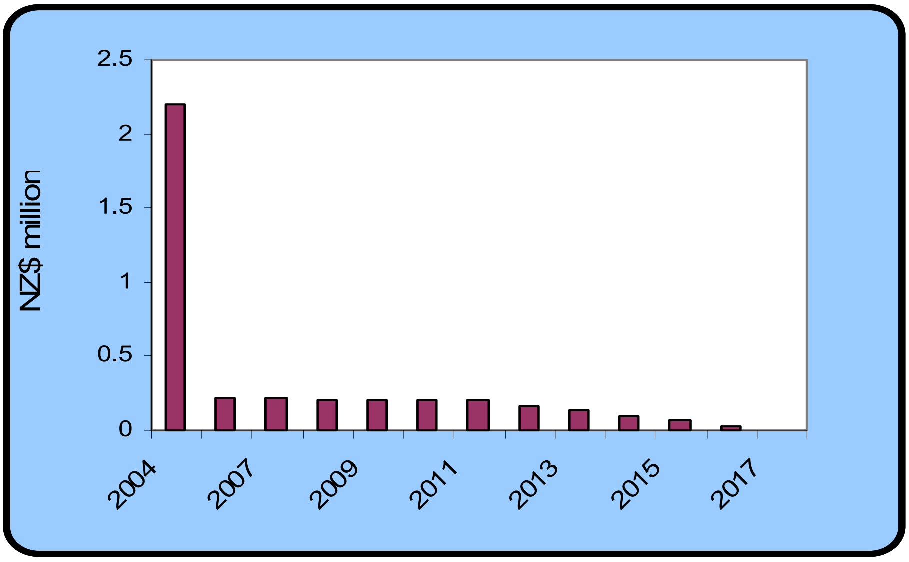
Tariff phase-out arrangements for New Zealand exports to Chile

Assuming that the Trans-Pacific SEP enters into force as scheduled, tariff elimination between Chile and New Zealand will begin on 1 January 2006. On that date, Chile will eliminate tariffs on 89 percent of current imports from New Zealand. Remaining tariffs will be gradually phased out by end dates of 2008 (90.3 percent), 2011 (90.6 percent), 2015 (90.6 percent) and 2017 (100 percent).

Chile will apply a special safeguard on a number of dairy products that are most sensitive for Chilean producers. The safeguard will apply only during the period of actual tariff liberalisation (1 January 2012 to 1 January 2017), and cannot be used after that date.

New Zealand exports to Chile in the year to June 2004 incurred duty payments estimated at NZ$2.19 million. Figure 5 below shows the estimated reduction in duty payments on current exports to Chile over the implementation period of the Trans-Pacific SEP. Increased exports in response to tariff liberalisation will generate additional duty savings on a cumulative basis.

FIGURE 5: REDUCING DUTIES ON TOTAL NEW ZEALAND EXPORTS TO CHILE



Data Source: World Trade Atlas. Projections based on exports in the year to June 2004.

Outcomes for selected export sectors

The market access outcomes of the Trans-Pacific SEP for specific New Zealand export sectors, selected by current or potential importance in terms of trade with Chile, are as follows.

Coal

Coal represents one quarter of New Zealand’s exports to Chile. Immediate tariff elimination will save import duties of almost NZ$600,000 a year. Furthermore, as the removal of the six percent tariff will make New Zealand more competitive in relation to other suppliers, the industry believes it could significantly increase exports following tariff elimination.

Machinery

Current New Zealand exporters of machinery and parts for forestry, agriculture and horticulture will benefit from immediate duty-free access. In the year to June 2004 total New Zealand exports of machinery and electrical machinery to Chile were worth over NZ$6 million, meaning savings to exporters of around NZ$370,000 a year. Examples are as follows.

- Exporters of timber drying kilns noted that their main competitors in the Chilean market already enjoyed a zero tariff through the Chile EU FTA, and that tariff elimination for New Zealand should help to make them more competitive.

- A producer of water boilers and fired energy plants for the agricultural and forestry sectors said that it had missed out on bids in Chile because the six percent tariff made it more expensive than competitors.

Under the TBT chapter of the Trans-Pacific SEP, Chile has agreed to work with New Zealand on an electrical goods mutual recognition agreement, which would help New Zealand exporters of electric fence systems.

Chemicals

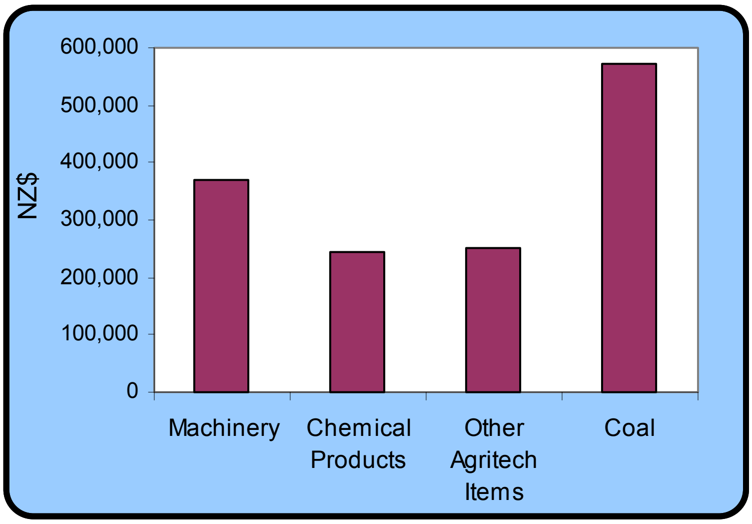
New Zealand's growing exports of chemical products to Chile (worth around NZ$4 million in 2004) will benefit from immediate elimination of import duty, representing a saving of around NZ$245,000 a year.

Agricultural technology

New Zealand exports of inputs into agricultural production, such as seeds, veterinary vaccines and animal genetic material, (worth around NZ$4.2 million in 2004) will benefit from immediate tariff elimination. This will produce savings in duty of over NZ$250,000 a year (assuming exports remain at current levels). It will also meet New Zealand exporters' concerns about being at a duty disadvantage in relation to United States suppliers of animal genetic material in particular.

Some exporters of pasture seeds have stated that tariff elimination will have a positive impact on their growing business with Chile.

FIGURE 6: SAVINGS FROM THE IMMEDIATE ELIMINATION OF CHILEAN TARIFFS ON SELECTED PRODUCTS



Data Source: World Trade Atlas. Projections based on exports in the year to June 2004.

