New Zealand-Thailand Closer Economic Partnership Agreement

National Interest Analysis

March 2005

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Executive Summary

1. Background

A new era in the trade and economic relationship between New Zealand Thailand will be realised with the ratification of a Closer Economic Partnership (CEP) Agreement negotiated between the two countries. It is scheduled to come into force on 1 July 2005.

The Agreement was negotiated over six months in the second half of 2004, following preparation of a Joint Study by Thailand and New Zealand. The Prime Ministers of New Zealand and Thailand announced the conclusion of negotiations on 30 November 2004, just over a year after their decision to launch a Closer Economic Partnership between the two countries.

The national interest analysis assesses the Agreement from the perspective of its impact on New Zealand and New Zealanders; it does not seek to address the impact on Thailand. The Joint Study established that both countries anticipated mutual benefits from a CEP.

2. Reasons for New Zealand to become Party to the treaty

The value for New Zealand in a CEP with Thailand lies in:

- the removal of trade barriers between the two countries
- the framework it provides for the continuing development of economic linkages between the two countries
- supporting wider trade policy interests
- cementing stronger links with the South East Asia region.

New Zealand and Thailand are complementary economies. Thailand exports predominantly manufactured goods to New Zealand, while New Zealand specialises in exporting agriculture-based goods and some niche manufactured items. Bilateral merchandise trade exceeded NZ$1 billion in 2004.

Thailand maintains some of the highest trade barriers in the South East Asia region. By removing all these barriers over time and many of them immediately, the CEP will open up significant opportunities for New Zealand to develop the trading relationship with Thailand to its full potential.

The negotiation produced a comprehensive agreement covering all goods. The New Zealand/Thailand CEP will serve as a building block for the Free Trade

Agreement under negotiation between the Association of South East Asian Nations (ASEAN), Australia and New Zealand and will help maintain momentum towards multilateral trade liberalisation through the World Trade Organisation (WTO).

3. Advantages/Disadvantages for New Zealand to become party to the treaty

Market access for goods exports to Thailand

- The CEP will deliver substantial opening of the Thai market as soon as it comes into effect. 52 percent of imports from New Zealand will become duty free compared to four percent currently.

- All tariffs and quota restrictions on New Zealand exports to Thailand will be removed over time. All exporters stand to gain from the certainty of reaching free trade by a certain date and from the cumulative benefits of reducing tariffs.

- As tariffs are removed and New Zealand goods become more competitive in the Thai market, companies will have the opportunity to increase existing exports to Thailand and develop new trade in areas where high tariffs have inhibited exports until now.

- Importantly, the CEP helps to establish a level playing field for New Zealand exporters competing with exporters from other countries which have free trade agreements with Thailand, including Australia and (for fruit and vegetables only) China.

- Key potential gains include:

    - immediate elimination of the 5 percent tariff on infant milk food. This was New Zealand's single biggest export item to Thailand in 2003, worth NZ$61 million and subject to duty payments of over NZ$3 million.

    - phasing out of the 18 percent tariff on whole milk powder, New Zealand's second largest export to Thailand in 2003. This is expected to result in total duty savings over the period 2005-2015 of NZ$51 million based on current trade.

    - opening up new opportunities for exports of avocadoes, cherries, persimmons and kiwifruit when the 30-40 percent tariffs on these products are eliminated on implementation of the CEP.

    - providing the opportunity, through removal of the 40 percent tariff on carrots, for New Zealand exporters to regain the NZ$2.5 million market lost to China since Thailand removed tariffs on all fruit and vegetable imports from China in October 2003.

- o significantly enhancing the competitiveness of New Zealand manufactured goods in the Thai market when tariffs are eliminated immediately on 72 percent of New Zealand's current manufactured goods exports to Thailand.

Services/temporary entry/investment

- The CEP commits the two countries to enter into negotiations on the liberalisation of trade in services within three years.

- In the meantime, Thailand will take some steps towards improving work permit and visa provisions for New Zealand business people entering and operating in Thailand, similar to undertakings in the Thailand/Australia Free Trade Agreement.

- The CEP provides for additional protections against arbitrary treatment for New Zealand investments in Thailand and offers greater certainty over New Zealand control of investments in the manufacturing sector.

Rules of origin

- The rules of origin under this agreement ensure CEP tariff preferences apply to all key New Zealand export products.

- Robust verification provisions will guard against goods from countries other than Thailand obtaining unintended benefits from the CEP in the New Zealand market.

- Adoption of the 'change of tariff classification' approach to determine whether a good has been 'substantially transformed' in Thailand or New Zealand, and should therefore qualify for tariff preference, is consistent with the international mainstream for rules of origin. A supplementary value-added test will provide additional assurance that substantial transformation has been achieved in the sensitive textiles, clothing, carpets and footwear sector.

Trade remedies

- New Zealand retains, without compromise, the ability to take WTO-consistent trade remedy actions against unfairly traded imports from Thailand.

- Bilateral transitional safeguards provide an additional safety net for any New Zealand industries that might be seriously affected by tariff reductions under the CEP.

Trade facilitation/regulatory environment/transparency

- The CEP contains a range of measures designed to facilitate trade and improve the regulatory environment governing the trade and economic relationship.

- These include bilateral mechanisms for addressing barriers to trade in the areas of standards, sanitary and phytosanitary measures, and customs procedures.

- Cooperation in the enforcement of intellectual property rights and provisions to promote competition are also included.

Labour and Environment Arrangements

- New Zealand and Thailand have negotiated Arrangements on Labour and Environment in parallel with the CEP Agreement. These reinforce both countries' commitment to maintaining sound labour policies and practices and high levels of environmental protection, in harmony respectively with International Labour Organisation labour principles and rights and international environmental obligations. The Arrangements entail a political commitment not to weaken or derogate from labour or environment laws or standards to gain an unfair trade advantage.

The adjustment effects arising from reciprocal removal of New Zealand's tariffs on imports from Thailand under the CEP are expected to be very muted, especially considering that 65% of imports from Thailand already enter duty free. Moreover, the adjustment process for the more sensitive sectors will be gradual and supported by existing assistance measures linked to the government's 2006-2009 tariff reduction programme. The provision relating to temporary employment for Thai chefs is not expected to displace New Zealand workers.

4. Obligations

Key new obligations for New Zealand under the CEP include:

- eliminating tariffs on goods originating from Thailand over a ten-year phase-out period

- working with Thailand to facilitate trade within existing regulatory systems and under relevant WTO rules (New Zealand has undertaken specifically to expedite consideration of Thailand's request for access for its tropical fruits under our biosecurity regime)

- entering into negotiations with Thailand in three years on liberalisation of trade in services

- providing access for temporary employment of qualified and experienced Thai chefs and exploring the scope for similar access for qualified and experienced traditional Thai massage therapists

- cooperating with Thailand across a range of economic areas, including technical regulations, intellectual property enforcement, competition policy, and investment

- participating in a working group to prepare for future negotiations on government procurement

- supporting the implementation of the Agreement through participation in meetings and reviews, and administering dispute settlement procedures.

