

12 January 2018

► Minister for Trade and Export Growth

For action by 15 January 2018

## Pacific Alliance FTA: New Zealand's Market Access Offers

SUBMISSION	Issue
PURPOSE	To seek your approval of the parameters for New Zealand market access offers on goods, services and investment, temporary entry, and government procurement.

s9(2)(j)

## Recommended referrals

Prime Minister	For concurrence by	17 January 2018
Minister of Finance	For concurrence by	17 January 2018
Minister for Economic Development	For concurrence by	17 January 2018
Minister of Foreign Affairs	For information by	17 January 2018
Minister for State Services	For information by	17 January 2018
Minister of Agriculture	For information by	17 January 2018
Minister of Immigration	For information by	17 January 2018

## Contact details

NAME	ROLE	DIVISION	WORK PHONE	MOBILE PHONE
Brad Burgess	Chief Negotiator	Trade and Economic Group	s9(2)(a)	

# Pacific Alliance FTA: New Zealand's Market Access Offers

## Key points

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- FTA negotiations with the Pacific Alliance countries (Chile, Colombia, Mexico, and Peru) were launched in June last year. The process presents important opportunities for New Zealand to deepen our trade and political relationships in Latin America. We are working to an ambitious target of concluding an agreement this year.

- s6(a), s9(2)(j)

- This paper seeks approval of the parameters for New Zealand's initial and revised market access offers in the negotiation that:

s9(2)(j)

- It is proposed:

- **For goods (tariffs):** s9(2)(j)

are already tariff-free under New Zealand's 'P4' FTA.

- **For services and investment:** s9(2)(j)

Imports from Chile

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s9(2)(j)

- **For financial services:** s9(2)(j)
- **For government procurement:** s6(a), s9(2)(j)
- **For temporary entry:** s6(a), s9(2)(j)
- In return, New Zealand will seek high quality market access into the Pacific Alliance in the form of:  
s9(2)(j)

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s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

- These elements are in addition to the issues officials will pursue in the 'rules' part of the negotiations, s6(a), s9(2)(j)
- Officials will also provide an overall update on the negotiation to Cabinet before the end of July 2018. Cabinet approval will be sought on the parameters of an overall agreement before negotiations conclude.

Vangelis Vitalis  
for Acting Secretary of Foreign Affairs and Trade

# Pacific Alliance FTA: New Zealand's Market Access Offers

## Recommendations

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It is recommended that you:

- |   |   |          |
|---|---|----------|
| 1 | Note that a Pacific Alliance FTA presents important trade, political, and strategic opportunities for New Zealand, and that negotiators are working to an ambitious target of concluding a high quality agreement before the end of 2018;                           | Yes / No |
| 2 | Note that the Prime Minister, Minister of Finance, Minister for Economic Development, Minister for Trade and Export Growth, and other relevant portfolio Ministers are empowered to take decisions on the parameters of New Zealand's initial market access offers; | Yes / No |
| 3 | s6(a), s9(2)(j)   | Yes / No |
| 4 | s6(a), s9(2)(j)   | Yes / No |
| 5 | Agree that the parameters for New Zealand's initial and revised market access offers should generally:  |          |
|   | s6(a), s9(2)(j)   | Yes / No |
|   |   | Yes / No |
|   |   | Yes / No |
|   |   | Yes / No |
| 6 | s6(a), s9(2)(j)   | Yes / No |
| 7 | s6(a), s9(2)(j)   | Yes / No |
| 8 | s6(a), s9(2)(j)   | Yes / No |
| 9 | s6(a), s9(2)(j)   | Yes / No |

## Pacific Alliance FTA: New Zealand's Market Access Offers

	s6(a), s9(2)(j)	
10	s6(a), s9(2)(j)	Yes / No
11	s6(a), s9(2)(j)	Yes / No
12	s6(a), s9(2)(j)	Yes / No
13	s6(a), s9(2)(j)	Yes / No
14	s6(a), s9(2)(j)	Yes / No
15	s6(a), s9(2)(j)	Yes / No
16	Note that officials will provide an overall update on the Pacific Alliance FTA negotiation to Cabinet before the end of July 2018 and that Cabinet approval will be sought on the parameters of an overall agreement before negotiations conclude.	Yes / No