Dairy

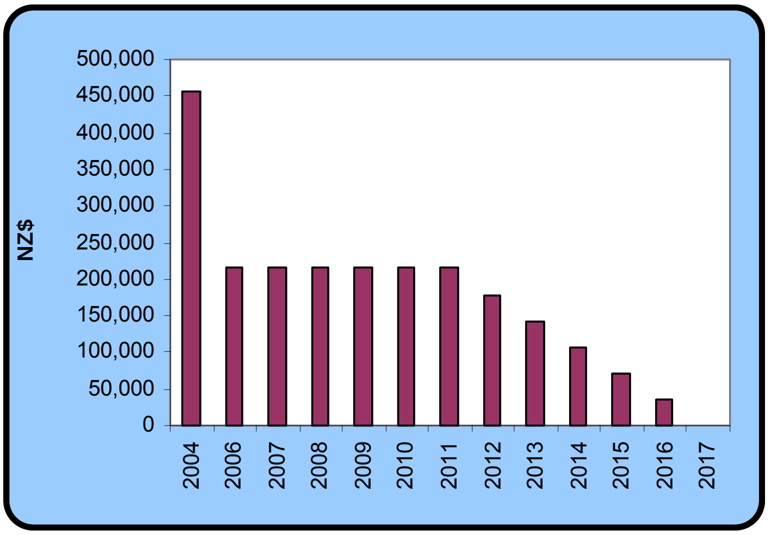
In the year to June 2004, New Zealand's total exports of dairy products (including dairy products outside of HS Chapter 4) to Chile were worth NZ$7.6 million, around 20 percent of total exports.

Dairy has traditionally been New Zealand's principal export to Chile, but this has steadily declined as Chilean milk production has increased to self-sufficiency. Indeed, Chile has become a net exporter of dairy products in the past two years. Despite this, dairy was the most sensitive sector for Chile in the negotiation with New Zealand. For this reason, while insisting that the Trans-Pacific SEP include comprehensive coverage of all products including dairy, New Zealand accepted Chile's request for longer phase-outs for tariffs on some dairy products and special safeguard provisions during the period of tariff removal. The key benefits for New Zealand covered by the Trans-Pacific SEP are:

- duty-free access to Chile for all dairy imports from New Zealand by 2017
- the immediate elimination of the six percent tariff on casein, the second biggest New Zealand dairy export to Chile after butter
- the immediate elimination of the six percent tariff on lactose products.

In total, the Trans-Pacific SEP provides for immediate tariff elimination on more than half of New Zealand's actual dairy exports to Chile.

FIGURE 7: REDUCING DUTIES ON DAIRY EXPORTS TO CHILE



Data Source: World Trade Atlas. Projections based on exports in the year to June 2004.

Tariff phase-out arrangements for New Zealand exports to Brunei Darussalam

Assuming that the Trans-Pacific SEP enters into force as scheduled, tariff elimination between Brunei Darussalam and New Zealand will begin on 1 January 2006. On that date, Brunei Darussalam will bind at zero all the tariff lines on which it currently applies a zero tariff rate. This will apply to the tariff lines on 92 percent of New Zealand's current exports to Brunei Darussalam. This is a gain for New Zealand. While Brunei Darussalam currently applies a zero MFN rate on 92 percent of its tariff schedule, without the Trans-Pacific SEP it has flexibility to raise these rates to its WTO bindings, which are considerably higher.

Brunei Darussalam's remaining tariffs will be eliminated in three stages: 2010, 2012 and 2015. Products in Brunei Darussalam's longest phase-out category include motor vehicles, articles of rubber and some machinery, which are of some current trade interest, but not significant.

In 2004, New Zealand exports to Brunei Darussalam incurred NZ$52,000 in duties. Some of the tariff rates Brunei Darussalam currently applies in sectors of general export interest to New Zealand are quite high – see figure 2, including:

- a 20 percent tariff rate on forestry products which will be eliminated by 2010
- some machinery and auto parts, where tariffs will be eliminated by 2015 at the latest.

As set out in a side letter to the Trans-Pacific SEP, a short list of products (such as alcohol, tobacco and firearms) are excluded from Brunei Darussalam's tariff elimination schedule for the time being for moral, human health and security reasons. There will be further discussions regarding the way in which these products will be accommodated in the context of the Trans-Pacific SEP. These discussions will take into account the parties objectives of negotiating a comprehensive FTA. Pending conclusion of these discussions, Brunei Darussalam will not increase any tariffs on these products but may maintain any existing tariffs as specified in the attachment to the side letter.

5.1.3.3 POTENTIAL IMPACTS ON NEW ZEALAND OF TARIFF LIBERALISATION

Chile

New Zealand currently provides duty-free access for 68 percent of imports from Chile. On implementation of the Trans-Pacific SEP in January 2006, New Zealand will eliminate tariffs on a further 28.5 percent; thus 96.5 percent of imports from Chile will be duty-free from January 2006. The remaining tariffs will become duty-free by 2008 (96.6 percent), 2010 (98.1 percent) and 2015 (100 percent). This phase-out timetable is similar to the outcome of the NZTCEP.

In 2004, imports from Chile incurred just over NZ$300,000 in duties. A few sectors of the New Zealand economy will therefore face modest increased exposure to imports from Chile following implementation of the Trans-Pacific SEP. Despite the difference in cost structures between New Zealand and Chile, the extent of this increased competition will be limited by the fact that 68 percent of current imports from Chile already enter duty-free, and that Chile is not a significant exporter in New Zealand's more sensitive sectors. Consultation with the private sector revealed that there is very little domestic sensitivity about imports from Chile.

The main imports from Chile which currently attract duty are shown below.

TABLE 5: MAIN IMPORTS INTO NEW ZEALAND FROM CHILE THAT FACE TARIFF DUTIES

Product	Imports from Chile (NZ$ 2004)	Duty paid (NZ$ 2004)	Current duty rate (%)
Wine	2,462,606	114,793	4.5–5.5
Plywood	1,257,011	61,901	5–7
Fruit jams and preserves	1,316,087	73,552	6.5–7

Data Source: World Trade Atlas and New Zealand Customs Service

Traditionally the most sensitive sectors to tariff reductions in New Zealand have been TCFC. Independent modelling work done in 2002 to inform the tariff review process confirmed that the most significant effects of unilateral tariff liberalisation in terms of employment and output are likely to be felt in New Zealand's clothing and footwear industries.[33] At the same time, lowered protection in the TCFC sector is expected to improve economy-wide efficiency, expand exports to some degree and provide benefits to consumers through lower prices.

