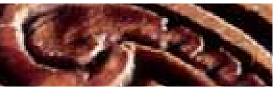
New Zealand Ministry of Foreign Affairs & Trade

Manatū Aorere



MINISTRY OF FOREIGN AFFAIRS AND TRADE

THE NEW ZEALAND - SINGAPORE - CHILE - BRUNEI DARUSSALAM TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP

Cover shot: Traditional Chilean poncho, courtesy of Chris Langley.

The Ministry of Foreign Affairs and Trade wishes to thank: the Singapore Tourism Board, Bonnie Tong, Karmila Kamuri, Jeremy Palmer, Chile Photo, Paola Vega, Nigel Fyfe, Richard Mann, Caleb Edwards, Richard Prendergast, Janet Morris, Rob Suisted/www.naturespic.com, Jeff McEwan/Capture Photography, and Rosalene Fogel for the use of photographs in this publication.

Designed by typeface, Wellington

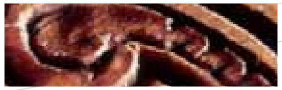
Printed by Printlink, Wellington

Ministry of Foreign Affairs and Trade
Private Bag 18-901
Wellington
New Zealand
www.mfat.govt.nz

ISBN 0-477-03794-1

MINISTRY OF FOREIGN AFFAIRS AND TRADE

THE NEW ZEALAND - SINGAPORE - CHILE - BRUNEI DARUSSALAM
TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP




NEW ZEALAND MINISTRY OF FOREIGN AFFAIRS & TRADE
MANATŪ AORERE

www.mfat.govt.nz

FROM THE MINISTER OF TRADE NEGOTIATIONS »

THE TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP AGREEMENT (TRANS-PACIFIC SEP) IS A GROUNDBREAKING ACHIEVEMENT. IT WILL BOLSTER NEW ZEALAND'S EFFORTS TO ENGAGE WITH THE WORLD ECONOMY.

As the first trade agreement to involve several Pacific-rim countries, the Trans-Pacific SEP (also known as 'P4') has a strong strategic dimension and will serve to deepen the economic relationships among New Zealand, Brunei Darussalam, Chile and Singapore.

The Trans-Pacific SEP is a high-quality trade agreement. It establishes a free trade area and liberalises trade between New Zealand, Brunei Darussalam, Chile and Singapore in both goods and services.

It achieves a benchmark reached by few bilateral trade agreements in having a commitment by the four countries to eliminate tariffs on all traded goods, and at the same time adopts a high-quality approach to trade in services.

The shared vision is to stimulate more open trade within the Asia-Pacific region, and New Zealand is keen to see the membership of the Trans-Pacific SEP expand as other Asia-Pacific nations look to take part.

For New Zealand the economic benefits of the Trans-Pacific SEP will be seen from the day it enters into force.

From that day, 90 percent of New Zealand's exports to Chile will enter duty-free, as will 92 percent of New Zealand's exports to Brunei Darussalam. Tariffs between New Zealand and Singapore are already zero under the existing New Zealand-Singapore Closer Economic Partnership.

These tariff reductions will open up new market opportunities and restore a level playing field for our exporters with competitors from those countries like the United States which already have trade agreements with Chile or Singapore.

The Trans-Pacific SEP is a model free trade agreement, which further establishes New Zealand's credentials as a progressive trading partner.

With the potential for more countries to join the Trans-Pacific SEP, now is the time for the government and business to work together to maximise the benefits and opportunities it offers to enhance trade and economic links.

Jim Sutton

CONTENTS








1 WHAT IS THE TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP?

The Trans-Pacific Strategic Economic Partnership Agreement (Trans-Pacific SEP), between New Zealand, Brunei Darussalam, Chile and Singapore, is the first multi-party trade agreement linking Asia, the Pacific and Latin America.

The Trans-Pacific SEP is a treaty that liberalises and facilitates trade in goods and services, improves the business environment and promotes cooperation on a broad range of economic areas of mutual interest to all four nations.

The key elements are set out in more detail through the remainder of this guide.

The Trans-Pacific SEP offers real gains to New Zealand exporters through the establishment of a free trade area between New Zealand, Brunei Darussalam, Chile and Singapore. All four countries have undertaken to remove all tariffs on traded goods over time.

On the date the Trans-Pacific SEP comes into force, 90 percent of New Zealand's exports to Chile will enter duty-free, as will 92 percent of New Zealand's exports to Brunei Darussalam.[1] All exports to Singapore already enter duty-free under the existing Agreement between New Zealand and Singapore on a Closer Economic Partnership (ANZSCEP), which came into force in 2001.

To help secure these gains on trade in goods, the Trans-Pacific SEP contains rules governing the free trade area. These include rules to determine which goods qualify for tariff preferences (the 'Rules of Origin') as well as rules to counter unfair trade or unexpected import surges in agricultural products from one of the other countries.

The Trans-Pacific SEP also includes broad coverage of services, which will make it easier for New Zealand service providers to operate in Trans-Pacific SEP markets and compete on the same footing as domestic competitors in many sectors.

The Trans-Pacific SEP aims in other ways to improve the business environment and open up opportunities for New Zealand business.

Measures relating to customs procedures, sanitary and phytosanitary procedures, technical barriers to trade, intellectual property and competition policy are designed to reduce barriers to doing business in the markets of Brunei Darussalam, Chile and Singapore. Measures in government procurement will ensure that New Zealand companies can compete on a level playing field for foreign government contracts.

The Trans-Pacific SEP establishes a framework for cooperation to enhance the benefits of the Agreement. The objective is to build on existing cooperative relationships, with a focus on innovation, research and development, and creating new opportunities for all Trans-Pacific SEP countries. Particular focus is given to economic, scientific, technological, educational, cultural and primary industry cooperation.

Finally, the Trans-Pacific SEP establishes robust dispute settlement mechanisms and contains protections to preserve governments' domestic regulatory and policy-making flexibility. It also establishes a framework for taking the economic relationship forward, and expanding the membership from the four founding members through scheduled reviews and cooperation.

[1] All percentages of trade are estimates based on 2004 trade by value statistics and assume that all exports meet the origin criteria as products of New Zealand.

As part of the overall package, the Trans-Pacific SEP members have entered into a binding Environment Cooperation Agreement and a binding Memorandum of Understanding on Labour Cooperation. These three Agreements establish mechanisms to raise labour and environment standards across the Trans-Pacific SEP countries.

2 THE PATH TO THE TRANS-PACIFIC SEP

The Trans-Pacific SEP began as a negotiation between three countries, known as the Pacific Three Closer Economic Partnership (P3 CEP). Prime Minister Helen Clark, the Prime Minister of Singapore and the President of Chile launched the negotiations at the Asia Pacific Economic Cooperation (APEC) Leaders Summit in Los Cabos, Mexico, in 2002.

The shared vision of the leaders was to create a trade agreement that could act as a platform for expansion within the Asia-Pacific region. Brunei Darussalam was welcomed as a founding member of the Trans-Pacific SEP when the conclusion of negotiations was announced at a meeting of Trade Ministers in Jeju, Korea. In light of its late joining and small size, Brunei has been given extra time to negotiate its services and government procurement schedules, and flexibility on its implementation of the competition chapter.

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 negotiations 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 2005.

Trade Negotiations Minister Jim Sutton, Singapore's High Commissioner Seetoh Hoy Cheng, and Chile's Ambassador Juan Salazar officially signed the Trans-Pacific SEP in Wellington on 18 July 2005. A fortnight later, Brunei Darussalam's High Commissioner Pehin Dato Lim Jock Seng added his country's signature to the Agreement.

The Trans-Pacific SEP is expected to enter into force on 1 May 2006, after ratification by each Party on completion of its respective domestic processes.

Minister for Trade Negotiations Jim Sutton (centre) signs the Trans-Pacific Strategic Economic Partnership with Singapore's High Commissioner Seetoh Hoy Cheng (left) and Chile's Ambassador Juan Salazar (left) in Wellington on 18 July 2005.

3 THE STRATEGIC IMPORTANCE OF THE TRANS-PACIFIC SEP

New Zealand, Chile, Singapore and Brunei Darussalam are all relatively small, open economies that depend increasingly on foreign trade and investment. Because of the low barriers to trade between the partners to the Trans-Pacific SEP, a key objective of the negotiations, from the start, was the potential strategic benefits.

The Trans-Pacific SEP is the first multi-party Trans-Pacific free trade agreement (FTA). It establishes strategic linkages across the Pacific, joining Latin America, South East Asia and New Zealand, and in doing so adds to New Zealand's credentials as a forward-looking, open economy and a progressive FTA partner.

All parties are members of the APEC group of nations. The Trans-Pacific SEP and its accompanying labour and environment outcomes are seen as a benchmark model within APEC that is open for other nations to join. The decision by Brunei Darussalam to join all three agreements adds weight to this. Other APEC members have followed the conclusion of negotiations with interest.

The Trans-Pacific SEP is New Zealand's first trade agreement with a Latin American country. The Agreement will bring a new level of political and economic engagement between New Zealand and Chile, advancing the key pillars of the Government's Latin America strategy.

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 gateway to the eastern seaboard of South America.

Strengthening ties with Singapore and Brunei Darussalam provides a very important foothold into the Association of South East Asian Nations (ASEAN) group of countries, which as a group is an important and growing market for New Zealand exports.

> "THE MOST IMPORTANT ASPECT OF THIS AGREEMENT IS ITS STRATEGIC VALUE – IT IS THE FIRST TIME NZ HAS ENTERED INTO ANY SUCH ARRANGEMENT WITH A LATIN AMERICAN COUNTRY, AND AS SUCH REPRESENTS AN IMPORTANT SIGNAL TO OUR TRADERS THAT THE REGION SHOULD RECEIVE MORE OF THEIR ATTENTION IN THE FUTURE."
>
> Alastair Hercus, Chairman,
> Latin America-New Zealand Business Council

4 HOW THE TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP FITS INTO THE WIDER TRADE AGENDA

At no time in recent history has there been so much activity in the global trade – negotiating environment. World trade talks and multiple bilateral and regional free trade agreements are all progressing simultaneously.

The multilateral World Trade Organisation (WTO) process remains the top trade priority for New Zealand because it offers the largest potential gains. But the scale of the negotiations and the interests involved mean that progress has been slow.

While the WTO Doha Round continues, New Zealand recognises that bilateral and regional trade agreements can open up important new opportunities for New Zealand exporters in a shorter timeframe than through the WTO. They allow New Zealand to accelerate progress towards more open markets by partnering with countries that share our level of determination for progress.