Hon David Parker  
Minister for Trade and Export Growth

# Pacific Alliance FTA: New Zealand's Market Access Offers

## Report

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### Background to the Pacific Alliance negotiations

1. The Pacific Alliance is a regional integration initiative established in 2011 by Chile, Colombia, Mexico, and Peru. The grouping already has its own trade agreement and is now looking to negotiate FTAs with other countries in the Asia-Pacific. Chile, Mexico, and Peru are also members of CPTPP.

2. New Zealand has been an observer to the Alliance since 2012. It has been a long-standing New Zealand priority to deepen trade ties with the emerging bloc. In June 2017, Alliance Presidents announced the launch of FTA negotiations with New Zealand, Australia, Canada, and Singapore.

3. There is both commercial and strategic value in securing an FTA with the Alliance:

- **Removing tariff and NTBs that currently reduce New Zealand's competitiveness** (products from the US, EU, and elsewhere benefit from preferences over New Zealand exports in most Alliance markets). An estimated \$70 million in tariffs are currently levied on New Zealand exports each year, though this will reduce assuming CPTPP enters into force. Crucially, a Pacific Alliance FTA presents an opportunity to establish an FTA relationship with Colombia (where there is considerable scope to enhance trade and investment), to eliminate barriers that remain under CPTPP s6(a), s9(2)(j)
- New Zealand and the Alliance are likeminded in many areas s6(a), s9(2)(j)
- This is **an early opportunity to promote the NPITA**. High quality labour and environment chapters will be included, as will New Zealand's first-ever chapter on trade and gender issues. s6(a), s9(2)(j)

Cooperation on small- and medium-sized enterprises (SMEs) will also be progressed through a dedicated chapter.

- **In strategic terms, an agreement would ensure New Zealand continues to be a part of all leading regional integration initiatives in the Asia-Pacific.** s6(a), s9(2)(j)

Bringing the Pacific Alliance directly into the Asia-Pacific will also introduce another high quality model for economic integration. s6(a), s9(2)(j)

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s6(a), s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

- Putting in place **an FTA is a key plank in our efforts to deepen our political relationships in Latin America**. Importantly, once an agreement takes effect, New Zealand will become the first country (or among the first group of countries) to become an Associated State of the Pacific Alliance.

### The process to date

4. The first round of negotiations was held in Colombia on 23-27 October 2017. s6(a), s9(2)(j)

New Zealand's position on key issues was reserved in light of the change in government.

5. Next steps in the process are as follows:

- Market access offers on services and investment, temporary entry, and government procurement will be exchanged this month. s6(a), s9(2)(j)
- Round Two begins in Australia on 29 January.
- Round Three begins in Chile on 5 March.
- Round Four is tentatively scheduled for 16 April in Canada.

6. The Pacific Alliance expects to reach an agreement quickly. s6(a)

This is the main reason why the negotiating schedule in early 2018 is unusually compressed.

### New Zealand's existing negotiating mandate

7. The current mandate for Pacific Alliance negotiations is summarised in Appendix 1. It is intended to be high-level and informs New Zealand's approach for the initial stage of negotiations only, after which an updated mandate would be sought from Cabinet before the end of July 2018. A separate paper has been sent to the Minister for Trade and Export Growth noting the changes officials have made to New Zealand's negotiating positions to reflect the Government's position on issues such as investor-state dispute settlement, s6(a), s9(2)(j) and to promote the NPITA.

8. Delegated authority exists for the Prime Minister, Minister of Finance, Minister for Economic Development, Minister for Trade and Export Growth, and relevant portfolio Ministers to make decisions on New Zealand's approach to negotiations up until January 2018. This paper seeks approval for New Zealand's market access offers to be tabled this month under this mandate.