[33] Source: Review of Import Tariffs Beyond 2005 (Infometrics Limited), commissioned by the Ministry of Economic Development (December 2002).

In 2004, imports of TCFC items from Chile totalled $238,000, which accounted for 0.01 percent of total TCFC imports into New Zealand. In view of the low volume of TCFC imports from Chile, the New Zealand private sector considers that the gradual phasing out of tariffs in respect of Chile will not have a significant effect on our domestic industry.

For imports of footwear, the Trans-Pacific SEP contains a two-tier ROO requirement. These are the CTC and RVC rules which are consistent with input received from domestic industries.

Representatives in the horticulture industry indicated that they were not concerned with enhanced Chilean access to the New Zealand market provided appropriate SPS requirements were met.

Forestry industry concerns about Chile's ability to dump wood products in the New Zealand market are covered by retention in the Trans-Pacific SEP of anti-dumping provisions.

Control over New Zealand's fishing quotas is maintained through relevant reservations in New Zealand's services schedule to the Trans-Pacific SEP.

Brunei Darussalam

The same tariff elimination schedule that New Zealand has offered to Chile will also apply to Brunei Darussalam.

New Zealand currently provides duty-free access for 99 percent of imports from Brunei Darussalam. This is essentially due to one product line, oil, which represents 99 percent of imports from Brunei Darussalam and enters tariff-free. In 2004, imports from Brunei Darussalam incurred NZ$1,800 in duties.

No concerns were raised during consultations about the effect of tariff liberalisation on imports from Brunei Darussalam. In light of the above, there is not expected to be an impact on the New Zealand economy in this area arising from the Trans-Pacific SEP.

5.1.3.4 POTENTIAL IMPACTS ON THE NEW ZEALAND ECONOMY OF THE SERVICES OUTCOME

While the export of services is an increasingly important component of the New Zealand economy, New Zealand currently lags behind other developed countries in the percentage that services exports make up of total exports. A key focus of policy over the coming years will be on encouraging services exports.

It is difficult to measure the specific economic effect of the services negotiations due to the difficulty in collecting sufficiently disaggregated data on a sectoral basis upon which to base modelling.

Patterns in the growth of certain export services sectors and the range of new commitments made, especially by Chile, indicate that economic gains are possible for New Zealand as a result of the Trans-Pacific SEP. Education is a case in point. This is a key export services sector for New Zealand, worth over $1 billion in global exports annually. In 2001 Chilean students studying in New Zealand contributed $640,000 to that figure. But far bigger gains are now possible as the Trans-Pacific

SEP allows New Zealanders to provide second-language, business and industrial training services in Chile on a "national treatment" basis.

There is also scope in the Trans-Pacific SEP for mutual recognition of professional, secondary and tertiary qualifications – another element that could assist professional services suppliers in both countries and encourage increased education linkages. Chile is a key focus for the New Zealand education export industry interested in taking advantage of the Chilean Government's investment in "in-country" English-language training as part of a wider bilingual education initiative. Following the announcement of the conclusion of negotiations, Education New Zealand released a positive statement stating that the Trans-Pacific SEP would "give New Zealand's institutions involved in the provision of English language (universities and private English-language schools) a real opportunity to enter the Chilean market".

The similarities shared by the New Zealand and Chilean economies offer scope for increased technology transfers in areas such as research and development, agriculture, forestry and mining, where Chile has made new commitments. Services exporters to Singapore will also be able to take advantage of the further "national treatment" commitments made by Singapore building on the existing NZSCEP. Feedback from industry already indicates there is optimism about the available opportunities. The Wellington Chamber of Commerce also welcomed the potential gains from the services negotiations.

While Brunei Darussalam is currently not a major market, it is a wealthy one and increasingly outward-looking. The future services negotiations with Brunei Darussalam will provide the prospect to learn more about the opportunities in this market.

Under the "negative list" approach to the services commitments under the Trans-Pacific SEP New Zealand will also potentially gain from future unilateral liberalisation Chile and Singapore (and eventually Brunei Darussalam) make to restrictions listed in Annex III to the Trans-Pacific SEP. This provision also cuts the other way, but as a comparatively more open economy New Zealand is likely to benefit from this provision.

The potential domestic economic impacts from the services commitments that New Zealand has made are expected to be very small.[34] While some of the "national treatment" commitments under the Trans-Pacific SEP go beyond New Zealand's current WTO commitments, they are consistent with our current regulatory settings and will not require any regulatory changes. The sectors that expressed sensitivity to competition from foreign suppliers during the negotiations are generally protected through reservations in the Trans-Pacific SEP.

5.1.3.5 CONCLUSIONS REGARDING STATIC GAINS TO THE NEW ZEALAND ECONOMY

Based on the above assessment, particularly the relatively low existing trade barriers and the small role played by Chile and Brunei Darussalam in New Zealand's external trade, it is possible to conclude that the scale of static gains to the New Zealand

[34] The Council of Trade Unions noted concerns about the "negative list" approach to services following the announcement of the conclusion of negotiations on the basis that "all our services trade is covered unless it is specifically excluded".

economy as a whole from reciprocal market access liberalisation under the Trans-Pacific SEP will not be significant. Any expansion of trade opportunities would be from a relatively low base level, so that any impact in the short to medium term on overall employment, production or prices in the New Zealand economy will be small.

Nevertheless, there are expected to be benefits to New Zealand exporters who currently trade with Chile or who may be encouraged by the Trans-Pacific SEP to look at the Chilean market. The benefits could be in terms of either increased trade volumes (both current and new export products) or increased returns from current exports, or a combination of the two. The Trans-Pacific SEP will also help to establish and maintain a level playing field for those New Zealand exporters who currently compete with suppliers of other countries that enjoy preferential access through FTAs with Chile.

These benefits are likely to vary from sector to sector, and among individual companies, depending on the significance to the individual exporter of removal of relatively low tariffs. The sectors with the greatest potential to benefit are likely to be coal, suppliers of inputs into agricultural production and machinery exporters.

Overall, the Trans-Pacific SEP is also expected to make a net positive contribution to the New Zealand economy through encouraging exports of services to Chile, Singapore and eventually Brunei Darussalam.

Government agencies are developing a whole-of-government strategy together with private sector stakeholders to ensure that when the Trans-Pacific SEP enters into force New Zealand derives as much benefit as possible from it.