They also prevent our competitive advantage from being eroded. The number of bilateral and regional trade agreements under negotiations between our trading partners has been proliferating – particularly in the Asia-Pacific region. We need to negotiate trade agreements to ensure a level playing field for our exporters.

Good quality bilateral and regional trade agreements can also usefully contribute to moving the WTO and APEC processes forward by highlighting the benefits of liberalisation.

In 1983, New Zealand and Australia signed the Australia New Zealand Closer Economic Relations (CER) Trade Agreement, which has been described by the WTO as "the world's most comprehensive, effective and mutually compatible free trade agreement".

But it has only been with the turn of the century that the world has seen bilateral and regional free trade agreements proliferate, with a concentration in the Asia-Pacific region.

This is the second free trade agreement New Zealand has signed in 2005. A Closer Economic Partnership with Thailand was signed in April and entered into force on 1 July. It is essential for New Zealand's economic development that work continues on all fronts to strengthen economic links and obtain improved access to markets. With Australia, Brunei Darussalam, Chile, Singapore and Thailand as FTA partners, the focus now turns to continuing negotiations with China, Malaysia and the ASEAN group of nations.

> "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."
>
> Meat and Wool New Zealand

5 RELATIONSHIP BETWEEN THE TRANS-PACIFIC SEP AND THE NEW ZEALAND-SINGAPORE CLOSER ECONOMIC PARTNERSHIP

The Trans-Pacific SEP builds upon the Agreement between New Zealand and Singapore on a Closer Economic Partnership (ANZSCEP) that entered into force on 1 January 2001.

The ANZSCEP continues to remain in force.

Because of this, New Zealand exporters and importers of goods and services are able to take advantage of the provisions of either the Trans-Pacific SEP or the ANZSCEP. This can be based on a decision about which trade agreement provides them with the most benefit.

For example, New Zealand exporters to Singapore can apply for preferential tariff access using either the Rules of Origin (ROO) under the ANZSCEP or Trans-Pacific SEP. Or service suppliers can choose to use the Singapore commitments in either the ANZSCEP or the Trans-Pacific SEP.

A copy of the ANZSCEP can be found on the Ministry website:

>> www.mfat.govt.nz/tradeagreements/cepsingdocs/singcepcontent.html

Throughout this booklet examples highlight situations where exporters may wish to choose between the ANZSCEP and Trans-Pacific SEP.

6 FREE TRADE IN GOODS

The Trans-Pacific SEP will comprehensively eliminate tariffs imposed by all four countries.[2] Most tariffs will be eliminated when the Trans-Pacific SEP comes into force. The remaining tariffs will be removed by 2017 at the latest. A step-by-step practical guide for goods businesses exporting under the Trans-Pacific SEP is provided in Appendix One of this booklet.

Initial tariff cuts will take place when the Trans-Pacific SEP comes into force, expected to be 1 May 2006. Subsequent tariff reductions are expected to be applied on 1 January each following year.

This section details how the Trans-Pacific SEP will open up markets for New Zealand exporters in Chile and Brunei Darussalam. This is followed by the corresponding commitments made by New Zealand to open our market. Full details of the changes to tariffs and the timetables for these changes are set out in the country-specific market access schedules in Annex 1 of the Trans-Pacific SEP. These schedules are available online at:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

With respect to Singapore, the existing ANZSCEP will continue in force and already provides for duty-free trade between the two countries.

[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.

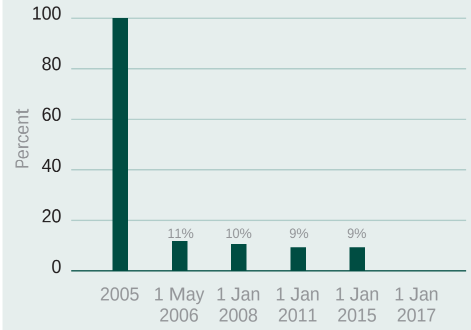
OPENING UP CHILE'S MARKET

Until the Trans-Pacific SEP comes into force, New Zealand exports to Chile will continue to pay a flat tariff rate of 6 percent.

When the Trans-Pacific SEP comes into force, Chile will eliminate tariffs on almost 90 percent of imports from New Zealand.[3] Key trade items that will benefit immediately include a range of agri-tech products (machinery, veterinary vaccines, timber preservatives), as well as seeds, some dairy products and coal.

The remaining tariffs on New Zealand's exports will be phased out in stages, with the last tariffs eliminated on 1 January 2017. A summary of the key products and the dates by which tariffs will be eliminated are detailed in Table 1.

PERCENTAGE OF NEW ZEALAND EXPORTS TO CHILE
(subject to duties)



[3] All percentages of trade are estimates based on 2004 trade by value statistics and assume that all exports meet the origin criteria as products of New Zealand.

> " LIFTING THE TARIFFS SHOULD HELP US TO IMPROVE OUR VERY LOW MARGINS IN THIS GROWING EXPORT MARKET. "
>
> Solid Energy – New Zealand's largest exporter to Chile

CHILEAN TARIFF REDUCTIONS BY SECTOR

Dairy

New Zealand dairy products have traditionally been an important export to Chile, but have reduced in recent years and currently represent about 20 percent of total exports. Nevertheless, for Chile, this was a sensitive area of the negotiations.

Chilean tariffs on infant milk formula, casein, lactose, protein concentrates, yoghurt, Parmesan and blue-vein cheeses will be eliminated when the Trans-Pacific SEP comes into force. These products represent 55 percent of New Zealand's dairy exports to Chile. Tariffs on liquid milk will be eliminated by 2008.

Tariffs on Chile's most sensitive products – butter, milk powders and whey – will be eliminated on 1 January 2017. Tariffs on these products will be held at their current 6 percent level until 2012 when they will begin to reduce by 1 percent each year before reaching zero in 2017. These products will also be subject to a special agricultural safeguard mechanism, which is explained in more detail in Chapter 8 of this booklet.

Manufactured goods

Chile will immediately eliminate tariffs on 99 percent of manufactured imported goods from New Zealand when the Trans-Pacific SEP enters into force.

Manufactured goods, with a strong emphasis on agri-tech items, account for 30 percent of New Zealand's current exports to Chile. Key products that will benefit from immediate tariff elimination include: agricultural and horticultural machinery, navigational equipment, timber drying kilns, veterinary vaccines and chemical products such as timber preservatives.

TABLE 1: SUMMARY OF CHILEAN TARIFF ELIMINATION

DATE FOR TARIFF ELIMINATION	INDICATIVE LIST OF PRODUCTS	PERCENTAGE OF CURRENT NZ EXPORTS IN EACH CATEGORY
1 May 2006[4]	Coal Seeds Timber preservatives Forestry products Chemical products Veterinary vaccines Seafood products Most fruit and vegetables Most meat products Most machinery and electrical machinery Some dairy products	89.39%
1 January 2008	Remaining meat products Liquid milk	0.94%
1 January 2011	Most textiles, clothing and footwear Remaining fruit and vegetables Remaining machinery and electrical machinery	0.29%
1 January 2015	Remaining textiles, clothing and footwear	0.12%
1 January 2017	Remaining dairy products	9.26%

[4] Expected date of entry into force, subject to parliamentary processes in each country.

OPENING UP BRUNEI DARUSSALAM'S MARKET

On entry into force, Brunei Darussalam has undertaken to ensure all tariffs currently at zero will be held at zero. This will apply to 92 percent of New Zealand's current exports to Brunei Darussalam. This provides certainty for exporters, as without this undertaking Brunei Darussalam was free to lift its zero tariffs to higher levels.

Brunei Darussalam's remaining tariffs will be eliminated in three stages, in the years 2010, 2012 and 2015. See Table 2 for a summary of when the tariffs on key products will be eliminated.

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

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

Products in Brunei Darussalam's longest phase-out category include motor vehicles, articles of rubber, and some machinery.

A short list of products (alcohol, tobacco and firearms) is excluded, for the time being, from Brunei Darussalam's tariff elimination schedule for moral, human health and security reasons. The list is set out in a 'side letter' to the Trans-Pacific SEP which is available at:

- www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

There are to be further discussions about how these products will be accommodated under the Trans-Pacific SEP.

TABLE 2: SUMMARY OF TARIFF ELIMINATION BY BRUNEI DARUSSALAM

DATE FOR TARIFF ELIMINATION	INDICATIVE LIST OF PRODUCTS	PERCENTAGE OF CURRENT NZ EXPORTS IN EACH CATEGORY
1 May 2006[5]	Dairy products Seafood products Fruit and vegetables Meat products	92%
1 January 2010	Forestry Products	1.7%
1 January 2012	Some machinery	1.1%
1 January 2015	Vehicles and vehicle parts Remaining machinery	5.2%

[5] Expected date of entry into force, subject to parliamentary processes in each country.

OPENING UP SINGAPORE'S MARKET

Under the ANZSCEP signed in 2001, trade in goods between the two countries is completely duty-free, subject to Rules of Origin requirements. The Rules of Origin (ROO) relating to trade between New Zealand and Singapore are explained in more detail in Chapter 7 of this booklet.

OPENING UP NEW ZEALAND'S MARKET

Under the Trans-Pacific SEP New Zealand eliminates tariffs in the same way for both Chile and Brunei Darussalam. However, while the tariff reductions are similar, this has a different impact on Chile and Brunei Darussalam's trade given their export profile.

The Trans-Pacific SEP will provide improved access for products of export interest to Chile and Brunei Darussalam. At the same time, however, the Trans-Pacific SEP provides time for our sensitive domestic sectors to adjust through tariff reduction programmes.

New Zealand currently provides duty-free access for 67 percent of imports from Chile. On implementation, New Zealand commits to hold these tariffs at zero and eliminate tariffs on a further 29 percent of imports from Chile.

New Zealand currently provides duty-free access for 99 percent of imports from Brunei Darussalam (mostly oil). These will also be held at zero on implementation.

Remaining tariffs on imports from Brunei Darussalam and Chile will be eliminated in the following stages: 2008, 2010, and 2015. Tariffs in what have traditionally been New Zealand's most sensitive sectors (including textile, apparel, footwear and carpet products, which have the highest applied tariff rates of up to 19 percent), will reduce year by year until they reach zero in 2015. Traditionally sensitive products with lower tariffs, such as whiteware (with a 5.5 percent tariff), will be held at current levels before being eliminated in one go in 2010. A summary of when tariffs will be eliminated on key products is detailed in Table 3.