Obligations in a number of other areas of the Agreement, such as transparency requirements and treatment of investments, are fully consistent with existing New Zealand practice. New Zealand's ability to regulate for national policy objectives is explicitly recognised. The overseas investment screening regime will continue to apply to relevant Thai investments. The CEP Agreement does not prevent New Zealand from taking measures it deems necessary to fulfil its obligations to Maori or to support creative arts of national value.

5. Economic, social, cultural and environmental effects

Economic effects: The CEP is assessed to make a modest but positive contribution to New Zealand's economic growth prospects over time, both through static gains from reciprocal trade liberalisation and dynamic productivity gains derived largely from improvements in the regulatory environment. As New Zealand and Thailand are both internationally competitive suppliers across most bilaterally traded goods, the gains should not be undermined through trade diversion effects.

The CEP can be expected to appreciably improve opportunities for New Zealand sectors who export significant volumes to Thailand and/or face high tariffs. Among the sectors with the greatest potential to benefit are dairy, horticulture, and manufacturing.

Social effects: The CEP is not expected to have any discernible negative social effects on New Zealanders. Tariff removal on imports from Thailand is unlikely to have any significant impact on employment. Overall effects on employment are more likely to be net positive. The access granted for specialist Thai chefs to work temporarily in New Zealand is not expected to displace New Zealand workers. New Zealand's social legislative and regulatory frameworks will not be affected by the CEP. The Arrangement on Labour reaffirms New Zealand and Thailand's commitment to sound labour policies and practices.

Cultural effects: The CEP includes safeguards which will ensure that there are no adverse effects on New Zealand cultural values, including Maori interests.

Environmental effects: New Zealand has sufficiently robust environmental laws, policies, regulations and practices in place to manage any potential negative impacts. The CEP may also produce some positive environmental outcomes for New Zealand. The CEP itself and the Environment Arrangement both support the aim of harmonising objectives for trade and the environment.

6. Costs

The direct financial implications for the New Zealand government of the CEP relate to declining tariff revenue (NZ$6 million was collected on imports from Thailand in 2004), minor one-off costs to government agencies of implementing the CEP, and the ongoing costs of complying with the CEP and associated Arrangements (estimated at $280,000 pa for the next few years).

7. Future protocols

It is anticipated that the Agreement will be amended following the conclusion of negotiations on liberalisation of trade in services and government procurement, and in light of further liberalisation in the area of trade in goods and investment.

8. Implementation

A small number of legislative and regulatory amendments are required to align New Zealand’s domestic legal regime with rights and obligations created under the CEP Agreement, in particular in respect of tariffs, rules of origin and bilateral transitional safeguards.

9. Consultation

In New Zealand, the study, preparation and negotiating phases involved extensive inter-agency collaboration and consultation with non-government stakeholders. Input was received through submissions, meetings, and email correspondence. A communication programme kept stakeholders informed of progress and provided opportunities for input.

1 DATE OF PROPOSED BINDING TREATY ACTION

It is proposed that New Zealand and Thailand formally ratify the Closer Economic Partnership (CEP) Agreement by exchange of notes to bring the Agreement into force on 1 July 2005.

2 REASONS FOR NEW ZEALAND TO BECOME PARTY TO THE TREATY

There are two key reasons for New Zealand to enter into a CEP Agreement with Thailand:

- New Zealand will benefit directly from the removal of trade barriers between the two countries and from the framework for ongoing development of economic linkages with Thailand established by the Agreement.

- the Agreement contributes to New Zealand's strategic objectives by supporting New Zealand's wider trade policy interests and cementing stronger links with the South East Asian region.

These reasons are expanded upon below.

2.1 Direct benefits from enhanced trade and economic links with Thailand

A fundamental objective of New Zealand's trade policy is to expand the opportunities available to New Zealand exporters by removing barriers to trade and establishing sound frameworks under which trade and investment linkages can flourish. Concluding bilateral agreements with key trading partners to remove barriers to trade on a reciprocal basis is one of the avenues for achieving this objective, thereby contributing to the government's goal of sustainable growth as set out in the Growth and Innovation Framework (GIF), in particular its International Connectedness dimension.[1]

New Zealand and Thailand are complementary economies. Thailand exports predominantly manufactured goods to New Zealand while our exports to Thailand are largely agriculture-based goods and some niche manufactured items. As one of the fastest growing economies in our region and a pivotal regional business hub, Thailand is already a valuable economic partner for New Zealand, with two-way merchandise trade exceeding NZ$1 billion in 2004[2]. New Zealand's $362 million[3] share of this trade has developed despite Thailand maintaining some

[1] Ministry of Foreign Affairs and Trade Statement of Intent 2004/05 intermediate outcome ll, *'New Zealand's international connections facilitate sustainable economic growth through increased international trade, foreign investment and knowledge transfer'*, notes that foreign trade, investment and technology transfer are critical to a durable economic growth path which will deliver to New Zealanders the standard of living and quality of life to which they aspire.
[2] Source: Statistics New Zealand. Excludes re-exports.
[3] Source: Statistics New Zealand. Excludes re-exports.

of the highest trade barriers in the South East Asian region[4], suggesting that the trading relationship holds considerably greater potential.

Virtually all New Zealand exports to Thailand are subject to tariffs. While tariffs are in the one to five percent range for a number of export items, for others Thailand maintains very high tariffs (for example, 30-40 percent on most fruit and vegetables and 30 percent on many manufactured items, rising to 50 percent on beef and 60 percent on wine). Thailand also applies tariff rate quotas on a number of agricultural products (for example, for skim milk powder imports above a certain quantity, the tariff climbs to a trade-prohibitive 216 percent). In 2003 an estimated NZ$33 million in duty payments was levied on New Zealand exports at an average rate of nine percent.

The CEP agreement will remove all these barriers over time and deliver substantial opening of the Thai market as soon as it comes into effect.[5] Significant opportunities for New Zealand will open up as a result. Exporters already active in the Thai market will have the opportunity to expand trade and market share. Other businesses, possibly already successfully exporting to other markets in the region, may now have the opportunity to establish themselves in the Thai market.

Without this Agreement, New Zealand would inevitably be progressively disadvantaged in the Thai market as:

- Thailand already offers limited preferential access to ASEAN members under the ASEAN Free Trade Area (AFTA).
- the Thailand/Australia Free Trade Agreement (TAFTA) came into effect on 1 January 2005.
- Thailand has since October 2003 provided duty free access to China for horticultural items as part of an early harvest package ahead of full Free Trade Agreement (FTA) negotiations.
- Thailand is currently negotiating FTAs with a number of other trading partners including the US and Japan.

Concluding our own CEP with Thailand will thus help maintain a level playing field for New Zealand exporters in the Thai market.

Beyond market access for goods, the Agreement takes some initial steps towards improving and securing operating conditions for New Zealand business people

[4] Only Viet Nam and Cambodia among the ASEAN countries impose higher average tariffs on New Zealand exports.

[5] Tariff liberalisation will take place on a reciprocal basis. In comparison with the barriers New Zealand exports face in Thailand, Thai imports into New Zealand face relatively low barriers. The average applied tariff rate in 2003 was just 1.5 percent. New Zealand tariff liberalisation under the CEP is addressed in sections 5.1.3.3 and 5.1.3.5.

and investors in the currently restricted Thai market. Negotiations on formal services commitments are scheduled to commence within three years of the CEP entering into force. The CEP also contains a range of measures designed to improve the regulatory environment for New Zealand/Thai trade and support the ongoing development of the trade and economic relationship with Thailand through cooperation, information-sharing and addressing non-tariff barriers.