5.1.4 "SECOND-ORDER" EFFECTS ON NEW ZEALAND OF THE TRANS-PACIFIC SEP

As outlined in section 5.1.2.2, increased trade and services flows facilitated by regulatory improvements under trade agreements can help generate wider dynamic productivity gains throughout the national economy. This section identifies those aspects of the Trans-Pacific SEP which might produce "second-order" benefits for the New Zealand economy. These relate to the provisions outlined in sections 3 and 4 and in particular include: customs procedures, TBT, SPS measures, government procurement, IPR, competition policy, and consultation and dispute settlement procedures. The primary provisions that will improve the regulatory framework governing trade with Brunei Darussalam, Chile and Singapore include:

- transparency requirements (these cover general laws and policies affecting trade and investment (Chapter 14) as well as specific areas such as Customs procedures and practices (Article 5.4.2), government procurement (Article 11.8), technical regulations (Article 8.10), and the Labour Cooperation MOU and Environment Cooperation Agreement

- technical cooperative mechanisms for minimising the impact of regulations on trade and enhancing understanding of each other's regimes (for example, in respect of customs procedures (Articles 5.4–5.5), SPS measures (Article 7.14) and TBT (Article 8.11)

- mechanisms (ranging from consultations to full bilateral dispute settlement mechanisms), if necessary, to resolve concerns about SPS measures (Article 7.13) or standards and conformance measures (Article 8.12)

- mechanisms to recognise the equivalence of each party's SPS measures and disease status to ensure that trade continues if diseases occur (Article 7.7)

- reduced transaction costs (including through harmonisation and recognition of the equivalence of each party's technical regulations and conformity assessment results (Article 8.8), encouraging the recognition of professional qualifications (Annex 12.B), establishment of a single electronic portal in Chile (and eventually Brunei Darussalam) to access government procurement contracts (Article 11.21) and promotion of paperless trading under the customs chapter (Article 5.10)

- promotion of greater certainty and predictability (for example, advance rulings on IPR enforcement (Article 10.7.1), notification of changes in SPS health status or new SPS measures (Article 7.10), advice about the initiation of safeguard investigations (Article 6.1.3) and advice on the application of competition laws (Article 9.4))

- cooperation provisions and opportunities for policy dialogue (including in relation to competition policy (Article 9.3), SPS measures (Article 7.14) and intellectual property rights (Article 10.7))

- exchange of information on measures that affect the temporary entry of business people which will encourage the movement of business people (Article 13.4)

- focus on strategic cooperation to work together in areas that would be mutually beneficial for the parties, including cooperating to improve access in third markets (Chapter 16)

- built-in mechanisms for monitoring and reviewing the operation of the Trans-Pacific SEP (notably through Joint Commission meetings and three-yearly reviews (Chapter 17)).

Collectively, these provisions should, over time, significantly enhance the predictability and transparency of the New Zealand trading relationship with Chile, Singapore and Brunei Darussalam. Taken together with the market access improvements related to reduction of tariffs and services in the static effects section (section 5.1.3), these are expected to help generate the "second-order" effects related to dynamic productivity.

Although it is not possible to quantify the precise economic effects of these provisions, it can be assumed that New Zealand companies are more likely to benefit than lose from the application of improvements to the regulatory framework governing the trade and economic relationship with Chile, Singapore and Brunei Darussalam. In this context, modest dynamic productivity gains are expected to accrue to the New Zealand economy over time.

5.2 Social effects

The Trans-Pacific SEP is not expected to have any discernible negative social effects in New Zealand. This section examines potential effects on domestic employment, domestic social regulation and immigration.

5.2.1 EMPLOYMENT

The Trans-Pacific SEP is not expected to have any significant effect on domestic employment. As indicated previously, the trade impacts of the Trans-Pacific SEP are not expected to be large, at least in the short to medium term. New Zealand's domestic market is already open to Singapore, and substantially open to Chile and Brunei Darussalam, so the likelihood of imports displacing domestic production is expected to be minimal. Chile is not seen as a significant exporter in sectors of greatest job sensitivity in New Zealand. Low existing tariffs between New Zealand and Chile also mean that there is little incentive created by tariff removal for New Zealand firms to relocate to Chile to avoid trade barriers. The Trans-Pacific SEP should, however, give impetus to the trends towards investment, diversification of sources of production and other strategic commercial relationships, in particular between Chile and New Zealand, which should make New Zealand firms more internationally competitive.

The temporary entry provisions in the Trans-Pacific SEP for intra-corporate transferees and business visitors do not go beyond current New Zealand immigration policy, and therefore should have no impact on the domestic labour market.

5.2.2 SOCIAL REGULATION AND LABOUR STANDARDS

New Zealand's social, legislative and regulatory frameworks will not be affected by the Trans-Pacific SEP. The government's right to regulate for national policy objectives, including labour protection, is explicitly recognised. Reservations to New Zealand's commitments on trade in services explicitly carve out social services established for a public purpose from the Trans-Pacific SEP. This includes public health, education, housing, transport, utilities and social welfare.

The Labour Cooperation MOU reaffirms the commitment of New Zealand and the other parties to maintaining sound labour policies and practices. This is a positive new element not only with Chile and Brunei Darussalam but also Singapore, as the NZSCEP did not contain any reference to labour. The provisions of the MOU are outlined in section 4.20.

5.2.3 IMMIGRATION

The Trans-Pacific SEP will not cause any changes in New Zealand's immigration policy. The promotion of trade and investment opportunities under the Trans-Pacific SEP and subsequent rise in New Zealand's profile in these countries, may, however, encourage Brunei Darussalam, Chilean and Singaporean interest in immigration to New Zealand (including by skilled migrants) and vice versa.

5.3 Cultural effects

The Trans-Pacific SEP contains safeguards to ensure that there are no adverse effects on New Zealand cultural values including Māori interests.

Provided they are not used for trade protectionist purposes, general cultural exceptions to the Trans-Pacific SEP include:

- the protection of national works and items or specific sites of historical or archaeological value
- support for creative arts of national value (the illustrative list of “creative arts”, includes performing arts, visual arts and craft, literature, film and video, language arts, and indigenous traditional practice and contemporary cultural expression)
- protection of public morals.

New Zealand’s schedule to the chapter on trade in services contains reservations in Annex IV that safeguard New Zealand’s ability to:

- protect cultural heritage of national value, including ethnological, archaeological, historical, literary, artistic and scientific or technological heritage. This includes collections of museums, galleries, libraries, archives and other heritage-collecting institutions such as public archives, library and museum services, and preservation of historical or sacred sites or historical buildings.
- adopt or maintain measures with respect to the promotion of local content on public radio and public television.