TABLE 3: SUMMARY OF NEW ZEALAND TARIFF ELIMINATION

DATE FOR TARIFF ELIMINATION	INDICATIVE LIST OF PRODUCTS	PERCENTAGE OF CURRENT IMPORTS FROM CHILE IN EACH CATEGORY
1 May 2006[6]	Forestry products Seafood products Fruit and vegetables Wine Preserves and jams Crude Oil (99% of imports from Brunei Darussalam)	96.5%
1 January 2008	Jewellery Ceramics Skincare products	0.03%
1 January 2010	Whiteware Aluminium products	1.54%
1 January 2015	Textiles Clothing Footwear Carpet Headgear	1.92%

[6] Expected date of entry into force, subject to parliamentary processes in each country.

7 HOW TO QUALIFY FOR THE TARIFF PREFERENCES UNDER THE TRANS-PACIFIC SEP

In order to qualify for tariff preferences under the Trans-Pacific SEP, rules applying to the origin of the goods must be met and certain steps must be followed. Appendix One of this booklet provides a step-by-step guide for businesses looking to export or import under the Trans-Pacific SEP.

RULES OF ORIGIN

To qualify for the preferential tariff treatment under the Trans-Pacific SEP, products must qualify as 'originating' goods from Brunei Darussalam, Chile, Singapore or New Zealand (or a combination of the members). Any goods traded among the four members that do not meet the Rules of Origin (ROO) will be subject to normal tariffs.

In general a good can qualify as 'originating' under the Trans-Pacific SEP if:

a) the good is wholly obtained or produced entirely in the territory of one member, or

b) the good is produced entirely in the territory of one or more member, exclusively from materials whose origin conforms to the provisions of the ROO chapter, or

c) the good is manufactured in one or more of the member countries using inputs from countries which are not party to the Trans-Pacific SEP, but meets the product-specific ROO in Annex II to the Trans-Pacific SEP, and the other requirements specified in the ROO chapter.

The product-specific ROO in Annex II to the Trans-Pacific SEP are set out at the HS 8-digit level.[7] See:

>> www.mfat.govt.nz/tradeagreements/transpacepa/pdfs/rules-of-origin-annex.pdf

For a more detailed explanation of the ROO under the Trans-Pacific SEP, see Appendix One of this booklet and the New Zealand Customs Service website fact sheet on Information for Importers and Exporters under the Trans-Pacific SEP at:

>> www.customs.govt.nz/library/fact+sheets/default.html

For trade between New Zealand and Singapore, traders can elect to use the ROO under either the Trans-Pacific SEP or the ANZSCEP.

The ROO under the ANZSCEP are generally based on regional value content (RVC). The ROO under the Trans-Pacific SEP are generally based on change of tariff classification (CTC).

See the New Zealand Customs Service website fact sheet 19 on the ROO under the ANZSCEP.

>> www.customs.govt.nz/library/fact+sheets/default.html

[7] Both the tariff preferences and the rules of origin for each product depend on the tariff classification of the product. The international tariff classification system, called the Harmonised Commodity Description and Coding system (HS) administered by Customs services around the world, sets out a common customs classification down to the HS 6-digit level. HS 2-digit relates to chapter headings, HS 4-digit to headings and HS 6-digit to subheadings. HS 8-digit tariff lines sit within each subheading and are unique to each country.

8 MEASURES TO PROTECT BUSINESSES FROM UNFAIR TRADE OR IMPORT SURGES

TRADE REMEDIES

The Trans-Pacific SEP provides arrangements to prevent unfair trade or unexpected import surges among the four countries as a result of the Agreement.

ANTI-DUMPING, COUNTERVAILING DUTIES AND SAFEGUARD MEASURES

Under the Trans-Pacific SEP, the four countries retain their existing WTO rights and obligations on anti-dumping and countervailing duties procedures and the use of global safeguard measures.

> ANTI-DUMPING MEASURES allow an importing country to impose special import duties when a firm sells a product on the importing market below what the firm charges for the same product on its home market.

> COUNTERVAILING DUTIES are special duties that can be imposed on imports to offset the benefits of government subsidies to producers or exporters in the exporting country.

> GLOBAL SAFEGUARD MEASURES are temporary measures designed to slow imports of a particular product from all countries, to enable a domestic industry to adjust to heightened competition from foreign suppliers. There are only certain situations when a global safeguard can be applied, one of which is if there is a major increase in imports arising from tariff liberalisation.

> SPECIAL AGRICULTURAL SAFEGUARD MEASURES may be built into free trade agreements to allow temporary measures to be taken by an importing country if there is a major increase in agricultural imports, following the agreed tariff liberalisation.

As a courtesy, each country will advise other members of the Trans-Pacific SEP if it takes any global safeguard actions and the reasons for it. This is helpful if the other country's exports are caught up in the action.

For trade between New Zealand and Singapore, the trade remedy provisions under the existing ANZSCEP will prevail. Under the ANZSCEP there is no recourse to global safeguard action and there are modified anti-dumping provisions.[8]

[8] In the ANZSCEP, the WTO rules apply to anti-dumping cases with WTO-enhanced provisions for de minimis margins of dumping (raised from 2 percent to 5 percent) and negligible imports (raised from 3 percent to 5 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.

SPECIAL AGRICULTURAL SAFEGUARDS

Chile is also permitted to apply a quantity-based, special transitional safeguard mechanism on its most 'sensitive' dairy products. Tariffs on those products will be held at their current 6 percent level until 2012 when they will begin to reduce by 1 percent each year before reaching zero in 2017. The safeguard will only apply during the period of tariff reduction. For example, it cannot be applied for the first six years after entry into force of the Trans-Pacific SEP or after the product in question has become tariff-free.

The mechanisms under which the safeguard will operate and the trigger levels are set out in Annex 3.A of the Trans-Pacific SEP. See:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

9 LIBERALISING TRADE IN SERVICES

The Trans-Pacific SEP aims to reduce barriers to trade in services. Appendix Four of this booklet provides a practical guide to work out what the services commitments mean for business.

Services are economic activities like tourism, education, telecommunications, land and water transport, aviation, accountancy, engineering and law.

Services exports are less easily recognised than exports of goods, but can be a driving force in many economies. The WTO estimates that by 2020, services will represent 50 percent of world trade.

The services chapter of the Trans-Pacific SEP establishes the following key obligations.

- **Market access** – each country should not be able to limit access to its market through the use of quantitative restrictions.
- **National treatment** – each country shall treat services suppliers from the other countries no less favourably than it treats its domestic suppliers in like circumstances.
- **Local presence** – each country cannot 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.
- **Most favoured nation (MFN)** – each country will automatically receive the benefit of commitments the other countries make in future free trade agreements that are more liberal than those in the Trans-Pacific SEP.

Each country is required to observe these four obligations, in all service sectors in all four 'modes' of service delivery. This applies unless a service or mode of delivery is specifically excluded by a reservation in the country's services schedule, or by an exception in the text of the Trans-Pacific SEP.[9] This is called a 'negative list' approach to scheduling services commitments in a trade agreement.

The four modes of services supply

- **MODE 1:** Cross-Border Trade: the service is supplied by a provider physically located in one country, to a consumer in another (for example, by the Internet)
- **MODE 2:** Consumption Abroad: a customer travels to another country to consume a service (for example, a student travels abroad to study)
- **MODE 3:** Commercial Presence: a foreign service supplier establishes a legal presence in another country to provide a service, through incorporation, branch offices, a joint venture or other form of business entity
- **MODE 4:** Movement of Natural Persons: the temporary movement of a person into a country in order to supply a service directly

In the services schedules, Modes 1, 2 and 4 are grouped together as 'cross-border' services. Mode 3 is referred to as 'investment'.

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

> "A SERVICE IS TRADED WHEN THE SUPPLIER AND THE CUSTOMER ARE FROM DIFFERENT COUNTRIES, REGARDLESS OF THE LOCATION OF THE TRANSACTION."
>
> The World Trade Organisation

"“[WE ARE] PARTICULARLY DELIGHTED AT THE SERVICES COVERAGE AND AT THE FACT THAT A NEGATIVE LIST HAS BEEN USED FOR THE AGREEMENT. "

The Wellington Regional Chamber of Commerce

OPENING UP CHILE'S MARKET

Chile has committed to improve treatment for New Zealand service providers.

In particular, New Zealand service suppliers operating in Chile will be on the same footing as domestic service suppliers in the following sectors of export interest across all four modes:[10]

- 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 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's market access commitments are limited to their current WTO General Agreement on Trade in Services (GATS) obligations.

Overall, New Zealand has achieved broad parity (on national treatment) with United States service providers into Chile, as negotiated in the 2002 US-Chile FTA.

OPENING UP SINGAPORE'S MARKET

The Trans-Pacific SEP improves on the ANZSCEP, 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 2003 US/Singapore FTA.

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

"THE RESULTS OF THE FREE TRADE AGREEMENT BETWEEN NEW ZEALAND, BRUNEI DARUSSALAM, CHILE AND SINGAPORE ARE GOOD NEWS FOR EDUCATION EXPORTERS. "

Education New Zealand

[10] However, there is provision for some cross-cutting exceptions to apply. For example, Chile reserves the right to adopt measures that can exclude service suppliers or investors from other Parties' rights or preferences provided to indigenous peoples.

OPENING UP BRUNEI DARUSSALAM'S MARKET

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 services.

OPENING UP NEW ZEALAND'S MARKET

New Zealand has made a number of new commitments (beyond current WTO obligations) in terms of national treatment in a number of service sectors including: services relating to business tax planning; collection agencies; computer repairs; credit reporting; energy distribution and mining; speciality design; telephone answering; and private health services. These are consistent with New Zealand's current regulatory framework.

New Zealand's market access commitments are limited to our current WTO GATS obligations.

>> www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm

TEMPORARY ENTRY

On temporary entry, each country has reaffirmed its commitments under the GATS agreement relating to the movement of businesspeople. These are listed in each country's GATS schedules and set out conditions for the entry of mainly intra-corporate transferees including senior and specialised personnel.

>> www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm

Chile, Brunei Darussalam, Singapore and New Zealand also affirmed their commitments to the APEC Business Travel Card 'operating framework'.

There is a commitment to review this chapter two years after the Trans-Pacific SEP comes into force. The purpose of the review is to consider broadening the range of businesspeople covered by temporary entry provisions.

10 INVESTMENT AND FINANCIAL SERVICES

Negotiations to liberalise investment between the four Trans-Pacific SEP countries are scheduled to commence within two years of the Trans-Pacific SEP coming into force.

While investment has been set aside for future negotiations, a key part of investment (relating to services Mode 3 'commercial presence') is covered by the services chapter of the Trans-Pacific SEP. (For example, Chile has made a commitment in the education sector on second-language, corporate, business and industrial training.)

This leaves investment in areas other than services (for example goods and portfolio investment) outside the Trans-Pacific SEP for now.

With trade in services being 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.

New Zealand investors in Singapore are still able to use the investment provisions under the existing ANZSCEP.