Entering into a Closer Economic Partnership with Thailand should also raise the profile of each country in the other, promoting links and opportunities which do not derive from the letter of the Agreement itself.

Collectively, the elements of the Agreement outlined above can be expected to make a modest but positive contribution to New Zealand’s economic growth prospects over time. This flows from static gains generated by reciprocal tariff and non-tariff barrier removal and dynamic productivity gains derived principally from improvements over time in the regulatory framework governing the Thai/New Zealand trade and economic relationship. The impact on New Zealand producers of phasing out New Zealand’s low tariffs on imports from Thailand is expected to be very limited.

2.2 Indirect benefits from advancing New Zealand’s strategic interests

As well as offering direct economic benefits, the CEP advances a number of New Zealand’s strategic interests.

It will put New Zealand's relationship with Thailand, a key South East Asian country, onto a new, forward-looking footing. Mechanisms for bilateral cooperation and relationship building within the CEP itself will raise the level of engagement between New Zealand and Thailand in keeping with the government's objectives in Asia.

Moreover, the CEP will serve as a springboard for developing aspects of New Zealand/Thai relations beyond the economic domain. It has provided impetus to the conclusion of a Working Holiday Scheme with Thailand and to wider ministerial engagement and officials' exchanges. It will create a platform for greater cooperation, as agreed between the New Zealand and Thai Prime Ministers in 2004, in areas such as tourism, education, cultural links, and scientific exchange.

At the same time, the CEP will strengthen New Zealand's links with the South East Asian region which is particularly important as we enter into free trade negotiations with the Association of South East Asian Nations (ASEAN) and Australia. The New Zealand/Thailand CEP, together with New Zealand's existing CEP with Singapore and a possible FTA negotiation with Malaysia, will serve as a significant building block towards this broader agreement.

Entering into a comprehensive CEP with Thailand will also contribute to New Zealand's wider trade policy objectives. While a number of countries have negotiated bilateral trade agreements which exclude sensitive products, this CEP covers all goods. Like other comprehensive agreements, it maintains momentum towards our wider goal of multilateral trade liberalisation. While trade liberalisation through the World Trade organisation (WTO) remains New Zealand's primary trade policy objective, the bilateral CEP with Thailand will bring forward some of the gains without impeding New Zealand's overall interests.

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

3.1 Advantages to New Zealand in entering into a CEP with Thailand

3.1.1 Market access for goods exports to Thailand

- The most clear cut benefits to New Zealand from this Agreement stem from the removal over time of all tariff and quota restrictions on New Zealand exports to Thailand. As Thailand currently applies some of the highest trade barriers in the South East Asian region, some of which have the effect of impeding any New Zealand exports to Thailand, this represents a significant outcome for New Zealand.

- As a result of tariff preferences under the CEP, New Zealand goods will be more competitive in the Thai market vis-à-vis Thai domestic production and imports from third countries. New Zealand companies will have the opportunity to increase their exports to Thailand and/or secure better returns from the market.
- As the proportion of exports entering Thailand duty free is estimated to rise from just four percent to 52 percent[6] as soon as the Agreement is implemented, the CEP will deliver some major upfront benefits including:

    - immediate elimination of the 5 percent tariff on infant milk food. This was New Zealand's single biggest export item to Thailand in 2003, worth NZ$61 million.

    - opening up new opportunities for horticulture exports, including avocadoes (currently impeded by a 40 percent tariff), cherries (exports of which have doubled each year in recent years despite the 40 percent tariff imposed), persimmons (for which Thailand is a $700,000 plus market despite the 40 percent tariff) and kiwifruit (for which tariffs may be levied on a per kilo basis equivalent to 52 percent).

[6] Analysis of the impact of the CEP on NZ exports to Thailand in this section and section 5.1 is based on 2003 Thai import statistics sourced from the World Trade Atlas.

- o significantly enhancing the competitiveness of New Zealand manufactured goods in the Thai market. Tariffs will be eliminated immediately on 72 percent of New Zealand's current $50 million manufactured goods trade with Thailand. Of particular interest are the immediate elimination of the 15 percent tariff on gas pumps, the 5-10 percent tariffs on plastic moulding equipment, and the 15 percent tariff on radio parts.

- o creating new opportunities in manufacturing sectors where Thai tariffs are currently impeding any exports. For example, removing the 30 percent tariff on plastic components for motor vehicles will open the way for New Zealand companies to tap into supplying Thailand's substantial automotive industry.

- In areas where Thailand's tariffs will be phased out rather than eliminated immediately, the certainty of reaching free trade on a scheduled date is valuable to New Zealand exporters in terms of forward business planning, as are the cumulative benefits of progressively reducing tariffs. Some of the key benefits are:

    - o the phasing out of the 18 percent tariff on whole milk powder, New Zealand's second biggest export to Thailand, could result in total duty savings between 2005 and 2015 of NZ $51 million based on current trade.

    - o for the 28 percent of manufactured exports which will not become duty free immediately, New Zealand exporters can plan on duty free access for virtually all these products by 2010.

- The CEP will help to establish a level playing field where New Zealand exporters compete directly with suppliers from other countries with which Thailand has free trade agreements:

    - o from 1 July 2005, for virtually all items where New Zealand and Australia are both active in the Thai market, New Zealand exporters will have at least equivalent access.

    - o parity with Australia will be maintained as the second tranche of tariff reductions between New Zealand and Thailand will occur on 1 January 2006, putting Thai tariff cuts for New Zealand on the same cycle as those for Australia under the Thailand/Australia FTA.

    - o New Zealand fruit and vegetable suppliers will regain parity in tariff treatment with Chinese competitors from 1 July 2005.

   - in particular, the removal of the 40 percent tariff on carrots will provide the opportunity for New Zealand exporters to regain the $2.5 million market lost to China since Thailand removed tariffs on all fruit and vegetable imports from China in October 2003.

- More information on the market access outcomes is provided in section 5.1 and in Annex 1 which contains a summary of outcomes released publicly in New Zealand following the announcement of the conclusion of negotiations on 30 November 2004.

3.1.2 Services/temporary entry/investment

- Thailand will take some steps under the CEP towards easing and clarifying the conditions under which New Zealand business people enter and operate in Thailand. These are similar to the commitments made to Australia in respect of work permits and visas. They cover short-term business visitors, intra-corporate transferees and investors.

- New Zealand and Thailand are committed to entering into negotiations on the liberalisation of trade in services within three years. This will provide an opportunity to negotiate a services component to the CEP with wider coverage than Thailand is currently in a position to provide.

- The CEP provides for additional protections against arbitrary treatment for New Zealand investments, including appropriate protection against expropriation unless internationally accepted criteria are met.

- Thailand is committed to maintaining the right to 100 percent New Zealand ownership and control of investments in a number of manufacturing sectors in Thailand.

- In addition to the letter of the provisions on investment, the CEP has the potential to make New Zealand and Thai business people more alert to the mutually beneficial opportunities for pooling the strengths of each country through investment, joint ventures and collaboration in third markets.

- More information on outcomes in these areas is contained in Annex 1.