Provided such measures are not used for trade protectionist purposes, the Trans-Pacific SEP also gives successive New Zealand governments the right to adopt measures they deem necessary in relation to Māori, including in fulfilment of Treaty of Waitangi obligations. Furthermore, interpretation of the Treaty of Waitangi is not subject to any dispute settlement provisions under the Trans-Pacific SEP.

The Trans-Pacific SEP also recognises the right of each member country to establish measures to protect traditional knowledge, consistent with international obligations, including under the WTO TRIPS Agreement, which ensures that New Zealand’s interests in this respect are also protected.

The Trans-Pacific SEP also aims to encourage closer people-to-people and cultural links between New Zealand and Chile, Singapore and Brunei Darussalam through the strategic cooperation chapter.

5.4 Environmental effects

New Zealand approached the Trans-Pacific SEP negotiations with Brunei Darussalam, Chile and Singapore in the context of the government’s policy of ensuring that sustainable development and environmental objectives are appropriately supported by trade agreements, as set out in the 2001 Framework for Integrating Environment Standards and Trade Agreements. New Zealand’s approach was also consistent with the GIF, which seeks a higher level of economic growth in the context of “a sustainable path and one that adequately protects natural capital”. The Trans-Pacific SEP itself, and the Environment Cooperation Agreement, support the aim of harmonising objectives for trade and the environment. The following assessment of the environmental effects used a framework that incorporated regulatory, product, structural and scale effects.

5.4.1 REGULATORY EFFECTS

FTAs may, in principle, have positive and negative regulatory effects. These potential effects relate to the impact of changes in trade policies on the parties' existing environmental policies and standards.

The Trans-Pacific SEP will not affect the government's ability to regulate as it sees fit for environmental protection. The general exceptions to the Trans-Pacific SEP explicitly state that nothing in the Trans-Pacific SEP shall be construed to prevent the adoption or enforcement by a party of measures necessary to protect human, animal or plant life or health, or measures relating to the conservation of exhaustible natural resources, if such measures are applied to domestic production or consumption as well (Article 19.1). These exceptions apply across the whole Trans-Pacific SEP, including trade in goods and in services.

Furthermore, under the trade in services chapter, New Zealand has taken reservations in Annex IV that safeguard New Zealand's ability to take any measures it deems necessary:

- in respect of the public foreshore and seabed, internal waters, territorial sea and Exclusive Economic Zone
- to protect areas set up for heritage management purposes, public recreation and scenery preservation
- to regulate foreign fishing, including quota management
- to protect animal welfare and the preservation of plant, animal and human health, including biosecurity and biodiversity.

In a side letter to the Trans-Pacific SEP it is recognised that New Zealand and Chilean government procurement tenders may use technical specifications to promote the conservation of natural resources and the environment, as long as the technical specifications are consistent with the government procurement chapter and with the WTO TBT Agreement.

The Environment Cooperation Agreement promotes high levels of environmental protection and commits countries party to the Agreement to refrain from weakening their environmental laws and regulations in order to gain trade or investment advantage. It also provides for cooperation and information exchange, which can potentially encourage "best practice" on environmental regulations being shared among the parties to the Trans-Pacific SEP.

No adverse impacts on New Zealand's biosecurity are anticipated as existing policy and practice will be maintained. Under the strategic partnership chapter of the Trans-Pacific SEP, biosecurity is one of the areas of focus for cooperation between the three countries.

5.4.2 PRODUCT EFFECTS

Product effects concern changes in the composition of New Zealand's trade arising from the removal of trade restrictions. Positive product effects arising from the liberalisation of trade in goods and services that benefit the environment can in principle help offset any negative scale and structural effects of freer trade. Increased trade can also benefit the environment by enhancing access to less ecologically damaging inputs (for example, cleaner technologies) to New Zealand production. But an increase in the movement of goods brings with it a possible increase in biosecurity risk, and may require increased attention to and monitoring of movements of environmentally hazardous or environmentally sensitive goods and endangered species.

The Trans-Pacific SEP may open up new opportunities for New Zealand production and export of goods that benefit the environment. This is a rapidly growing area of trade for New Zealand and was worth $1.3 billion in 2004, with the New Zealand growth in global exports of these products expanding by five percent a year over the past seven years. On entry into force of the Trans-Pacific SEP, tariffs on 99.9 percent of New Zealand's environmental goods exports to Chile will be eliminated and tariffs on environmental goods exports to Brunei Darussalam will be phased out progressively and will be completely eliminated by 2012.

5.4.3 STRUCTURAL EFFECTS

In general, the main environment-related benefits of a trade agreement will be found in the positive structural effects of the removal of policies that exacerbate (at the margins) environmental problems. The distorting effects of these policies are usually evident in the distribution and intensity of production and consumption. Overproduction in the agricultural sector due to subsidies is an obvious example. The liberalisation driven by bilateral FTAs can benefit the environment through correcting overspecialisation, misallocation of resources and poor decisions on land use triggered by protectionist policies. This is less relevant in the case of New Zealand as reform in these areas has already occurred.

The possibility of negative structural effects from trade liberalisation stems from the expansion of trade in the presence of market and policy failures that may, in some cases, worsen the distribution and intensity of economic activities from the environmental standpoint. Increased output of particular goods and services triggered by trade liberalisation could, in the absence of environmental policy interventions, lead to greater environmental degradation. In short, environmental values (and costs) may not be fully reflected in the prices of traded goods.

In the case of the Trans-Pacific SEP, negative structural effects are not expected. New Zealand already possesses robust environmental and sustainable development legislation and policies that are well integrated both vertically and horizontally across the New Zealand economy. The process of structural reform in sectors such as forestry and fisheries has already established sustainable production and management practices that will be sustained under the Trans-Pacific SEP as is the case with other FTAs.

5.4.4 SCALE EFFECTS

Where a trade agreement augments growth in the New Zealand economy, this can have the positive effect of helping leverage additional financial resources, which can be used to address wider environmental concerns (for example, enabling companies to invest in cleaner technologies and governments to raise revenues for financing environment-related infrastructure).

Potential negative effects stem from pollution and other environmental risks associated with the expansion of economic activity and the increase in the movement of goods. These may not be completely offset by the advantages derived from increased growth. Environment-related policy instruments therefore need to be kept under review to help ensure the overall sustainability of economic growth, including that driven by trade agreements.

Given the modest economic impact of the Trans-Pacific SEP on the New Zealand economy (see section 5.1.3.5), it is not expected that there will be any substantive negative scale effects that cannot be addressed by New Zealand's current framework of environment and sustainable development-related legislation, policies and practices.

6 COSTS

The direct financial implications for the New Zealand Government of entering into and complying with the CEP fall into two categories.