11 GOVERNMENT PROCUREMENT

Government procurement refers to the means by which government entities purchase goods and services.

Through the Trans-Pacific SEP, New Zealand businesses will have greater opportunities to compete for government procurement contracts in Chile, Singapore and eventually Brunei Darussalam.

The Trans-Pacific SEP applies to government procurement by specific government agencies (listed in Annex 10.A of the Trans-Pacific SEP) for contracts valued at or above NZ$100,000 for most goods and services and NZ$10 million for construction services.[11]

Above these thresholds the government agencies listed in each country's schedules will be required to follow certain procedures for open tendering. These include:

- the provision of minimum information requirements for the contents of published tender notices and documents
- transparency requirements for the use of standing supplier lists
- a commitment to encourage the use of electronic communications in procurement including maintenance of a single electronic portal for access to information on government procurement and supply opportunities.

Each country has committed to treat suppliers from the other three countries no less favourably than its domestic suppliers.

On top of this each country will also provide access to an independent administrative or legal review for complaints by suppliers.

[11] Brunei Darussalam has been granted a special threshold. On completion of its schedule, the provisions of the government procurement chapter will apply to it only for tenders of goods and services above Brunei Darussalam $250,000.

In Chile, this means New Zealand goods exporters and service providers will be able to tender alongside local suppliers for contracts awarded by Chile's 20 core public sector departments (including their regional offices).

New Zealand's commitment includes the 35 core public service departments listed in the First Schedule to New Zealand's State Sector Act 1988, plus New Zealand Defence and the New Zealand Police, to which our current government procurement policy applies.

Singapore's schedule includes its 23 core public sector departments.

The government agencies committed by Singapore in the Trans-Pacific SEP (by way of the list approach) are narrower than the generic coverage under ANZSCEP (where there is no list). However, the national treatment and procedural commitments are stronger. New Zealand companies will be able to use the treatment under each agreement as relevant.

Brunei Darussalam has been given two years in which to negotiate its government procurement schedule. Until it has completed these negotiations Brunei Darussalam will not benefit from the commitments that Chile, New Zealand and Singapore have made in government procurement.

For a copy of the government procurement schedules see:

- www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

12 MEASURES TO IMPROVE THE BUSINESS ENVIRONMENT IN CHILE, SINGAPORE AND BRUNEI DARUSSALAM

The Trans-Pacific SEP contains provisions to improve goods and services trade by improving the regulatory environment for business transactions among the members.

For example, the Trans-Pacific SEP sets up regular meetings and working groups on specific issues for regulators, officials and technical experts to meet to address barriers to trade in areas of standards, sanitary and phytosanitary measures and customs procedures.

CUSTOMS

The Trans-Pacific SEP sets out common procedures for the administration of imports that will reduce transaction costs for exporters and importers, improve transparency about customs decisions and provide mechanisms to raise concerns.

The Agreement also contains a general obligation to ensure that customs procedures are predictable, consistent and transparent and facilitate trade.

There are provisions for importers and exporters to seek ‘advance rulings’ on the tariff classification and origin of goods to ascertain whether or not a good will qualify for preferential rate of duty under the rules of origin. This can also determine whether the ‘goods re-entered after repair or alteration’ would qualify for entry free of customs duty. (See Appendix One of the booklet.)

There are some exemptions under the Trans-Pacific SEP from normal customs duties, for example:

- for goods re-entered after repair and alteration
- for commercial samples of negligible value
- for the temporary admission of goods for display or demonstration.

Exemptions are for customs duty only. GST, levies and domestic fees still apply.

For further information about whether goods qualify for the exceptions above see:

- www.customs.govt.nz/library/fact+sheets/default.html

SANITARY AND PHYTOSANITARY MEASURES

Sanitary and phytosanitary (SPS) measures are used to protect human, animal and plant health by preventing the introduction of pests and diseases, and to help ensure food is safe for consumption.

The Trans-Pacific SEP establishes procedures for the speedy resolution of SPS issues if they arise. It also establishes a framework to avoid SPS issues arising, creating a process for the countries to recognise another country’s SPS measures as being equivalent, and for countries to seek recognition of disease-free or pest-free status.

The recognition of measures being equivalent and of disease-free status will be negotiated through implementing arrangements once the Trans-Pacific SEP has entered into force.

Once a country’s disease-free status has been recognised, an importing country accepts that the exporting country has the capacity to manage associated risks.

If a dispute arises, each country may choose to use the dispute settlement provisions available under the Trans-Pacific SEP or may take the matter to the WTO SPS committee.

Decisions on matters affecting biosecurity and food safety will continue to be made and enforced strictly in accordance with New Zealand’s existing regulatory regime.

Businesses experiencing any SPS problems when exporting to Chile, Singapore or Brunei Darussalam should contact the Ministry of Agriculture and Forestry. Contact details are available at the end of this booklet.

TECHNICAL BARRIERS TO TRADE

Standards, regulations and conformity assessment procedures can act as technical barriers to trade (TBT).

The Trans-Pacific SEP aims to reduce unnecessary TBT among the countries by encouraging cooperation between relevant officials, regulators and technical experts. The countries are encouraged to accept each other's technical regulations as equivalent, and to accept the results of each other's conformity assessment procedures.

A TBT committee has been established and the countries have jointly 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 discussions with business, as areas of interest to exporters to Chile. These commitments are set out in an exchange of letters. See:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

If a TBT dispute arises, members can use either the dispute settlement provisions under the Trans-Pacific SEP or the WTO TBT Committee to resolve it.

Businesses facing standards and conformance problems when exporting to Chile, Singapore or Brunei Darussalam should contact the Ministry of Economic Development. Contact details are available at the end of this booklet.

INTELLECTUAL PROPERTY

Intellectual property covers rights in areas such as copyright, trademarks and patents.

The Trans-Pacific SEP reaffirms all four members' WTO commitments on intellectual property rights (IPR). It encourages cooperation between relevant agencies particularly in the areas of enforcing IPR and the exchange of information on infringements.

There is scope under the Trans-Pacific SEP for a country to list the geographical indications (GI) for wines and spirits that are protected in that country.[12] At this stage only Chile has submitted a list. For a copy of the GI annex see:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

The GI list is only protected to the extent provided for in New Zealand's domestic law.

12 GI's include products like champagne.

COMPETITION POLICY

The Trans-Pacific SEP promotes fair competition in line with APEC principles of non-discrimination, comprehensiveness, transparency and accountability and encourages cooperation among the countries on competition issues. Brunei has been granted flexibility on its application of the competition chapter as it does not have a competition authority.

For transparency purposes the Trans-Pacific SEP contains a list of measures or sectors that are exempted from the application of each country's competition law. New Zealand and Singapore have listed exemptions in this annex. Chile has indicated that it does not have any relevant exemptions.

For a copy of the competition annex see:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

There are no dispute settlement provisions under the competition chapter.

TRANSPARENCY

Under the Trans-Pacific SEP, the countries are obliged to ensure that any laws, regulations, procedures and administrative rulings on matters covered by the Trans-Pacific SEP are published.

People in Trans-Pacific SEP member countries will be provided with reasonable notice about any administrative proceedings that may affect them. Each country will also establish or maintain impartial and independent tribunals or panels to review and correct administrative actions regarding matters covered by the Trans-Pacific SEP.

These provisions are consistent with New Zealand's existing law and administrative practice.

13 DISPUTE SETTLEMENT

The Trans-Pacific SEP includes a robust and transparent government-to-government dispute settlement process to resolve disputes that arise over interpretation or implementation of the Trans-Pacific SEP.

As a first step, consultations will take place. If consultations fail to resolve the issue, an arbitral tribunal may be established under the dispute settlement procedures.

If a country is found to be acting inconsistently with the Trans-Pacific SEP, and they do not conform with the Agreement, then its benefits under the Agreement may be suspended or it may need to pay compensation.

The competition and strategic cooperation chapters are exempt from the dispute settlement provisions under the Trans-Pacific SEP.

The countries also retain their ability to take an issue to the WTO.

14 PROTECTIONS UNDER THE TRANS-PACIFIC SEP

GENERAL EXCEPTIONS

The Trans-Pacific SEP contains a range of exceptions to ensure that governments retain full decision-making powers in areas of national importance.

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
- protect national works, items or specific sites of historical or archaeological value
- provide support for creative arts of national value
- conserve exhaustible national resources.

The Trans-Pacific SEP will not prevent New Zealand from taking any actions necessary to protect its essential security interests or respond to serious balance of payments or financial difficulties. Taxation measures are also specifically excluded from the Agreement.

TREATY OF WAITANGI

As in the New Zealand-Singapore CEP and New Zealand-Thailand CEP, there is also a general exception to ensure that the Trans-Pacific SEP will not prevent any New Zealand government from taking measures it deems necessary to fulfil its obligations to Mäori, including under the Treaty of Waitangi.

15 STRATEGIC COOPERATION

The Trans-Pacific SEP will see the relationships shared by Chile, Brunei Darussalam, Singapore and New Zealand evolve to a new level as they develop the exchange of skilled people, capital, ideas and knowledge.

> New Zealand and Chile have existing areas of cooperation in the primary sector, education, biotechnology and trade promotion (the Primary Industry Cooperation Arrangement, the Memorandum on Education Cooperation, the Statement of Cooperation on Biotechnology and the Agreement of Cooperation between New Zealand Trade and Enterprise and the Chilean Exports Promotion Bureau).

> New Zealand and Singapore have existing areas of cooperation in film co-production and trade promotion (the Film Co-Production Agreement and the Memorandum of Understanding (MOU) between New Zealand Trade and Enterprise and International Enterprise Singapore).

The Trans-Pacific SEP contains a Strategic Partnership chapter that builds on areas of cooperation amongst the four member countries. It provides a basis for further work to complement existing areas of cooperation already occurring across the Pacific.

An Implementing Arrangement to the Trans-Pacific SEP details initial areas of focus and activities that have been agreed by the four countries on the basis of discussions with relevant government agencies in each country.

The partners will initially focus efforts on economic, scientific, technological, educational, cultural and primary industry cooperation. Each member country will participate in cooperative efforts at its own expense.