3.1.3 Rules of origin

- The rules of origin (ROO) under this agreement will ensure that the CEP tariff preferences apply to all key New Zealand export products.

- Robust verification procedures will ensure the integrity of the rules and minimise opportunities for other countries to obtain unintended benefits in the New Zealand market.

- The rules are based on a ‘change-of-tariff-classification’” (CTC) approach to determine whether a good has been ‘substantially transformed’ in Thailand or New Zealand and should therefore qualify for tariff preference. This is a new model for New Zealand, and is consistent with the international mainstream. New Zealand and Australia are discussing a move to CTC under a revised CER Agreement. In addition, CTC is the basis for the Pacific Three CEP negotiations among New Zealand, Chile and Singapore. (See section 4.3 for an explanation of the CTC approach.)

- Until now, New Zealand’s preferential arrangements have been based on an economic test of Regional Value Content (RVC) measuring the percentage of local content in the exported product. However, CTC is the most common model internationally because, in comparison with RVC, it is:

    - simpler and cheaper for business to apply

    - easier for government to administer

    - inherently more predictable and consistent in terms of origin outcomes (‘once qualify, always qualify’), and thereby permits effective forward planning

    - economically efficient in that it allows exporting manufacturers to buy inputs from the cheapest international sources

    - especially advantageous for small and medium enterprises because there is less need to maintain costly records systems.

- While CTC forms the basis for the rules of origin for all products, supplementary RVC rules apply to textiles, clothing, carpets and footwear. The value-added test will provide additional assurance that substantial transformation has been achieved in the sensitive textiles, clothing, carpets and footwear sector. The RVC measure for these goods is 50 percent of the FOB price.[7]

- ‘Minimal operations or processes’ are disallowed.

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[7] FOB means “free on board” (ie the stage at which the goods pass the ship’s rail), and is the price payable by the purchaser at the point of export. Unlike New Zealand’s existing trade agreements that use the added value, ex-factory cost method for determining RVC, the FOB “build-down” method allows for the inclusion of manufacturer’s profit and transport from the point of manufacture to the ship’s rail. It is a simpler model for both business and Customs, because the FOB price is, in most instances, also the customs value for duty. To determine the RVC, the value of non-originating materials is simply deducted from the FOB price.

3.1.4 Trade remedies

- New Zealand has retained, without compromise, the ability to take WTO-consistent trade remedy actions against unfairly traded imports which are dumped or subsidised and injure New Zealand producers.

- Bilateral transitional safeguard provisions provide an additional safety net for any New Zealand industries that might be seriously affected by tariff reductions under the CEP. These provisions are reciprocal. New Zealand ensured in the negotiations that reasonable disciplines are placed on both countries' use of bilateral safeguard provisions in order not to undermine the overall benefits of the CEP.

3.1.5 Trade facilitation/regulatory environment/transparency

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

- The CEP establishes mechanisms, such as regular meetings and working groups on specific issues, for regulators, other officials and technical experts to work together more effectively to address barriers to trade in the areas of standards and conformance, sanitary and phytosanitary issues, customs procedures and e-commerce. Along with provisions for greater transparency, cooperation and information sharing on non-tariff measures, these mechanisms are designed to facilitate trade and reduce transaction costs for people doing business between the two countries.

- The intellectual property provisions support more certainty over the provision and enforcement of intellectual property rights. For example, relevant agencies may establish contact points for enforcement of intellectual property rights and exchange information on infringements. The intellectual property provisions recognise that intellectual property rights are important in supporting economic activity and development, in reducing distortions and impediments to legitimate trade, and in supporting the transfer and dissemination of knowledge and technology.

- The competition provisions provide a framework that promotes adherence to competition principles. This will help inform the conduct of New Zealand and Thailand in achieving effective implementation of the CEP in areas such as government procurement, services, investment and intellectual property. The provisions also recognise the need to create and maintain open and competitive markets for the benefit of businesses and consumers from the two countries. This framework will support future policy dialogue between Thailand and New Zealand through the promotion of cooperation in the field of competition policy, and in particular between competition enforcement agencies.

- The CEP with Thailand is expected to act as a springboard for the ongoing development of the bilateral trade and economic relationship. In addition to the specific commitments on future negotiations on services and government procurement, the annual meetings of the Joint CEP Commission and five yearly reviews will provide opportunities for both sides to build on the initial commitments and use the CEP framework to drive other mutually beneficial initiatives.

- The above provisions, alongside the general transparency obligations included in the CEP, may collectively contribute to modest dynamic productivity gains in the New Zealand economy (see further commentary in section 5.1).

3.1.6 Advantages in relation to other New Zealand policy objectives

- The CEP maintains and reinforces existing rights and obligations under the WTO Agreement in relevant areas. At the same time it provides for bilateral mechanisms to enhance cooperation, improve understanding of each other's regimes and address issues affecting trade between the two countries within WTO frameworks (for example, in the areas of Technical Barriers to Trade (TBT), Sanitary and Phytosanitary Measures (SPS) and intellectual property rights (IPR)).

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

- New Zealand and Thailand have negotiated bilateral Arrangements on Labour and Environment in parallel with the CEP Agreement. These Arrangements reflect the New Zealand Government's *Frameworks for Integrating Labour and Environment Standards in Trade Agreements.*[8] They include a political commitment not to weaken or derogate from labour or environment laws or standards to gain an unfair trade advantage, or use them for protectionist purposes. Mechanisms are established for ongoing cooperation and dialogue, and for addressing any issues that may arise in these fields. Both Arrangements provide opportunities for public input.

- The CEP reflects New Zealand's objectives in connection with the Treaty of Waitangi (the same exception clause as in the New Zealand/Singapore CEP is included); the creative arts (an exception for measures relating to creative arts of national value is included); and traditional knowledge (the right of a country to take appropriate measures to protect traditional knowledge is recognised).

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

3.1.7 Strategic advantages

- The CEP will boost New Zealand’s relationship with Thailand, a key player and increasingly important regional hub in the South East Asia region.

- Having a bilateral Agreement in place with Thailand as well as Singapore will strengthen New Zealand’s position as we enter into free trade negotiations with ASEAN and Australia. The New Zealand/Thailand CEP will serve as a building block towards this broader agreement. The understandings built up between New Zealand and Thailand should be useful in developing strategies for the wider agreement. The precedent of comprehensive coverage of goods will provide a solid foundation for pursuit of New Zealand’s objectives in these negotiations.

- The Agreement helps maintain momentum towards multilateral trade liberalisation through the WTO. The strong stand New Zealand and Thailand have taken on the elimination of export subsidies on agricultural goods and the end point of full free trade, including on ‘sensitive products’, are significant features in this respect.

3.2 Disadvantages to New Zealand in entering into a CEP with Thailand

Any trade agreement involving reciprocal tariff removal can create adjustment effects for import-competing sectors deriving from increased exposure to foreign suppliers at the same time as export-focused sectors secure improved access to offshore markets. Is there reason to believe that, with this particular agreement, the adjustment pressures are likely to be significant?

The assessment is that any such adjustment effects arising from the CEP with Thailand are overall not likely to be significant. This reflects the following factors:

- there is generally broad complementarity between our production bases.

- 65% of imports from Thailand entered New Zealand duty free in 2003, including Thailand’s principal exports (motor vehicles and computers).