6.1 Tariff revenue

In the year to June 2004 the revenue collected on imports from Chile was NZ$320,000 and NZ$1,800 on imports from Brunei Darussalam. As tariffs are phased out over the nine-year transition under the Trans-Pacific SEP, the New Zealand Customs Service will progressively collect less revenue from duty payments.

The exact amount of duty collected will be influenced by the pattern of actual imports and the proportion that qualify for preference under the Trans-Pacific SEP ROO. Based on historical trade patterns, however, most of the reduction is expected to occur on entry into force of the Trans-Pacific SEP.

In the further-out years, some of the revenue otherwise forgone as a direct result of the Trans-Pacific SEP will be offset by the effects of the unilateral tariff reduction programme scheduled for the period 1 July 2006 to 1 July 2009.

6.2 Costs to government agencies of implementing and complying with the Trans-Pacific SEP

One-off costs associated with implementing the Trans-Pacific SEP, incurred over the period July–December 2005, are estimated to amount to NZ$200,000. These cover:

- non-recoverable costs associated with preparing a new edition of the Working Tariff (other costs will be recovered through sales of the new edition)
- training Customs Service staff for implementation of the new ROO
- providing translated key points of temporary entry requirements for business travellers on the website of the New Zealand Embassy in Chile
- preparing a booklet to explain to New Zealand goods and services exporters how to take advantage of the Trans-Pacific SEP

- targeted speaking engagements
- a possible trade mission
- a new staff member in the Ministry of Foreign Affairs and Trade will be responsible for implementation activities.

The ongoing costs of meeting New Zealand's obligations under the Trans-Pacific SEP are estimated at around $150,000 annually over the next two years (beyond which it is difficult to estimate annual costs). This includes:

- the attendance of officials and regulators at meetings to take forward the work programme for resolving TBT
- developing implementing arrangements under the SPS chapter to facilitate recognition of equivalence and regionalisation
- the implementation of cooperation activities under the strategic cooperation chapter and possible cooperation activities under Labour Cooperation MOU and Environment Cooperation Agreement
- the future negotiations on investment and financial services, review of the temporary entry chapter and negotiation of Brunei Darussalam's services and government schedules
- a partial position in the Ministry of Foreign Affairs and Trade for servicing New Zealand's obligations under the Trans-Pacific SEP.

Funding will be provided from existing departmental baselines and any additional funds allocated through the Growth and Innovations Fund. Government agencies will also be working with the private sector and others to implement strategies for leveraging opportunities from the Trans-Pacific SEP. Such activities represent an investment in the Trans-Pacific SEP rather than a compliance cost.

7 FUTURE PROTOCOLS

It is anticipated that the Trans-Pacific SEP will be amended following the conclusion of negotiations on investment and financial services. It is also possible it could be amended if the parties were to undertake further liberalisation in the area of trade in goods.

8 IMPLEMENTATION

A small number of legislative and regulatory amendments are required to align New Zealand's domestic legal regime with certain rights and obligations created under the Trans-Pacific SEP and thereby enable New Zealand to ratify the Trans-Pacific SEP. The Labour Cooperation MOU and Environment Cooperation Agreement do not give rise to any legislative or regulatory amendments.

Proposed legislation – the Tariff (Trans-Pacific Strategic Economic Partnership Agreement) Bill – will provide for:

- An amendment to the Tariff Act 1988 will provide for the names of parties to the Trans-Pacific SEP to be added to the tariff schedule (except for Singapore which already has duty-free access under the Tariff Act).
- An Order in Council pursuant to the Act would then establish the specific schedule of preferential tariffs for Chile and Brunei Darussalam under the Trans-Pacific SEP.
- An Order in Council is also required to amend Part II of the First Schedule to the Tariff Act to provide for the duty-free admission of goods re-entered after repair or alteration, which otherwise cannot enter duty-free as required under the Trans-Pacific SEP.

In addition amendments to the Customs and Excise Regulations 1996 will be required to enable administration of the ROO set out in the Trans-Pacific SEP.

The provisions of the Trans-Pacific SEP also impose more specific and detailed mandatory requirements on the procurement of goods and services by government departments than those set out in the Government Procurement Policy Guidelines. These will be implemented by regulations under the Public Finance Act 1989.

9 CONSULTATION

9.1 Inter-departmental consultation process

Negotiation of the Trans-Pacific SEP and associated agreements and arrangements was conducted by an inter-agency team led by the Ministry of Foreign Affairs and Trade and comprising officials from the Ministry of Agriculture and Forestry, Ministry of Economic Development, The Treasury, Reserve Bank, Ministry for the Environment, Department of Labour, New Zealand Customs Service and New Zealand Food Safety Authority.

Relevant departments were also consulted during the negotiations in the preparation of New Zealand's position. In particular, the preparation of New Zealand's services schedule "negative list" involved extensive input from, and close consultation with, all 35 core public service departments listed in the First Schedule to the State Sector Act 1988. Extensive input was also included from the New Zealand Defence Force and New Zealand Police in order to achieve the necessary level of legal certainty for the "positive" and "negative" lists of commitments/reservations for trade in services and investment, and to ensure that New Zealand preserved its regulatory environment and policy settings.[35] The Ministry of Education, Ministry for Culture and

[35] The departments directly consulted by the Ministry of Foreign Affairs and Trade in the development of New Zealand's "negative list", and then during the negotiating process, included: Ministry of Agriculture and Forestry; Archives New Zealand; Department of Child, Youth and Family Services; Department of Conservation; Department of Corrections; Crown Law Office; Ministry for Culture and Heritage; Ministry of Defence; Ministry of Economic Development; Ministry of Education; Education Review Office; Ministry for the Environment; Ministry of Fisheries; Ministry of Foreign Affairs and Trade; Government Communications Security Bureau; Ministry of Health; (..continued page 59)

Heritage, Ministry of Agriculture and Forestry, Ministry of Fisheries, New Zealand Trade and Enterprise and Ministry of Research, Science, and Technology were specifically consulted in the negotiation of the strategic cooperation chapter.

Te Puni Kokiri and the Ministry for Culture and Heritage were consulted on areas of specific interest with regard to Māori and culture, and the Department of the Prime Minister and Cabinet and New Zealand Trade and Enterprise were also generally consulted on the Trans-Pacific SEP process.

9.2 Public consultation process

Starting in November 2002, the Ministry of Foreign Affairs and Trade, together with other government agencies, organised and conducted a wide-ranging consultation programme to raise public awareness of the negotiations and to seek stakeholder views.