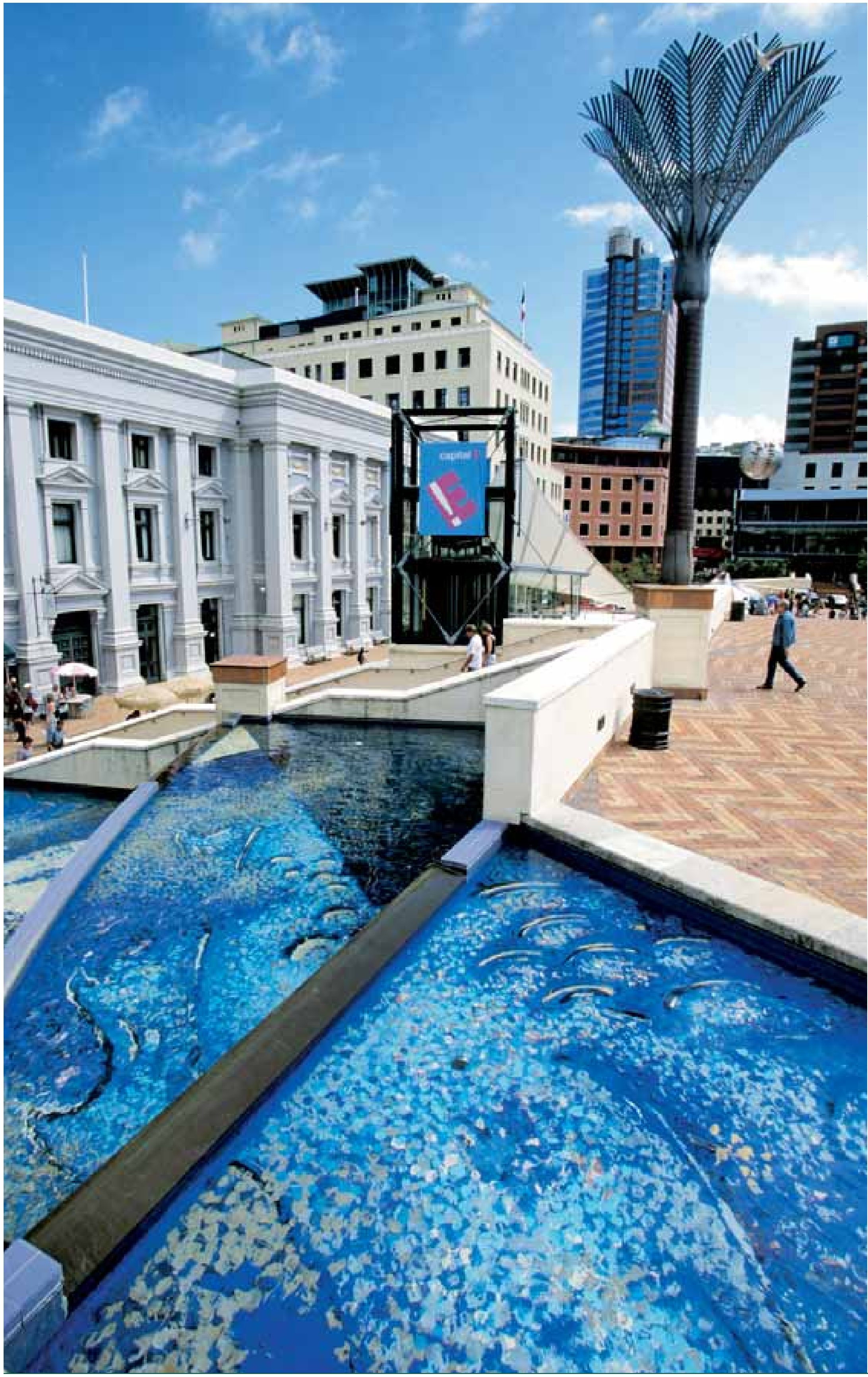
A copy of the implementing arrangement can be found at:

>> www.mfat.govt.nz/tradeagreements/transpacepa/pdfs/implementing-arrangement-cooperation.pdf

More information can be obtained from the Trans-Pacific SEP desk officer at the Ministry of Foreign Affairs and Trade. Contact details are provided at the end of this booklet.

" THERE ARE MAJOR BENEFITS TO BE GAINED FROM HAVING OUR FOUR RELATIVELY SMALL YET OPEN ECONOMIES WORKING COLLABORATIVELY AT THE GOVERNMENT AND BUSINESS LEVEL. "

Prime Minister of New Zealand at the signing of the Trans-Pacific SEP by Chile, Singapore and New Zealand.



16 MOVING FORWARD

JOINT COMMISSION

The SEP establishes a Trans-Pacific SEP Commission that is responsible for the implementation of the Agreement and for keeping the partnership under review.

For example, in a number of chapters in the Trans-Pacific SEP there are commitments to undertake future work, such as the TBT priority work programme, negotiations with Brunei Darussalam on its services and government procurement schedules, and negotiations on investment and financial services. During Commission meetings progress in these areas will be reviewed.

The Commission meetings are also an opportunity for any one of the countries to raise issues about any area of the Trans-Pacific SEP. In response, the Commission may establish committees or working groups to resolve these issues.

The Commission aims to ensure that the Trans-Pacific SEP evolves in a way that secures ongoing trade and investment expansion among the four countries.

The Commission will meet annually, at either ministerial or senior officials level. It may seek advice from non-governmental people or groups on any matter falling within its responsibilities.

REVIEWS

The four countries are committed to a general review of the Trans-Pacific SEP within two years of the Agreement coming into force and every three years thereafter.

FUTURE NEGOTIATIONS

As outlined previously, there are a number of built-in mechanisms for future negotiations under the Trans-Pacific SEP.

Negotiations by all four countries on investment and financial services are to begin within two years of the Trans-Pacific SEP entering into force.

Brunei Darussalam is also to complete negotiations on its services and government procurement schedules within two years of the Trans-Pacific SEP entering into force.

17 ENVIRONMENT AND LABOUR

As part of the overall outcome of the Trans-Pacific SEP, the four countries have negotiated a Labour Cooperation MOU and an Environment Cooperation Agreement. These are New Zealand's first binding agreements on labour and environment in the context of a trade agreement.

> The labour and environment agreements provide a forum for the four countries to work together in a practical way to promote sound labour and environment policies and practices.

> The agreements support the Trans-Pacific SEP commitment to encouraging sustainable development (and its interdependent and mutually reinforcing components of economic and social development and environmental protection).

> The agreements also promote the objective of improving the living standards of the peoples of Chile, Brunei Darussalam, Singapore and New Zealand.

Full texts of the Labour Cooperation MOU and Environment Cooperation Agreement are available online at:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

The two agreements are directly linked to the Trans-Pacific SEP. If a country withdraws from either the Labour Cooperation MOU or Environment Cooperation Agreement then they must withdraw from the Trans-Pacific SEP and vice versa.

This relationship is set out in a ministerial exchange of letters. Copies of these letters are available online at:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

KEY COMMITMENTS

The countries agree to:

- work to ensure their labour and environment laws, regulations, policies and practice are in harmony with their relevant international commitments
- respect each others' sovereign right to set, administer and enforce their labour and environment laws
- recognise, however, that it is inappropriate to encourage trade or investment by weakening or failing to enforce their labour and environment laws
- also recognise that it is inappropriate to use their labour or environmental laws, regulations or policies for trade protectionist purposes.

Each country will promote public awareness of its labour and environmental laws, regulations and policies domestically.

COOPERATION AND INSTITUTIONAL ARRANGEMENTS

Cooperative activities will play an important role in the operation of the two agreements. Some areas of interest for cooperation under the Labour MOU have already been identified, including: labour laws and practices; compliance and enforcement systems; labour consultation; social security; and human capital development.

Each country will designate a national contact point for labour, and for environment matters. The countries will meet within one year to discuss cooperation activities and review the operation of the agreements.

If an issue arises the countries will seek to resolve it through dialogue, consultation and cooperation. There is scope under both agreements for the issue to be referred to Ministers.

Under the Environment Cooperation Agreement the issue may also be referred to the Joint Commission of the Trans-Pacific SEP and a report may be produced with recommendations for resolving the issue.

PUBLIC PARTICIPATION

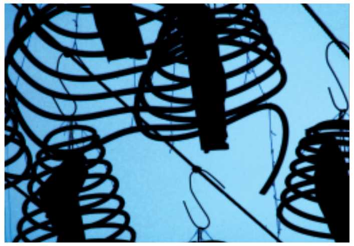
Each country may invite its non-government sector or relevant organisations to take part in the cooperative activities.

Each country may consult with its public and/or non-government sectors over the operation of the two agreements. Members of the public and non-government sectors may submit views or advice on matters relating to the operation of the agreements to the New Zealand Government.

The New Zealand contact points for the two agreements have already been established. The contact point for the Labour Cooperation MOU is in the Department of Labour and the contact point for the Environment Cooperation Agreement is in the Ministry for the Environment. Contact details are at the back of this booklet.

18 HARVESTING THE POTENTIAL OF THE TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP

The Trans Pacific SEP was negotiated on the back of extensive analysis and in-depth discussion with key sectors of the New Zealand community to ensure that it will provide direct benefits to New Zealanders and New Zealand business.



The overarching goal for New Zealand in implementing the Trans-Pacific SEP is a collaborative, ongoing whole-of-government and business community effort to take maximum advantage from the opportunities offered by the Agreement.

Beneath this overarching goal, there are four main areas of implementation:

- Making the Agreement work – which involves compliance, and monitoring and meeting the commitments under the Agreement
- Building relationships with New Zealand's Trans-Pacific SEP partners – at both industry and government levels
- Maximising benefits for New Zealand business – by leveraging off the agreement to improve New Zealand's international connections and trade and economic activity, including primarily increasing exports of goods and services
- Improving New Zealand business capability – to take advantage of opportunities opened up by the SEP.

Making the agreement work will require an ongoing commitment from government agencies. This commitment is to:

- ensure the effective implementation of the Trans-Pacific SEP
- actively shape its future development through the reviews and ongoing negotiations foreshadowed in the Agreement
- skilfully use the frameworks that have been put in place to resolve issues with respect to sanitary and phytosanitary measures and technical barriers to trade.

Building and deepening both government and business-to-business relationships with New Zealand's Trans-Pacific SEP partners will be important. This will ensure maximum awareness of what New Zealand can offer Chile, Brunei Darussalam and Singapore. Government agencies will be looking for strong private sector input to ensure long-term business-to-business links are established.

Maximising benefits for New Zealand business will require the targeting of sectors showing the greatest potential for benefit. This will capitalise on the reduction/elimination of tariffs, the opening of services sectors and government procurement markets, and the opportunities for strategic cooperation. Given the different strengths of the partner economies, there is ample scope for businesses to work together and collaborate in third markets. The Trans-Pacific SEP will improve and create opportunities for intra-industry cooperation and investment, which will benefit the dairy, horticulture, forestry, and fisheries sectors in particular.

One of the first steps toward improving New Zealand business capability to take advantage of the opportunities provided by the Trans-Pacific SEP will be making sure that businesses are informed. This booklet is only part of the wider process to inform business of the advantages and opportunities offered by the Trans-Pacific SEP – there will also be targeted presentations around the country, and other information will be sent direct to business or placed on government websites.