- phasing arrangements are in place for removing tariffs on the remaining dutiable imports from Thailand where there are New Zealand industry sensitivities.

- the government’s tariff reduction programme scheduled for 2006-2009 means that the additional margin on most products is small.

- WTO-based anti-dumping and countervailing duty measures will continue to be available to address any unfair trade from Thailand, and bilateral transitional safeguards will be available in the event of any otherwise unexpected surges of imports from Thailand which could seriously injure New Zealand producers.

The clothing, footwear and carpet sector, where the highest tariffs of 17-19 percent prevail, has traditionally been the most sensitive to tariff reductions. Concerns in relation to imports from Thailand were also raised in respect of whiteware, plasterboard, steel and certain textiles. Even for these more sensitive sectors, the effects are expected to be very muted as:

- New Zealand's higher tariffs on clothing, footwear and carpet and many textile products will be phased out over a ten year period and preference will apply only to goods in this sector that meet the rules of origin requiring 50 percent Thai/New Zealand content as well as a change of tariff classification.

- in any event, Thailand accounts for a tiny proportion of textiles, clothing, footwear and carpet imports (around 1 percent).

- adjustment assistance has been made available in the context of New Zealand's unilateral tariff reductions to help the TCF sector build skills and global competitiveness.

- for the lower tariff sensitive products such as whiteware, existing tariffs will effectively be maintained at current levels before being removed from 2010.

Given the restrictions which Thailand maintains on access to its services sector for foreign suppliers, it could be said that it is a 'disadvantage' that the Agreement does not yet contain a services component. As with any negotiation, it takes two sides to reach agreement, and in this case it was apparent that concluding a services component was not feasible at this point. That said, there is a commitment to do so within three years and New Zealand has achieved certain gains in respect of access to Thailand for business visitors. The broader negotiation involved New Zealand meeting some specific Thai interests such as in the area of temporary employment for specialist Thai chefs and, potentially, traditional Thai massage therapists. The access for specialist Thai chefs to work temporarily in New Zealand subject to certain conditions is not however expected to displace New Zealand workers. Care will be taken to ensure the integrity of any system for temporary employment access ultimately offered for traditional Thai massage therapists.

New Zealand would have preferred to achieve more ambitious and/or timely outcomes in a number of other areas. Importantly, however, the Agreement contains built-in provisions for reviewing and expanding on the initial commitments in the future. Moreover, the outcomes achieved with Thailand will not prevent New Zealand pursuing more far-reaching mutually beneficial outcomes with other willing trading partners.

While rapid multilateral liberalisation remains New Zealand's ideal approach, parallel multilateral, regional and bilateral trade liberalisation initiatives serve New Zealand's interests in the current environment. The CEP with Thailand is expected to deliver faster benefits than those in prospect through the WTO without undermining either country's commitment to pursuing the wider gains available through the WTO. The Agreement meets a benchmark achieved by very few bilateral trade agreements in covering trade in all goods. Comprehensive agreements of this kind fully comply with WTO requirements relating to goods commitments in regional trade agreements and can serve as building blocks towards liberalisation in the WTO. Both countries are committed to future negotiations on a services component to the CEP which complies with WTO requirements. Moreover, the proliferation of FTAs is a fact. Australia and China have negotiated agreements with Thailand and more are in the pipeline. To stand aside from securing at least parity with these competing agreements is effectively to put our exporters at a manifest disadvantage.

4 OBLIGATIONS

The CEP provides for the liberalisation of trade and imposes a general obligation on New Zealand to work with Thailand to implement the provisions of this Agreement. A synopsis of the Agreement will be made available to Parliament and is accessible on the Ministry of Foreign Affairs and Trade website[9]. The specific obligations New Zealand will take on in each Chapter of the Agreement are set out below.

4.1 Trade in goods

New Zealand is required to eliminate its customs duties (ie tariffs) on goods originating from Thailand in accordance with the phase-out schedule in Annex 1.2 to the Agreement and may not increase existing customs duties (Article 2.3). Provision is made for the possible acceleration of tariff elimination through an obligation to promptly enter into consultations on such liberalisation at the request of one of the Parties (Article 2.4).

The Agreement imposes obligations consistent with the requirements of the WTO Agreement to ensure that all fees and charges are commensurate with the cost of the services provided, agricultural export subsidies are not introduced or maintained, and any non-tariff measures are consistent with the WTO, transparent and do not have the effect of creating unnecessary obstacles to trade (Articles 2.5, 2.6 and 2.7).

4.2 Customs procedures and cooperation

The Agreement contains obligations aimed at facilitating trade and reducing transaction costs through cooperation and information sharing. It provides for the

[9] www.mfat.govt.nz/foreign/tnd/ceps/cepindex.html

New Zealand and Thailand customs administrations to enter into a Cooperative Arrangement (Article 3.4). This Arrangement in turn provides for the customs administrations to exchange information, subject to certain safeguards regarding disclosure of confidential information, to exchange personnel and to cooperate with respect to the provision of technical assistance. New Zealand and Thailand are to cooperate to ensure compliance with their customs laws and provide each other with mutual assistance to prevent breaches of their customs laws (Article 3.7). Consultation is required should any differences arise over the requirements in the Agreement (Article 3.10).

A requirement is imposed to conform to the standards and recommended practices of the World Customs Organisation, including with respect to express consignments (Article 3.5). New Zealand and Thailand are also to ensure that their customs procedures are transparent and facilitate trade (Article 3.5). They are to periodically review their procedures to ensure that they continue to facilitate bilateral trade (Article 3.7).

The Agreement adds to the provisions of the WTO Agreement by requiring each country to provide the other with advance notice of any significant modification of its customs laws, regulations and policies which is likely to substantially affect the operation of the Agreement (Article 3.7). Consistent with New Zealand's current practice, there is a comprehensive publication requirement in relation to laws, regulations and administrative procedures (Article 3.14).

There is a requirement on New Zealand (which is already followed in practice) to provide in advance to New Zealand importers and Thai exporters/producers written rulings on the tariff classification of goods (Article 3.9). As a reciprocal requirement is imposed on Thailand, this provides some surety for the New Zealand exporter as to the tariff classification of a good imported into Thailand and the rule of origin that will apply to that good.

The customs administrations of New Zealand and Thailand are required to consult should either wish to adopt procedures to ensure the security of trade in goods or the security of movement of craft between the two countries (Article 3.11).

4.3 Rules of Origin

The Agreement sets out rules for determining whether goods traded between New Zealand and Thailand qualify for tariff preferences.

Products must be substantially transformed in New Zealand or Thailand to qualify for preference. As mentioned under Section 3.1.2, a Change of Classification (CTC) rule is used to determine if this requirement has been met.

Under CTC, a finished export good will, in principle, receive the benefit of tariff preference on entry into the other Party if it is classified in a different tariff category from all its input materials sourced from third countries. Annex 2 to the agreement details the precise form of CTC which will apply to a particular good.

Textile, apparel, footwear and carpet products must meet a 50 percent Regional Value Content test, based on FOB export price (see Section 3.1.3) as well as satisfy CTC. There are also specific rules relating to minimal operations or processes in Article 4.2, which will ensure that such processes do not confer origin even when a change in tariff classification has occurred.