### Parameters for New Zealand's market access offers

9. Improved market access for exporters is a one of the main benefits of FTAs for New Zealand. In addition to other commitments we seek, these market access outcomes



## Pacific Alliance FTA: New Zealand's Market Access Offers

achieve:

- Tariff elimination for New Zealand products in FTA markets. These provide an opportunity to either compete on a level playing field alongside domestically produced goods with an advantage over other imported products (for example in China where New Zealand gained a first-mover advantage as a result of the FTA), or ensures New Zealand products are treated the same as exports from other countries that already benefit from FTA preferences (such as with Korea, where some New Zealand agriculture products were being displaced by competitor products as a result of Korea's FTAs with other countries).
- Reducing barriers to services exports and offshore investment, and safeguarding New Zealand's future position by ensuring that discriminatory laws cannot be reintroduced or that New Zealand's competitive position is not eroded in the future by better commitments granted to other FTA partners in subsequent agreements. Services and investment flows are emerging as key drivers of productivity and employment in New Zealand.
- Opening up opportunities for New Zealand suppliers to participate in otherwise protected government procurement markets.
- Ensuring New Zealand business people have access to visas to conduct the above type of business in FTA markets.

10. These types of outcomes generally reflect New Zealand's already open economy.  
s9(2)(j)

### Guiding principles for New Zealand's offers in the Pacific Alliance FTA

11. In framing the proposed mandate for New Zealand's initial and revised offers, officials have considered:

- the need to protect core areas of government policy and the Government's right to regulate;

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s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

- New Zealand's objectives and context noted in paragraphs 1-3, s9(2)(j)

### Goods (tariffs)

#### 12. s9(2)(j)

The bulk of Pacific Alliance exports to New Zealand are from Mexico and Chile, and are concentrated in wood and wood products; prepared foodstuffs, beverages, and vegetable products; electrical machinery and equipment; and motor vehicles. s9(2)(j) an estimated \$70 million in tariffs are levied on New Zealand exports to Pacific Alliance markets each year, with some tariffs high enough that trade for some products is not viable.<sup>8</sup> This impact is reflected in feedback from business on the negotiations, with a significant share of comments from exporters focusing on the cost of Pacific Alliance tariffs on their trade. No concerns have been raised by stakeholders about the impact of removing tariffs on imports into New Zealand from the Pacific Alliance.

13. New Zealand has been clear from the outset of negotiations that a Pacific Alliance FTA would need to provide a level playing field for trade through the elimination of all tariffs on products of trade interest. s6(a), s9(2)(j)

s6(a), s9(2)(j)

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s9(2)(j)

<sup>8</sup> Compared to local competition or exports from other countries that benefit from FTAs with Alliance countries. For example, Colombia applies tariffs of 20-33% on most dairy products which will be eliminated under its FTA with the US. Prior to the 1994 NAFTA agreement between Canada, Mexico, and the US, New Zealand was a significant dairy exporter to Mexico. Since Mexico eliminated tariffs for US dairy products, however, New Zealand's share of the import market has declined from 20% to 4% for cheese and 25% to less than 10% for powders.

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s6(a),  
s9(2)(j)

Chile already has tariff-free access into New Zealand; s6(a), s9(2)(j)

### Services and investment

17. s6(a), s9(2)(j)

18. Under a 'negative list' approach, government measures are subject to relevant services and investment commitments except in areas where country-specific exceptions are listed in the negative list (or where other exceptions apply, such as taxation, national security, or New Zealand's Treaty of Waitangi provision). These country-specific exceptions are known as 'non-conforming measures' or 'reservations' and are listed in two parts:

- *Annex I*: reservations in Annex I reflect the current level of access afforded to exporters and investors<sup>10</sup>. The relaxation of these restrictions in the future is also bound and cannot be rolled back.
- *Annex II*: reservations in Annex II reflect policy areas where Governments wish to maintain policy space to act inconsistently with the below obligations (paragraph 19), either through existing measures or through the introduction of new ones in the future. Most of New Zealand's reservations in negative lists under existing FTAs fall under Annex II.