APPENDIX 1

GUIDE TO EXPORTING AND IMPORTING GOODS UNDER THE TRANS-PACIFIC SEP

This guide is designed for individual exporters and importers who want to determine how their good will be treated under the Trans-Pacific SEP.

A copy of this guide can be found at:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepindex.html

THERE ARE FOUR KEY STEPS.

STEP 1 Establish the tariff classification of a good

STEP 2 Check the tariff removal arrangements for the good in the relevant tariff schedule

STEP 3 Determine the Rules of Origin (ROO) applying to the good

STEP 4 Generate either an Export Invoice Declaration as to Origin or Certificate of Origin

STEP 1: ESTABLISH THE TARIFF CLASSIFICATION OF A GOOD

Tariff classification determines the specific Rule of Origin (ROO) for each good and what tariff preferences might apply. It is therefore critical to establish the tariff classification first.

Classification

If you or your broker are not confident with your classification of a good, the Trans-Pacific SEP has a provision that can provide certainty. You are able to apply for a binding tariff classification or 'advance ruling', which is only relevant to the applicant.

Advance rulings will be provided within 60 days of the complete information being given to the respective administration.

Exporters

If you are exporting to Chile, Brunei Darussalam or Singapore and would like an advance ruling, you will need to contact the customs administration of that particular country. This is because the tariff preferences under the Trans-Pacific SEP are at the Harmonised System (HS) eight-digit level. This means that the HS code is unique to the country you are exporting to.[13] The contact details for requesting an advance ruling in each country are listed under 'Contact details' later in this section.

You may also seek advice from the New Zealand Customs Service on the likely tariff classification, but they cannot provide a guaranteed tariff classification ruling for the export market due to the differences in each country's tariff schedules at the HS 8 level.

Importers

If you are importing goods into New Zealand and would like an advance ruling on the classification of a good, please contact the New Zealand Customs Service for the same reasons as above.

[13] The international tariff classification system, called the Harmonised Commodity Description and Coding system (HS) administered by Customs services around the world, sets out a common customs classification down to the HS 6-digit level. HS 2-digit relates to chapter headings, HS 4-digit to headings and HS 6-digit to subheadings. HS 8-digit tariff lines sit within each subheading and are unique to each country.

Contact details

The contact points to seek an advance ruling in each of the four countries are:

Chile

National Customs Service
Plaza Sotomayor 60
Valparaiso
Chile
» consultas@aduana.cl

Singapore

Head Documentation Specialists Branch
Singapore Customs
55, Newton Road, #07-02
Revenue House
Singapore 307987
» customs_documentation_specialists@customs.gov.sg

Brunei Darussalam

Mr Abd Wahab Yusof
Department of Trade and Economic Cooperation
International Convention Center
Jalan Berakas
Brunei Darussalam BB 3910
» wahab.yusof@mfa.gov.bn

New Zealand

The Manager
Trade Policy
New Zealand Customs Service
Box 2218
Wellington
New Zealand
Outside New Zealand: 0064 4 473 6099
Inside New Zealand: 04 473 6099
» tradepolicy@customs.govt.nz

»2

STEP TWO:

CHECK THE TARIFF REMOVAL ARRANGEMENTS FOR THE GOOD IN THE RELEVANT TARIFF SCHEDULE

Please note: Tariff preference is only applicable to ‘originating goods’ – see Step 3

Exporters

If exporting to Chile or Brunei Darussalam you need to check the country’s respective tariff schedules (Annex I to the Trans-Pacific SEP) available at:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

If exporting to Singapore, this step is not necessary as all tariffs between New Zealand and Singapore are zero due to the existing ANZSCEP. Please proceed to Step 3.

Importers

If importing from Chile or Brunei Darussalam, you need to check New Zealand’s tariff schedule (Annex I of the Trans-Pacific SEP) available at:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

If you are importing from Singapore, all tariffs are zero due to the existing ANZSCEP so please proceed to Step 3.

Reading the tariff schedule

The schedules show the year-by-year tariff phase-out arrangements for every tariff item.

> **Tip:** You can search for your tariff item using the search function in the PDF documents containing the schedule.

Each line contains the following details.

- A ‘base rate’ column showing the tariff that applied at 1 December 2004.
- The preferential tariff rates under the Trans-Pacific SEP each year.

The tariff cuts shown in the 2006 and subsequent columns will take effect on 1 January of the relevant year. [Note: implementation dates are reliant on completion of each country’s respective treaty-making processes.]

Special tariff provisions

In the Chile schedule there is an ‘observations’ column. The products that have an observation beside them in HS Chapter 4 are those where the special safeguard measure applies.

The products that have an observation beside them in HS chapter 17 are sugar products. For these products, the tariff elimination only occurs if New Zealand, Singapore or Brunei are net exporters of sugar.

3

STEP 3:
DETERMINE THE RULES OF ORIGIN APPLYING TO THE GOOD

Goods must qualify as 'originating' to gain preferential tariff treatment under the Trans-Pacific SEP.

Any imports into one of the member countries that do not meet the Rules of Origin (ROO) (Chapter 4 of the Trans-Pacific SEP) will be subject to the normal tariff rates.

A good can qualify as 'originating' under the Trans-Pacific SEP if:

a) the good is wholly obtained or produced entirely in the territory of one Trans-Pacific SEP member country.

These goods receive the tariff preference as of right.

To qualify as wholly obtained or produced the good must be:

i) 'obtained' entirely from within a party from natural resource-based goods, e.g. fished, farmed etc

ii) 'produced' entirely from within a party from goods that are natural resource-based goods, e.g. fished, farmed etc

See Chapter 4 of the Trans-Pacific SEP:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

OR

b) the good is produced entirely in the territory of one or more member countries, exclusively from materials whose origin conforms to the provisions of the ROO chapter.

See Chapter 4 of the Trans-Pacific Agreement:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepagreement.html

OR

c) the good is manufactured in one or more of the member countries using inputs from countries which are not party to the Trans-Pacific SEP, but meets the product-specific ROO in Annex II, and the other requirements specified in the ROO Chapter.

The product-specific ROO Annex II under the Trans-Pacific SEP can be found on the Ministry website at:

>> www.mfat.govt.nz/tradeagreements/transpacepa/pdfs/rules-of-origin-annex.pdf

In all circumstances above, to claim preferential tariff rate, the good must not enter the commerce of a country that is not a member of the Trans-Pacific SEP after export and before import. Simple trans-shipment is allowed, however.

See the Customs fact sheet on Information for Importers and Exporters on the Trans-Pacific SEP for further information and examples of what qualifies as 'originating' under the Trans-Pacific SEP.

>> www.customs.govt.nz/library/fact+sheets/default.html

As with tariff classification, an 'advance ruling' can also be sought for the origin of the good. The same provisions apply for seeking an 'advance ruling' for ROO as described in Step 1 (above). You may also refer to the Customs fact sheet or go to www.customs.govt.nz for more information.

Note: For trade between New Zealand and Singapore, traders can elect to use the ROO under either the Trans-Pacific SEP or the ANZSCEP. A fact sheet on the ROO under the ANZSCEP can be found on the New Zealand Customs Service website:

>> www.customs.govt.nz/library/fact+sheets/default.html

»4

STEP FOUR:
GENERATE AN EXPORT INVOICE DECLARATION AS TO ORIGIN OR A CERTIFICATE OF ORIGIN

Trans-Pacific SEP authorities can accept either a declaration as to origin on the export invoice (declaration) or a certificate of origin in respect of a good imported from another Trans-Pacific SEP country for which an importer claims preference tariff treatment. The requirement to produce a declaration or a certificate of origin may differ between the Trans-Pacific SEP countries and enquiries should be made with the relevant authorities, before shipping your goods, to confirm if such documentation is required.

The format for these forms is set out in the Trans-Pacific SEP (Annex 4.C and Annex 4.D of the Agreement).

See Appendix Two of this booklet for an example of the 'Export Invoice Declaration as to Origin'.

See Appendix Three of this booklet for an example of the 'Certificate of Origin'.

Either the exporter or producer has to fill out one of these forms. The exporter or producer can choose which one they want to use. The forms do not need to be verified by an independent organisation such as a Chamber of Commerce.

Importers will then use the Export Invoice Declaration as to Origin, or Certificate of Origin, as evidence of origin in respect to goods claiming preferential treatment.

The above-mentioned documents support a claim for tariff preference. However, a Customs administration from any Trans-Pacific SEP member country (New Zealand included) can request any additional information considered necessary to ensure that they are satisfied with the origin of a good.

An electronic copy of the Export Invoice Declaration as to Origin and Certificate of Origin can be found at:

» www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepindex.html

Inside the 'Guide to exporting and importing goods under the Trans-Pacific SEP'.

» www.customs.govt.nz/library/fact+sheets/default.html

In the ROO fact sheet on the Trans-Pacific SEP.

Note: For trade between New Zealand and Singapore, traders can also elect to use the provisions under the ANZSCEP. Under the ANZSCEP, there are no set forms, but traders do need to generate an equivalent certificate or declaration of origin. See the Customs fact sheet on the ROO under the ANZSCEP for further information about these provisions and examples of permitted certificates or declarations of origin.

APPENDIX 2

DECLARATION AS TO ORIGIN > EXAMPLE ONLY

I [state name and position] being the [producer and exporter] [producer] [exporter] (insert only that which applies) hereby declare that the goods enumerated on this invoice are originating from [Brunei Darussalam] [Chile] [New Zealand] [Singapore] (insert only that which applies) in that they comply with the provisions of Article 4.13 of the Trans-Pacific SEP entered into among Brunei Darussalam, Chile, New Zealand and Singapore.

Observations:

Signature   Date:

APPENDIX 3

CERTIFICATE OF ORIGIN > EXAMPLE ONLY

Issuing Number:

1: Exporter (Name and Address) Tax ID No:					
2: Producer (Name and Address) Tax ID No:			3: Importer (Name and Address)		
4: Description of Good(s)	5: HS No.	6: Preference Criterion	7: Producer	8: Regional Value Content	9: Country of Origin

10: Certification of Origin

I certify that:

- I The information on this document is true and accurate and I assume the responsibility for providing such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.
- I agree to maintain and present upon request, documentation necessary to support this certificate, and to inform, in writing, all persons to whom the certificate was given of any changes that could affect the accuracy or validity of this certificate.
- The goods originated in the territory of the Parties, and comply with the origin requirements specified for those goods in TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP AGREEMENT, and there has been no further production or any other operation outside the territories of the Parties in accordance with Article 4.11 of the Agreement.