New Zealand is obliged to require producers, exporters and importers to maintain all records relating to the origin of goods, including declarations made as to the origin of goods (Article 4.6). Section 95 of the Customs and Excise Act 1996 requires that such documents be retained for seven years.

The Agreement allows the New Zealand Customs Service to verify the origin of a good imported into New Zealand from Thailand (Article 4.7). This can extend to requests for information from the importer, exporter or producer, or visits to manufacturing premises. Thailand may also be requested to verify the origin of a good. New Zealand and Thailand are required to give notice of intention to conduct a visit to premises and to obtain written consent from the exporter or producer whose premises are to be visited. The Agreement allows New Zealand or Thailand to deny preferential treatment to goods that fail to meet the requirements for conferring origin, or where the origin of goods cannot be verified by the Customs administrations (Article 4.8).

4.4 Trade Remedies

New Zealand has no substantive additional obligations on anti-dumping, countervailing and global safeguard protections and existing WTO rights and obligations are retained (Articles 5.1, 5.2 and 5.3). New Zealand has committed to be mindful of the WTO provisions on constructive remedies before applying anti-dumping measures against Thailand. There is discretion to exclude partner country trade from any global safeguard action (Article 5.3).

The CEP provides New Zealand with the right to apply transitional safeguards to imports from Thailand during the period that tariffs are phasing out for any particular good and for two years beyond that. These allow either Party to address situations of serious injury to a domestic industry caused by increased imports due to tariff reductions under the CEP by reverting to higher tariffs for a certain period. New Zealand would have to follow the requirements to undertake an investigation into the matter, publish the findings, and only apply an increase in tariff to the minimum extent necessary to remedy the injury being caused (Articles 5.4 to 5.10).

4.5 Sanitary and Phytosanitary Measures

New Zealand's existing rights and obligations under the WTO Agreement on Sanitary and Phytosanitary Measures (the SPS Agreement) are reaffirmed under the CEP Agreement (Article 6.4). Decisions on matters affecting biosecurity and food safety will continue to be made and enforced in accordance with New Zealand's existing regulatory regime. The right of either country to determine the level of protection it considers appropriate is also preserved.

New Zealand and Thailand are required to promote communication between their competent SPS authorities on bilateral trade matters (Article 6.5). There are specific procedures outlined to notify new or proposed changes in SPS measures as well as any non-compliance of import consignments with relevant SPS measures. The Agreement also sets out procedures for situations where a Party has to take urgent action to manage a clearly identified risk of serious health effects on human, animal or plant life or health from the importation of a product or products (Article 6.6). The two countries are to protect non-public information that is shared in the facilitation of bilateral trade (Article 6.12). All these procedures are in line with New Zealand's existing obligations under the WTO SPS Agreement.

New Zealand and Thailand are also required to enhance cooperation and consultation on SPS matters to improve understanding of each country's measures and regulatory systems, to resolve any concerns about specific SPS measures or food standards and to resolve any technical and scientific issues that arise. There are two mechanisms established for this purpose: the Joint Management Committee (which can establish technical working groups as required – Articles 6.8 and 6.9) and a consultative mechanism to address specific issues affecting trade (Article 6.10).

In addition to the SPS Chapter, there is an exchange of letters in which the two countries are required to expedite consideration of each other's market access interests. New Zealand is to expedite Thailand's request for access of its tropical fruits. This does not prejudge the outcome or involve any lowering of New Zealand's appropriate level of protection but rather involves committing additional resources to carry out risk assessment and potential development of import health standards. (Thailand is to expedite consideration of New Zealand's request for alternative measures for the importation of potatoes for processing.)

4.6 Technical Barriers to Trade

New Zealand's existing rights and obligations under the WTO Technical Barriers to Trade Agreement are maintained under the Technical Barriers to Trade (TBT) Chapter, including its right to adopt or maintain technical regulations necessary to ensure national security, the protection of human health or safety, animal or plant life or health or the environment, or for the prevention of deceptive practices (Article 7.3). With the aim of facilitating trade between New Zealand and Thailand and reducing transaction costs, both countries take on some additional obligations under the CEP to address standards and conformance issues that impede trade between New Zealand and Thailand.

New Zealand and Thailand are to endeavour to work towards harmonisation of their respective technical regulations and to give positive consideration to accepting as equivalent technical regulations of the other country (Article 7.5).

The Agreement adopts a similar approach with respect to conformity assessment procedures. New Zealand and Thailand agree to give positive consideration to the results of a conformity assessment procedure undertaken in the other country, provided they are satisfied that the procedure offers an assurance equivalent to that provided by a procedure conducted in their own country that the good complies with the relevant technical regulation (Article 7.6). Where New Zealand or Thailand does not accept the other's technical regulations as equivalent to its own or does not accept the results of a conformity assessment procedure, it must explain the reasons for this decision.

Of particular importance is the obligation for all relevant stakeholders to enter into consultations and take part in work programmes in priority areas where concerns arise over the impact of technical regulations and standards and conformance issues on trade (Article 7.8).

4.7 Trade in Services

The Agreement requires New Zealand and Thailand to enter into negotiations on trade in services within three years from the entry into force of the Agreement with the aim of concluding an agreement to liberalise trade in services (Article 8.1). In the meantime, New Zealand has not entered into any commitments relating to trade in services.

4.8 Temporary employment in New Zealand

The Agreement includes an exchange of letters on temporary employment in New Zealand in which New Zealand has agreed to provide access for the temporary employment of Thai chefs in New Zealand provided they have a bona fide job offer (which includes market wage rates) and relevant work experience, and hold a Thai national skills standard certificate for Thai cooking. In practice New Zealand already frequently permits Thai chefs to take up job offers in New Zealand. The key change will be that this access will be guaranteed, with no labour market test applied, provided the above conditions are met. New Zealand has also agreed to explore the scope for developing a system to recognise the qualifications of traditional Thai massage therapists with a view to facilitating their entry into New Zealand for temporary employment purposes.

4.9 Investment

The Agreement sets out in principle a general obligation in respect of the establishment of investments to provide "national treatment" to investors – that is treatment no less favourable than that accorded to its own investors (Article 9.6). This is, however, qualified by the content of each country's Schedule under Annex 4. The Schedules set out the specific sectors to which the national treatment provision actually applies and any limitations or requirements with which the other country's investors must comply. New Zealand's Schedule does not in fact contain any sector-specific commitments. Furthermore, it specifies that Thai investors are obliged to comply with the requirements of New Zealand's overseas investment screening regime. In other words, the screening regime is preserved and no operative national treatment or other commitments are made on any specific sectors.

The Agreement also contains certain requirements for the equitable treatment of investments once they have been made in the other country. Again subject to the qualifications set out in the Schedules, New Zealand and Thailand are to provide national treatment to such established investments (Article 9.7). New Zealand's Schedule confirms, for example, that overseas company reporting requirements will continue to apply to Thai companies and that more favourable treatment may be granted to New Zealand companies in terms of industry development assistance. Particular provisions incorporate the general international law requirements relating to protection of investments from arbitrary expropriation (Article 9.11); provide for equitable treatment of investments in the event of compensation for losses arising from armed conflict or similar situations (Article 9.12); require that proceeds from investments can be freely transferred out of the country (Article 9.13); and ensure that investors of the other country have non-discriminatory access to courts and tribunals (Article 9.15). These protections are to be accorded on the basis that the treatment is no less favourable than that accorded to established investments from other countries (Article 9.8). New Zealand's investment and domestic legal regimes already operate on a non-discriminatory basis.