This programme used printed, emailed and website information, supported by extensive specific discussions with key stakeholders, such as exporters and industry sectors likely to be interested in or affected by the outcomes of the Trans-Pacific SEP, particularly in relation to Chile (as tariffs have already been eliminated between New Zealand and Singapore).

9.2.1 COMMUNICATION PROGRAMME

The communication programme supporting the consultations included:

- a study entitled “Chile, New Zealand and Singapore: An Initial Analysis of the Trade and Economic Benefits of Negotiating a ‘Pacific Three’ Closer Economic Partnership Agreement Involving Chile”, issued in October 2002, inviting public submission by January 2003. This attracted 11 submissions

- a study undertaken by Fergus McLean (Executive Director of the Latin America/New Zealand Business Council) in late 2003 identified New Zealand businesses with potential interest in the Trans-Pacific SEP, which provided a useful platform for further targeted consultations. This was followed up by a second study by Fergus McLean in early 2005 to identify potential areas of interest to New Zealand under the strategic cooperation chapter

- an information paper on New Zealand’s approach to the Trans-Pacific SEP (then known as “P3”), issued in September 2003 and posted on the MFAT website

- a paper on the MFAT website outlining New Zealand’s main objectives in each of the issues under negotiation in September 2003

---

[35] (…continued) Ministry of Housing; Inland Revenue Department; Department of Internal Affairs; Ministry of Justice; Department of Labour; Land Information New Zealand; Ministry of Māori Development; National Library of New Zealand; New Zealand Customs Service; Ministry of Pacific Island Affairs; Department of the Prime Minister and Cabinet; Ministry of Research, Science, and Technology; Ministry of Social Development; Serious Fraud Office; State Services Commission; Statistics New Zealand; Ministry of Transport; The Treasury; Ministry of Women’s Affairs; New Zealand Defence Force; New Zealand Security Intelligence Service; Parliamentary Service; and New Zealand Police.

- an information bulletin in July 2004 advising the relaunch of negotiations and the preparation of a services “negative list” and requesting input to inform New Zealand’s position on the “negative list”, which was also posted on the MFAT website

- an update on negotiations and request for information to inform New Zealand’s position on the “market access” negotiations, issued in January 2005 and sent out via email

- an information bulletin in April 2005 providing an update on the negotiations, that was posted on the MFAT website

- updates in the bimonthly MFAT news bulletin, *Business Link*, which is also posted on the MFAT website

- ongoing presentations on the negotiations as part of wider trade policy consultations with interested parties including NGOs

- regular updates on the negotiating process, emailed to stakeholders who had registered interest in the negotiations.

9.2.2 CONSULTATION PROGRAMME

The above communications provided the basis for a consultation programme involving:

- meetings and email correspondence with companies and sectoral organisations with an interest in access to the Chile and Singapore (and, later in the negotiations, Brunei Darussalam) goods and services markets

- meetings and email correspondence with companies and sectoral organisations with an interest in New Zealand’s tariff phase-out arrangements under the Trans-Pacific SEP

- meetings with organisations with a broad interest in the negotiations, including Business New Zealand, the Council of Trade Unions, the Federation of Māori Authorities, the Latin American/New Zealand Business Council, the Employers and Manufactures Association (Northern), the Canterbury Manufacturers Association, Local Government New Zealand and the Royal Forest and Bird Protection Society of New Zealand

- meetings with Māori as part of the Ministry of Foreign Affairs and Trade outreach programme organised by the Kaupapa Māori Division of the Ministry of Foreign Affairs and Trade

- meetings with firms and organisations in Auckland, Tauranga, Rotorua, Hamilton, Wellington, Hawkes Bay and Christchurch.

These consultations involved, variously, officials from the Ministry of Foreign Affairs and Trade, New Zealand Trade and Enterprise, Ministry of Economic Development, Ministry of Agriculture and Forestry, New Zealand Customs Service, Department of Labour and Ministry for the Environment.

9.2.3 SUBMISSIONS PROCESS

The consultation process elicited over 130 written or oral submissions, information and responses from a range of individuals and organisations, including:

- 23 business or sector organisations, including Association of Consulting Engineers of New Zealand, Auckland Export Institute, Business New Zealand, Canterbury Employers' Chamber of Commerce, Canterbury Manufacturers Association, Consulting New Zealand, Employers and Manufacturers Association (Northern), Footwear Industry Association, International Accreditation New Zealand, Latin American New Zealand Business Council, Meat & Wool NZ, Meat Industry Association, New Zealand Educational Institute, New Zealand Forest Industries Council, New Zealand Horticulture Export, New Zealand Vegetable and Potato Growers Federation, Retailers Association of New Zealand, Seafood Authority, New Zealand Fruitgrowers Federation, New Zealand Salmon Industry Council, Textiles New Zealand, Trade Liberalisation Network, Wellington Chamber of Commerce, Wine Growers Association

- New Zealand Council of Trade Unions

- Local Government New Zealand

- Federation of Māori Authorities

- 51 companies, including AJ Park, A-Ward Attachments, Beca Carter Hollings & Ferner, Carter Holt Harvey, CWF Hamilton & Co, Donaghy Industries, Easteel Industries, ENZA, Escort Data Logging Systems, Fisher and Paykel Healthcare, Fletcher Challenge Forests, Flowerzone, Fonterra Cooperative Group, Forest Research, Glidepath, Lan Chile, Language Consultants, Lockwood Homes, Mastip Technology, Mattersmiths Holding, Micron Security Products, Millers Mechanical, Moffat, Navman New Zealand, NDA Engineering, New Zealand Agriseeds, New Zealand Post, Novatak, Osmose New Zealand, Owens Group, Pacific Aerospace Corporation, Pacific Basin Exports, Pacific Helmets, Proform Plastics, Rissington Breedline, Rocklabs, Safe Air, Security Plastics, Skellerup Industries, Solid Energy, Steelbro, Tait Electronic, Tasman Insulation New Zealand, Temperzone, Trutest, Wendy Pye Ltd, Windsor Engineering Group, Wrightson Seeds, Zespri International and Education New Zealand

- New Zealand universities, Crown research institutes

- NGOs, including Action, Research and Education Network of Aotearoa (ARENA), the Council for International Development and the Royal Forest and Bird Protection Society of New Zealand.

9.2.4 ISSUES COVERED IN THE CONSULTATION PROCESS

Views were sought from stakeholders on the full range of issues in the negotiations, as outlined in the information papers. The following is a summary of the points expressed by those who responded to the consultation process.