Authorised Signature	Company Name
Name (Print or Type)	Title
Date (DD/MM/YY)	Telephone / Fax /E-mail

CERTIFICATE OF ORIGIN INSTRUCTIONS

Pursuant to article 4.13, for the purposes of obtaining preferential tariff treatment this document must be completed legibly and in full by the exporter or producer and be in the possession of the importer at the time the declaration is made. Please print or type:

Issuing Number: Fill in the serial number of the certificate of origin.

- 1: Exporter: State the full legal name, address (including country) and legal tax identification number of the exporter. The legal tax identification number in Chile is the Unique Tax Number ("Rol Unico Tributario"). The tax identification number is not applicable for Brunei Darussalam, New Zealand and Singapore.
- 2: Producer: If one producer, state the full legal name, address (including country, telephone number, fax number and email address) and legal tax identification number, as defined in Field 1, of said producer. (Tax ID is not applicable to Brunei Darussalam, New Zealand and Singapore.) If more than one producer is included on the Certificate, state "VARIOUS" and attach a list of all producers, including their legal name, address (including country, telephone number, fax number and email address) and legal tax identification number, cross referenced to the good or goods described in Field 4. If you wish this information to be confidential, it is acceptable to state "Available to Customs upon request". If the producer and the exporter are the same, complete field with "SAME". If the producer is unknown, it is acceptable to state "UNKNOWN".
- 3: Importer: State the full legal name, address (including country) as defined in 1: Exporter, of the importer; if the importer is not known, state "UNKNOWN"; if multiple importers, state "VARIOUS".
- 4: Description of Good(s): Provide a full description of each good. The description should be sufficient to relate it to the invoice description and to the Harmonized System (HS) description of the good.
- 5: HS No: For each good described in 4: Description of Good(s), identify the HS tariff classification to six digits.
- 6: Preference Criterion: For each good described in Field 4, state which criterion (1 through 3) is applicable. The rules of origin are contained in Chapter 4 and Annex II of the Agreement. NOTE: In order to be entitled to preferential tariff treatment, each good must meet at least one of the criteria below.

Preference Criteria

A The good is "wholly obtained or produced entirely" in the territory of one or more of the Parties, as referred to in Article 4.1 and 4.2 of the Agreement. NOTE: The purchase of a good in the territory does not necessarily render it "wholly obtained or produced".

B The good is produced entirely in the territory of one or more of the Parties exclusively from originating materials. All materials used in the production of the good must qualify as "originating" by meeting the rules of Chapter 4 of the Agreement.

C The good is produced entirely in the territory of one or more of the Parties and satisfies the specific rule of origin set out in Annex II of the Agreement (Specific Rules of Origin) that applies to its tariff classification as referred to in Article 4.2, or the provisions under Article 4.12 of the Agreement. The rule may include a tariff classification change, regional value-content requirement and a combination thereof, or specific process requirement. The good must also satisfy all other applicable requirements of Chapter 4 (Rules of Origin) of the Agreement.

- 7: Producer: For each good described in 4: Description of Good(s), state "YES" if you are the producer of the good. If you are not the producer of the good, state "NO" followed by (1) or (2), depending on whether this certificate was based upon: (1) your knowledge of whether the good qualifies as an originating good; (2) Issued by the producer's written Declaration of Origin, which is completed and signed by the producer and voluntarily provided to the exporter by the producer.
- 8: Regional Value Content: For each good described in 4: Description of Good(s), where the good is subject to a regional value content (RVC) requirement stipulated in the Agreement, indicate the percentage.
- 9: Country of Origin: Identify the name of the country. ("BN" for all goods originating from Brunei Darussalam, "CL" for all goods originating from Chile, "NZ" for all goods originating from New Zealand, "SG" for all goods originating from Singapore)
- 10: Certification of Origin: This Field must be completed, signed and dated by the exporter or producer. The date must be the date the Certificate was completed and signed.

APPENDIX 4

A GUIDE TO UNDERSTANDING THE TREATMENT OF SERVICES EXPORTS UNDER THE TRANS-PACIFIC SEP

This guide is designed to assist New Zealand services providers considering exporting to Chile, Singapore and eventually Brunei Darussalam.

In this guide, exporters will find:

- an outline of how the Trans-Pacific SEP creates opportunities for business
- details on the types of services covered by the Trans-Pacific SEP
- an explanation of the improved conditions for exporters provided by the Trans-Pacific SEP
- information to assist in identifying the type of service being exported and how that particular service will be treated in each of the Trans-Pacific SEP markets.

1. BUSINESS OPPORTUNITIES CREATED BY THE TRANS-PACIFIC SEP

The Trans-Pacific SEP aims to reduce barriers to trade in services, which will help companies conduct business in Chile, Singapore (and eventually Brunei).

Services cover areas such as tourism, education, engineering expertise, telecommunications, banking, insurance and land and water transport.

Trade in services occurs when the supplier and the customer are from different countries, regardless of the location of the transaction.

Examples of barriers to trade in services include:

- different rules or requirements for foreign companies compared to domestic companies which are designed to give domestic companies a competitive advantage
- requirements for foreign companies to employ a certain percentage of Brunei Darussalam, Chile or Singapore nationals or to enter a joint venture with a company from one of those countries.

2. BUSINESSES COVERED BY SERVICES PROVISIONS IN THE TRANS-PACIFIC SEP

The services chapter in the Trans-Pacific SEP covers all trade in services except:

- services being purchased by a government. There are separate rules for government procurement of goods and services (see Chapter 11 of the Trans-Pacific SEP)
- air services. There is, however, coverage for repair and maintenance, selling and marketing, computer reservations, a range of specialty air services and some international air transportation services
- financial services. Commitments in this sector will be negotiated two years after the Trans-Pacific SEP comes into effect
- subsidies or grants provided by a state to services sectors
- services supplied in the exercise of governmental authority. These are services supplied neither on a commercial basis nor in competition with one or more service supplier
- measures regulating the entry and orderly movement of natural persons into a country's territory or across its borders.

The exact wording of the scope of these categories is set out in Article 12.3 of the Agreement.

The Trans-Pacific SEP also covers all types of service delivery. The four different types of service delivery, known as 'modes of delivery' are defined in Chapter 9 of this booklet.

If your service is included in the scope of the services chapter, then read on to find out what benefits you may be able to receive.

3. IMPROVED RULES FOR SERVICES TRADE

Under the Trans-Pacific SEP, New Zealand, Singapore and Chile have agreed to the following 'obligations' to improve the trading environment (see Chapter 12 of the Trans-Pacific SEP).

- Market access. Each country should not be able to restrict access to their market through use of quantitative measures, for example, quotas. (Article 12.6)
- National treatment. Each country will treat services suppliers from the partner countries no less favourably than it treats its domestic suppliers in like circumstances. (Article 12.4)
- Local presence. Each country will not require a foreign service provider to have a commercial presence as a precondition to operating in the market when the services could be delivered in other ways. (Article 12.8)
- Most Favoured Nation (MFN) (Article 12.5). This means that if Chile or Singapore agree to more generous provisions for service suppliers or investors of other countries in future free trade agreements, then these provisions will automatically be extended to New Zealand service suppliers or investors.

4. EXEMPTIONS TO THE RULES: THE 'NEGATIVE LIST'

It is possible for a country to seek an exemption, however, to one or more of the agreed obligations outlined for specific service sectors. This is done through the 'services schedules' to the Trans-Pacific SEP (Annex III and Annex IV).

In the services schedules, each country lists its exemptions to the obligations above. An entry in the services schedule is called a 'reservation'.

On top of this there are also some 'general exceptions' that allow a country to maintain existing measures or adopt new measures that can restrict foreign service suppliers or investors from enjoying the full benefit of the above obligations. Measures that a country maintains under a general exception would not normally be listed in a schedule. These general exceptions are set out in Chapter 19 of the Trans-Pacific SEP and are summarised in Chapter 14 of this booklet. (See also section 6, question 3.)

The Trans-Pacific SEP uses what is called a 'negative list' approach to scheduling services commitments. If a country has not included a service in its services schedule (and it is not excluded by the general exceptions), then they cannot impose any barriers to trade in that service.

In a positive list approach to scheduling services commitments, the specific commitments made by FTA partners are listed. If the service you are delivering is not found in the schedule, it means it has not been committed and will not benefit from the obligations set out in the FTA. New Zealand's previous trade agreement with Singapore was in a positive list format. The negative list is the reverse of this approach, i.e. it lists what is not committed.

A negative list has two parts. The first part (Annex III to the Trans-Pacific SEP) contains very specific exemptions that are usually based on existing legislation. They are 'standstill' exemptions, which means that the level of protection cannot get any more restrictive in the future. But if exemptions are liberalised, that becomes the new level of commitment (the 'ratchet effect').

Annex IV contains more general exemptions, where the government retains full flexibility to take any regulatory action it chooses, and, if it so wishes, to give New Zealand companies more favourable treatment than foreign ones.

The following provides guidance on the method to check how your service is treated under the Trans-Pacific SEP and tips on how to read a reservation.

5. IDENTIFYING THE TYPE OF SERVICE SUPPLIED FOR THE PURPOSES OF THE TRANS-PACIFIC SEP

When checking the services schedule, you need to know how your service is classified under the Trans-Pacific SEP. Services are described in the services schedule at either the services sector or sub-sector level.

The steps to determine a classification for a service:

i. Identify the service sector relevant to your business.

   The services exemptions – or reservations – in the Trans-Pacific SEP are divided into 12 sectors - based on the WTO Services Sectoral Classification Code.[14] This is the classification system most commonly used for the services component of FTAs and the General Agreement on Trade in Services (GATS).

   A summarised version of the Services Sectoral Classification is in Appendix Five of this booklet. It will assist in determining the classification for a specific service. For example a business supplying data processing services would fit under the business services sector.

   A full copy of the Services Sectoral Classification can be found at:

   » www.wto.org/english/tratop_e/serv_e/mtn_gns_w_120_e.doc

ii. Identify the service sub-sector relevant to your business.

   Some services exemptions – or reservations – are broken down further based on the Central Production Classification (CPC).[15]

   A copy of the CPC can be found at:

   » unstats.un.org/unsd/cr/registry/regcst.asp?Cl=9&Lg=1

   Although the CPC is not an exhaustive list, most services can be located. For example data-processing services is referred to as CPC 841.

[14] Services Sectoral Classification List WTO Document MTN.GNS/120. It is also referred to as the W-120.

[15] The CPC is a numerical listing of almost all services. It is similar to the Harmonised System (HS) code, which is used to classify goods. The CPC expands on the Services Sectoral Classification code and provides definitions of specific services. The source of the CPC is Statistical Office of the United Nations Statistical Papers, Series M, No.77, Provisional Central Product Classification, 1991 (UN CPC code).