The Agreement provides a mechanism for the settlement of disputes between foreign investors and the country in which the investment is made (Article 9.16). If consultations do not resolve the dispute, the dispute may be submitted to a domestic court. The options of submitting the dispute to an arbitral tribunal or the International Centre for Settlement of Investment Disputes (ICSID)[10] are also included in the Agreement. Recourse to either of these options depends on the country in which the investment is made giving its consent to settlement of the dispute in one of these forums.

The two countries undertake to foster cooperation in investment particularly in key industries such as biotechnology, software and electronic manufacturing (Article 9.4). These are the focus of Thailand's efforts to attract investment and are consistent with the target sectors under New Zealand's Growth and Innovation Framework.

4.10 Electronic commerce

Consistent with current practice in New Zealand, the Chapter on Electronic Commerce requires the countries to maintain domestic legal frameworks

[10] Note that Thailand is not currently a party to the relevant Convention.

governing electronic transactions (Article 10.3). New Zealand is to provide protection for consumers using electronic commerce to the extent possible and to take appropriate measures to protect the personal data of users of electronic commerce (Articles 10.4 and 10.5). The electronic formats of documents that are required to be completed in relation to the import or export of goods are generally to be accepted (Article 10.6). New Zealand is also to encourage cooperative activities to promote electronic commerce (Article 10.7).

4.11 Competition policy

Under the Competition Policy Chapter, New Zealand undertakes to promote competition through addressing anti-competitive practices, applying the Asia Pacific Economic Cooperation (APEC) Principles on enhancing competition and regulatory reform, and promoting coordination on competition law and policy (Article 11.2 - 11.3). New Zealand competition law is to be applied generically to all commercial activities and consistent with the principles of transparency, timeliness, non-discrimination, comprehensiveness and procedural fairness (Article 11.4). Exemptions from the application of competition laws are permitted if they are transparent and reflect the public interest. Where appropriate New Zealand is to cooperate with Thailand on issues of competition law enforcement and consult with Thailand on anti-competitive practices and other competition issues that may affect bilateral trade or investment (Article 11.6 – Article 11.8). The provision for consultation is subject to the protection of the confidentiality of any information exchanged. A publication requirement applies to New Zealand’s competition laws (Article 11.9).

4.12 Intellectual property

The obligations arising from the chapter on intellectual property are primarily focused upon cooperation and the exchange of information. New Zealand and Thailand are required to fully observe the WTO agreement on trade-related aspects of intellectual property rights, and any other multilateral intellectual property agreements to which both countries are party (Article 12.2). They are required to cooperate with the aim of ensuring effective protection of intellectual property rights and preventing the trade in goods infringing intellectual property rights (Article 12.4).

Other cooperation and exchange of information efforts are focused UPon increasing awareness and understanding of each country’s respective intellectual property regimes, and facilitating the development of contacts and cooperation between agencies, educational institutions and other entities concerning the protection of intellectual property rights (Article 12.5). The right of a country to adopt appropriate measures to protect traditional knowledge is recognised.

4.13 Government procurement

The Agreement establishes a working group to discuss issues relating to government procurement, which will act as a clearing house for the exchange of information on government procurement policies, practices and procedures (Article 13.3). There is an undertaking to work progressively to reduce and eliminate barriers to trade arising from government procurement laws or policies, and to this end the working group is to make a recommendation on the commencement of negotiations on government procurement within one year of entry into force of the Agreement (Articles 13.1, 13.4, 13.5).

4.14 Transparent administration of laws and regulations

There are comprehensive obligations ensuring transparency of laws, regulations and administrative rulings (Article 14.1). Due process requirements in relation to administrative proceedings are included in the Agreement and a requirement to ensure that appropriate domestic procedures exist to enable prompt review of administrative actions (Articles 14.2 – 14.3). The transparency provisions are consistent with New Zealand's existing law and administrative practice.

4.15 General exceptions

The Agreement contains a standard set of provisions which ensure that the Agreement does not prevent New Zealand from taking measures necessary to protect human, animal or plant life or health, protect public morals, prevent deceptive practice, conserve exhaustible nature resources, protect national treasures or specific sites of historical or archaeological value or support creative arts of national value or protect its essential security interests, or necessary for prudential reasons (Article 15.1 – 15.6). The CEP Agreement does not prevent New Zealand from taking measures it deems necessary to fulfil its obligations to Maori, including under the Treaty of Waitangi (Article 15.8).

4.16 Institutional provisions

The Agreement establishes a Closer Economic Partnership Joint Commission to review the general functioning of the Agreement and considers any proposal to amend the Agreement (Articles 16.1 – 16.2). The CEP Joint Commission is to meet once a year. Ministers are to meet every five years to review the operation of the Agreement (Article 16.3).

4.17 Dispute settlement

The Agreement establishes a mechanism to address any government-to-government disputes which may arise regarding the interpretation or implementation of the Agreement (Articles 17.1 – 17.12). Consultations may be requested and there is an obligation to provide an opportunity for such consultations and to make efforts to resolve the dispute through such consultations. If consultations fail to settle a dispute, an arbitral tribunal may be established. Various procedural requirements are set out in the Agreement, which relate to the appointment of arbitrators, the qualifications of arbitrators, functions and proceedings of the tribunals. These provide for the smooth operation of the dispute settlement mechanism. There is a requirement to comply with the award of an arbitral tribunal, and an ability to impose trade sanctions if the country does not do so within a certain period of time.

The Agreement establishes separate dispute settlement arrangements in respect of certain matters. If a dispute between New Zealand and Thailand on SPS issues cannot be settled through a consultation mechanism, the matter can be forwarded to the CEP Joint Commission for consideration. However, the formal dispute settlement procedures established under the Agreement will not be used to settle disputes relating to SPS, competition, electronic commerce, and government procurement (unless incorporated subsequently). New Zealand (and Thailand) however retains the right to use the WTO dispute settlement mechanism to resolve any dispute between them arising under the WTO Agreement. Unless distinct rights or obligations apply under different international agreements, once a dispute settlement forum has been chosen, it is to be used to the exclusion of others. This avoids the possibility of the same case being brought before different fora.

4.18 Notification to WTO

Upon signature, Thailand and New Zealand will need to notify the Agreement to the World Trade Organisation as a free trade area within the meaning of GATT Article XXIV (goods). The foreshadowed negotiations on liberalisation of services will enable notification under Article V of the General Agreement on Trade in Services (GATS) following the conclusion of those negotiations.

5 ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL EFFECTS

5.1 Economic effects

5.1.1 Introduction

The Thailand/New Zealand CEP is likely to have a small but positive impact on the New Zealand economy. The economic impacts of this Agreement are assessed in sections 5.1.3 and 5.1.4 under a framework explained in section 5.1.2 below.

5.1.2 Relationship between trade and macroeconomic performance

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

5.1.2.1 Static effects

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

- lowered tariff and non-tariff barriers in export markets generating higher export returns and volumes

- domestic tariff liberalisation generating allocative efficiency gains, cheaper consumption and competitive effects.