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<sup>9</sup> CPTPP, Korea, Taiwan, Hong Kong (services only), P4 (services only), and CER.

s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

19. Like other FTAs, and subject to Annex I and II reservations, the services and investment market access obligations in the Pacific Alliance FTA will include commitments:

- to treat Pacific Alliance services exporters and investors the same as New Zealanders or exporters and investors from other countries;
- not to limit the size of a particular market, such as through an economic needs test;
- not to require Pacific Alliance services exporters to establish a presence in New Zealand in order to supply a service; and
- as with other existing FTAs, not to impose various requirements on Pacific Alliance investors as a condition of their investment, such as local content, export sales or technology transfer requirements, or that the senior management of an entity or a majority of Boards of Directors need to be New Zealanders.

20. A summary of the Annex I and II exceptions New Zealand takes against these obligations in FTAs is provided in Appendix 2. s9(2)(j)

21. Officials propose the following mandate for New Zealand's services and investment offers in Pacific Alliance negotiations:

s9(2)(j)

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s9(2)(j)

### Financial services

22. New Zealand s9(2)(j) does not pursue separate chapters in its FTAs. s9(2)(j)

These have largely reflected New Zealand's WTO obligations and have always included an exception to implement any measure for prudential reasons.<sup>11</sup> CPTPP went further in some areas, including by making additional market access commitments on portfolio investment services in relation to collective investment funds.

23. s6(a), s9(2)(j) Officials propose a mandate to table initial and revised offers s6(a), s9(2)(j)

### Temporary entry for business people

24. Temporary entry chapters establish a framework to facilitate the movement of business persons engaged in trade and investment activities, but do not cover immigration issues such as citizenship, nationality, residence or access to the employment markets. They also recognise the need to ensure border security and the integrity of domestic labour and permanent employment markets. Each Party sets out in its own schedule to the chapter a set of specific temporary entry commitments under the FTA. These commitments usually outline visa types, any conditions or limitations (in addition to standard conditions outlined in the chapter), and the eligible length of stay, including any permitted extensions.

s6(a), s9(2)(j)

26. Officials propose a mandate to table an offer s6(a), s9(2)(j)

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s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

s6(a), s9(2)(j)

### Government procurement

29. Government procurement is an important plank in high quality modern FTAs. It typically represents 15-20% of GDP in most developed countries and therefore represents a significant opportunity for New Zealand businesses to export goods and services.

30. s6(a), s9(2)(j)

31. The majority of New Zealand's FTAs that include government procurement apply only to central government entities (departments and ministries) only. The exception to this is CPTPP which extends commitments to 10 Crown agents, but does not include local authorities or state-owned enterprises. s6(a), s9(2)(j)

s6(a), s9(2)(j)

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s6(a), s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

s6(a), s9(2)(j)

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## Appendix 1: Current negotiating mandate

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The current mandate as approved in 2017<sup>13</sup> is to seek:

- a comprehensive, high quality agreement that met New Zealand's key trade interests in goods, services, and investment;

s9(2)(j)

Officials also confirmed with the Minister for Trade and Export Growth in December<sup>15</sup> that New Zealand would:

- oppose any form of investor-state dispute settlement in the Pacific Alliance FTA;

s9(2)(j)

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<sup>13</sup> EGI-17-MIN-0238; EGI-17-MIN-0140.

s9(2)(j)

<sup>15</sup> Submission to the Minister for Trade and Export Growth of 18 December 2017.



## Pacific Alliance FTA: New Zealand's Market Access Offers

### Appendix 2: Summary of the policy space that will be reserved in New Zealand's Pacific Alliance FTA services and investment market access offers

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This Appendix provides a brief summary of the aspects of New Zealand's regulatory regime that officials would look to preserve in New Zealand's initial market access offer in the Pacific Alliance FTA, s9(2)(j)

Initial and revised offers will be developed by MFAT in consultation with other agencies in accordance with the mandate approved by Ministers.

s9(2)(j)

## Pacific Alliance FTA: New Zealand's Market Access Offers

s9(2)(j)

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## Pacific Alliance FTA: New Zealand's Market Access Offers

s9(2)(j)

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