6. DETERMINING WHETHER BARRIERS HAVE BEEN REMOVED BY CHILE OR SINGAPORE FOR A SPECIFIC SERVICE

Once a service has been identified it can then be checked against the Trans-Pacific SEP's services schedule to determine how it is treated under the terms of the Agreement.

To determine the type of commitment Chile or Singapore has made businesses should answer the following three basic questions:

1. IS YOUR SERVICE SUBJECT TO A RESERVATION IN ANNEX III OF CHILE'S OR SINGAPORE'S SERVICES SCHEDULE?

See Annex III of the Trans-Pacific SEP:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepindex.html

2. IS YOUR SERVICE SUBJECT TO A RESERVATION IN ANNEX IV OF CHILE'S OR SINGAPORE'S SERVICES SCHEDULE?

See Annex IV of the Trans-Pacific SEP:

>> www.mfat.govt.nz/tradeagreements/transpacepa/transpacsepindex.html

3. IS YOUR SERVICE POTENTIALLY AFFECTED BY A GENERAL EXCEPTION?

See Chapter 19 of the Trans-Pacific SEP for the list of general exceptions.

These allow countries to adopt measures that are exempt from the obligations of the services chapter – as long as those measures are not used for protectionist purposes. Examples include measures to protect essential security interests or to deal with balance of payment difficulties.

Is the answer to the three questions no? Then there should be no government measures preventing Chile or Singapore from fulfilling their obligations[16] in respect of the services you are supplying. If you do encounter problems please contact the Ministry of Foreign Affairs and Trade (see contact details at the end of this booklet).

If the answer to question 1 is yes, this means Chile and/or Singapore have retained the right to impose certain clearly specified limitations on your ability to supply your service. The limitation cannot become any more restrictive in the future but if a country liberalises a piece of legislation listed in Annex III, this becomes that country's new level of commitment. See the tips on page 72 to help you interpret an Annex III exemption or contact the Ministry of Foreign Affairs and Trade for advice (see contact details at the end of this booklet).

If the answer to question 2 is yes, then this means Chile and/or Singapore have retained the right to introduce any limitations they deem necessary with respect to that sector, now or in the future. These limitations can be more restrictive or more liberal. For businesses this means they will need to comply with the prevailing local laws governing their service and will need to keep abreast of changes in relevant laws and regulations. Examples of sectors that have been excluded from the Trans-Pacific SEP include public education, public health and water.

If the answer to question 3 is yes, this means that even though your service does not appear to be affected by the restrictions in Annex III or IV, Chile or Singapore are able to introduce any measures that can be justified for the stated policy purpose in that service sector, now or in the future. You will need to check if there are any existing restrictions on foreign service suppliers and be aware that future measures may be adopted. Such measures can in some cases be questioned if you are concerned that they are really protectionism in disguise or discrimination unjustifiably on the basis of nationality.

16 The obligations are no quotas (market access), the same treatment as like domestic service suppliers (national treatment), no local presence requirements as a precondition for supplying a service, and enjoyment of the benefit of any more liberal future FTA services commitments.

> There remain complicated elements to determining the status of a service in a particular market over and above those outlined here. The following tips will assist businesses to work through these different elements. However, exporters are invited to contact the Ministry of Foreign Affairs and Trade with any queries. (See contacts in the back of this booklet.)

TIPS

i. Read the head notes to each schedule as a guide to interpretation. The meaning of different elements of an entry may vary among the countries. An example of a head note is shown below:

ANNEX III RESERVATION IN CHILE'S SCHEDULE > EXAMPLE ONLY

Sector	Fisheries Aquaculture
Classification	CPC 04 Fish and other fishing products
Obligations Concerned	National Treatment (Article 12.4)
Measures	*Ley 18892*, Diario Oficial enero 21, 1992, *Ley General de Pesca y Acuicultura*, Títulos I y VI
Description	Investment A concession or authorisation is required for the use of beaches, land adjacent to beaches *(terrenos de playas)*, water-columns *(porciones de agua)*, and sea-bed lots *(fondos marinos)* to engage in aquaculture activities. *Only Chilean natural or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may hold an authorisation or concession to carry out aquaculture activities.*

ii. The section entitled 'Sector' identifies the services sector to which the reservation relates. Some entries can relate to 'All sectors'.

iii. The section entitled 'Classification' describes the service based on the CPC code. If the CPC is cited, it means the reservation only applies to the service denoted by the CPC and not to the sector as a whole. The longer the number of digits in the CPC code, the narrower the scope of the reservation.

iv. The section entitled 'Obligations Concerned' lists the obligations a country will not fulfil because of the restrictions set out in the 'description' section.

v. The section entitled 'Existing Measures', describes the applicable law, regulation, procedure or requirement that is the source of the restriction set out in the description. It is not an exhaustive list and is included for transparency reasons.

vi. The section entitled 'Description' contains a description of the restriction(s) to be applied to the service suppliers of the other Trans-Pacific SEP partners. The modes that are exempted are indicated by the presence of the underlined terms 'cross border' (for Modes 1, 2 and 4) and/or 'investment' (for Mode 3). For Annex III entries, the measure cannot become any more restrictive in the future. If a country amends or repeals any of the measures set out in the 'measures' section and this has the effect of liberalising the restriction set out in the 'description', this becomes that country's new level of commitment.

vii. Check all the reservations in a country's services schedule, especially those applied to all sectors. This will provide you with a full picture of the restrictions they supply.

viii. Check the Temporary Entry chapter of the Trans-Pacific SEP. This affects the ability of mode 4 service suppliers – those who move people temporarily to countries to supply a service – to obtain an entry permit and enter a partner country to actually deliver the service.

ix. Check to see if the New Zealand-Singapore CEP provides more favourable provisions.

x. Be aware of the services schedules of future FTAs signed by Chile, Singapore or Brunei Darussalam. More liberal provisions will automatically apply to New Zealand exporters.

APPENDIX 5
SERVICES SECTORAL CLASSIFICATION LIST

SUMMARY OF THE MAIN SECTORS AND SUB-SECTORS

1. BUSINESS SERVICES
   - A. Professional Services
   - B. Computer and Related Services
   - C. Research and Development Services
   - D. Real Estate Services
   - E. Rental/Leasing Services without Operator 832
   - F. Other Business Services
2. COMMUNICATION SERVICES
   - A. Postal services
   - B. Courier services
   - C. Telecommunication services
   - D. Audiovisual services
   - E. Other
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES
   - A. General construction work for buildings
   - B. General construction work for civil engineering
   - C. Installation and assembly work
   - D. Building completion and finishing work
   - E. Other
4. DISTRIBUTION SERVICES
   - A. Commission agents' services
   - B. Wholesale trade services
   - C. Retailing services
   - D. Franchising
   - E. Other
5. EDUCATIONAL SERVICES
   - A. Primary education services
   - B. Secondary education services
   - C. Higher education services
   - D. Adult education
   - E. Other education services
6. ENVIRONMENTAL SERVICES
   - A. Sewage services
   - B. Refuse disposal services
   - C. Sanitation and similar services
   - D. Other
7. FINANCIAL SERVICES
   - A. All insurance and insurance-related services
   - B. Banking and other financial services
   - C. Other
8. HEALTH RELATED AND SOCIAL SERVICES
   - A. Hospital services
   - B. Other Human Health Services
   - C. Social Services
   - D. Other
9. TOURISM AND TRAVEL RELATED SERVICES
   - A. Hotels and restaurants (incl. catering)
   - B. Travel agencies and tour operators services
   - C. Tourist guides services
   - D. Other
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES
   - A. Entertainment services (including theatre, live bands and circus services)
   - B. News agency services
   - C. Libraries, archives, museums and other cultural services
   - D. Sporting and other recreational services
   - E. Other
11. TRANSPORT SERVICES
   - A. Maritime Transport Services
   - B. Internal Waterways Transport
   - C. Air Transport Services
   - D. Space Transport
   - E. Rail Transport Services
   - F. Road Transport Services
   - G. Pipeline Transport
   - H. Services auxiliary to all modes of transport
   - I. Other Transport Services
12. OTHER SERVICES NOT INCLUDED ELSEWHERE

MTN.GNS/W/120 10 July 1991

FOR MORE INFORMATION

USEFUL CONTACTS:

For assistance and advice on the Trans-Pacific SEP:

Trans-Pacific SEP Desk Officer
Americas Division
Ministry of Foreign Affairs and Trade
www.mfat.govt.nz
04 439 8000

For assistance and advice on business with Chile, Singapore or Brunei Darussalam:

New Zealand Trade and Enterprise
www.nzte.govt.nz
0800 535 888

For assistance and advice on Rules of Origin or Customs procedures:

The Manager
Trade Policy
New Zealand Customs Service
www.customs.govt.nz
04 473 6099

For assistance and advice on services trade:

FTA Services Officer
Trade Negotiations Division
Ministry of Foreign Affairs and Trade
www.mfat.govt.nz
04 439 8000

For assistance and advice on government procurement, standards and conformance, and Rules of Origin policy:

Manager, International Technical and Regulatory Co-ordination
Regulatory and Competition Policy Branch
Ministry of Economic Development
www.med.govt.nz
04 472 0030

For assistance and advice on intellectual property and competition policy:

Manager, Intellectual Property and Competition Policy
Regulatory and Competition Policy Branch
Ministry of Economic Development
www.med.govt.nz
04 472 0030

For assistance and advice on trade remedy issues:

The Manager, Trade Remedies Group
Regulatory and Competition Policy Branch
Ministry of Economic Development
www.med.govt.nz
04 472 0030

For assistance and advice on sanitary and phytosanitary issues:

International Policy Directorate/MAF Policy
Ministry of Agriculture and Forestry
www.maf.govt.nz
04 474 4100

For assistance and advice on the Labour Cooperation Memorandum of Understanding:

Director, International Services
Department of Labour
www.dol.govt.nz
04 915 4013

For assistance and advice on the Environment Cooperation Agreement:

Environment and Trade Adviser
Ministry for the Environment
www.mfe.govt.nz
04 439 7400

FEEDBACK

The business community and other interested parties were consulted extensively when the Trans-Pacific SEP was negotiated.

We want to continue this dialogue as the Trans-Pacific SEP is implemented. Interested people are invited to contact the Ministry of Foreign Affairs and Trade initially through the:

Trade Policy Liaison Unit
Ministry of Foreign Affairs and Trade
Private Bag 18 901
Wellington
tplu@mfat.govt.nz
+64 4 439 8000

www.mfat.govt.nz