- Most of those who supported the Trans-Pacific SEP emphasised the benefit of securing market access to Chile on the same basis as competitors from other countries that already enjoyed preferential market access. Some indicated that they had already suffered loss of trade opportunities as a result of being at a competitive disadvantage, and/or that they saw potential to enter the Chilean market or expand their exports should tariffs be removed. A number saw the US Chile FTA as the benchmark for tariff liberalisation, while others noted that their competitors were mainly from Mercosur members, such as Argentina and Brazil. Some companies provided detailed information on their trade interests for the purposes of the negotiation.

- A number of business organisations and companies mentioned the strategic value of such a strategic economic partnership. Some were interested in Chile as a potential export market, and believed that the Trans-Pacific SEP would help in supporting and stimulating bilateral trade. Others saw Chile as a gateway to wider South American markets. Diversification of export markets was also mentioned as a positive benefit.

- Some business organisations were broadly in favour of a strategic economic partnership, but did not see it as a high priority because of a low level of interest in the Chilean market or because Chile was a competitive exporter of similar products. Others were interested in sectoral collaboration with Chile where the two countries had similar export production and common interest in third markets, rather than in direct bilateral trade opportunities.

- While some submissions said that there were generally no problems in doing business with Chile, others raised TBT such as standards and conformance costs and difficulties (for example, for electrical goods), certification issues for agricultural products, significant import documentation requirements, business registration and other regulatory requirements. They saw the Trans-Pacific SEP as an opportunity to address these issues. Concern was also expressed about non-tariff measures in Singapore. One submission referred to the positive effect that the NZSCEP had in resolving technical non-tariff barriers and improving New Zealand companies' ability to bid for government contracts.

- Several submissions identified impediments to trade in services with Singapore, including the recognition of qualifications and registration of companies. The negotiation of the Trans-Pacific SEP was seen as an opportunity to enhance the treatment of services in the NZSCEP.

- A few submissions indicated positive experiences of investment in Chile, and saw Chile as a good country with which to do business. Two private sector submissions were interested in having recourse to compulsory investor/state dispute settlement. New Zealand investors wanted to ensure that they were not disadvantaged in relation to other foreign investors already covered by FTAs with Chile or Singapore, or Chilean and Singaporean investors in their home markets, in relation to treatment and protection of investments.

- Some submissions raised intellectual property issues with respect to doing business with Chile. One submission referred to problems with respect to government procurement in Chile.

- Several submissions noted the potential for developing the export of education services to Chile, as well as Singapore.

- Several company submissions expressed preferences in respect of the approach to ROO.

On the defensive side, concerns were expressed about:

- the need to retain anti-dumping provisions to protect against the possible risk of dumping of product (for example wood products) in the New Zealand market
- robust ROO, including the importance of substantial transformation
- the need to maintain appropriate SPS requirements on horticultural imports from Chile
- the need to protect traditional knowledge.

Most of those submissions critical of the Trans-Pacific SEP focused on the inclusion of trade in services and investment, including the "negative list" approach being proposed for scheduling commitments in these areas. Concerns included:

- retention by the government of the right to regulate
- protection of key public services, such as health, education and drinking water, from the disciplines of the Trans-Pacific SEP
- maintenance of biosecurity
- the impact of trade liberalisation in services on poor and disadvantaged sectors in developing countries
- future-proofing commitments against changes in government policies, developments in technology and the advent of new services.

A few submissions raised a concern about labour standards in Chile, or that Chilean products produced with low labour costs might displace New Zealand goods in Asia-Pacific markets. There was also interest in seeing effective provisions on environment and labour standards incorporated in the Trans-Pacific SEP, rather than in side arrangements.

A few submissions expressed concern about the possibility of the Trans-Pacific SEP including provisions for compulsory investor/state dispute settlement.

One submission called for the negotiation to be abandoned because it represented a neoliberal free trade strategy that would benefit transnational companies at the expense of workers, women and indigenous peoples. The submission was critical of the Trans-Pacific SEP's coverage of, and approach to, services and investment.

9.2.4.1 SPECIFIC CONSULTATION ON NEW ZEALAND'S TARIFF REDUCTIONS

In preparing New Zealand's market access offer, officials endeavoured to identify and directly consult with those industries that might have specific concerns about competition from Chile or Brunei Darussalam imports and those that were generally more sensitive to tariff reduction or removal.

These consultations indicated that there was very little specific sensitivity about imports from Chile or Brunei Darussalam. While the forestry and wine industries had some sensitivity about imports from Chile their principal interest was to encourage the immediate elimination of tariffs on a reciprocal basis.

The interest of most other industries in the Trans-Pacific SEP negotiations was in the precedent that they potentially set for future FTA negotiations. While they did not have any specific sensitivity in relation to Chilean imports, there was an interest in maintaining the precedents set by the NZTCEP.

For these reasons, officials based their market access offer on the NZTCEP outcome, with the same tariff phase-out programmes in particular for TCFC. The main deviation from the NZTCEP outcome was that plywood and fibreboard were moved from the 2010 tariff phase-out basket to immediate elimination under the Trans-Pacific SEP to match Chile's offer in this regard.

9.2.4.2 DETAILED CONSULTATION ON NEW ZEALAND'S EXPORT INTERESTS

Further information was sought following the initial submissions from a wide range of exporting companies and sectoral organisations to assist with the fine-tuning of New Zealand's priorities for improved access to Chile and Brunei Darussalam. The detailed input received through this process contributed to the development of New Zealand's negotiating strategy.

9.2.4.3 SPECIFIC CONSULTATION ON THE PREPARATION OF NEW ZEALAND'S "NEGATIVE LIST"

In addition to the extensive interdepartmental discussions, officials also endeavoured to identify and directly consult with those industries or bodies that might have specific concerns about the preparation of New Zealand's services schedule. Discussions were held with Local Government New Zealand, Council of Trade Unions, National Council of Women, Television New Zealand, Association of Staff in Tertiary Education, Association of University Staff of New Zealand, New Zealand Educational Institute, Council for International Development, Post Primary Teachers' Association, Royal Forest and Bird Protection Society of New Zealand, Zespri International and Venture Investment Fund.

10 WITHDRAWAL OR DENUNCIATION

Each party, on giving written notice to the other party, may withdraw from the Trans-Pacific SEP. The Trans-Pacific SEP terminates six months after the date of the notice of termination. If one party withdraws, the Trans-Pacific SEP shall remain in force for the remaining parties.

If a party withdraws from the Trans-Pacific SEP then is also automatically withdraws from the accompanying Labour Cooperation MOU and Environment Cooperation Agreement, and vice versa.