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

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

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

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

The quantitative impact on New Zealand exporters to Thailand of changes to the Thai tariff regime and the impact on New Zealand domestic sectors of changes to the New Zealand tariff regime are considered in section 5.1.3.

5.1.2.2 Second-order effects

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

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

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

The second-order effects relating to the regulatory frameworks for bilateral trading relationships under FTAs are of particular relevance. These gains in the case of the New Zealand/Thailand CEP are assessed in section 5.1.4.

5.1.2.3 Measuring the macroeconomic impact of FTAs

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

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

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

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

5.1.3 Static effects on New Zealand economy of the New Zealand/Thailand CEP

When applied to the New Zealand/Thailand CEP, the framework for assessing the economic effects of FTAs outlined in section 5.1.2 suggests that the CEP will make a modest but positive contribution to New Zealand's economic growth prospects over time.

5.1.3.1 Magnitude of effects

The section below applies the first three factors outlined in section 5.1.2.3 to New Zealand and Thailand and explains why the overall impact of the CEP on the New Zealand economy is expected to be limited in terms of magnitude.

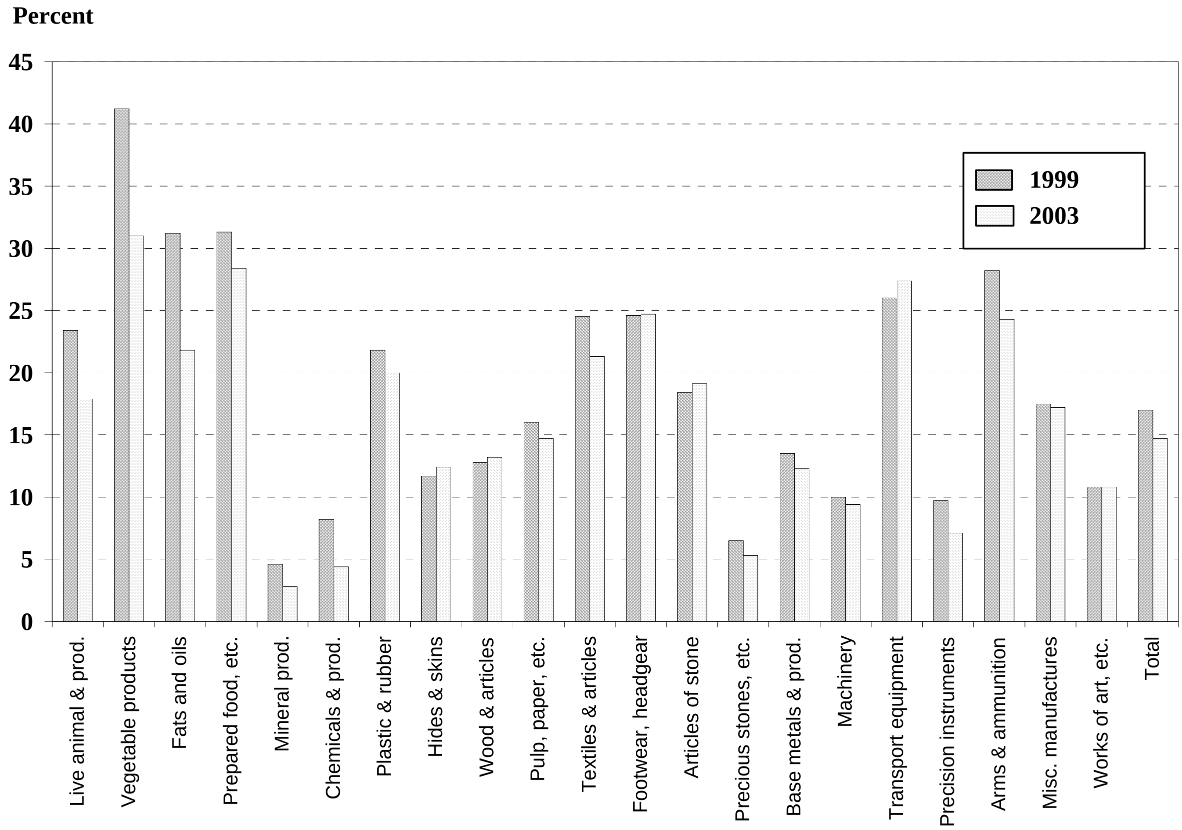
Contribution of trade to the New Zealand economy

Exports and imports clearly make an important contribution to the New Zealand economy. Exports of goods and services account for 32 percent of GDP and imports of goods and services for 33 percent of GDP.

Size of barriers addressed in New Zealand/Thailand CEP

As illustrated in Figure 1 below, Thailand maintains high trade barriers, the impact of which falls particularly heavily on New Zealand's primary product exports:

Figure 1: Thailand's simple average applied Most Favoured Nation tariff rates



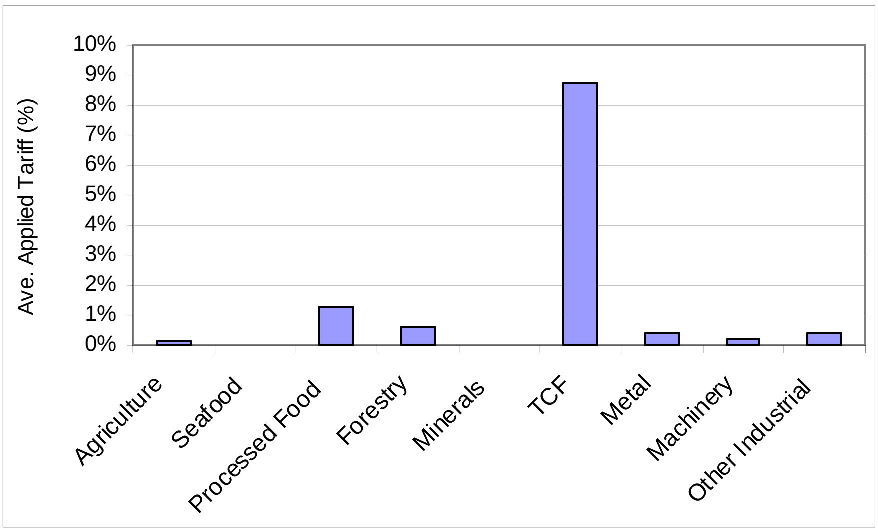
Note: Excluding in-quota rates. Including Ad Valorem Equivalents provided by the authorities for specific rates, as available. The ad valorem part of alternate rates are taken into account for the calculations. The 1999 tariff is based on HS96 and the 2003 tariff on HS02 nomenclature.

Source: Trade Policy Review of Thailand 2003, WTO Secretariat calculations, based on data provided by the Thai authorities.

Ninety six percent of New Zealand's current exports to Thailand attract tariffs averaging 9 percent but rising to peaks of 60 percent on some products.

On the other hand, New Zealand already provides duty free access for 65 percent of imports from Thailand and New Zealand's tariffs are low in global terms as shown in Figure 2:

Figure 2: New Zealand's average applied tariff rates (trade weighted)



Source: New Zealand Customs[11]

While there will be important upfront elimination of tariffs on both sides, the higher tariffs will be phased out gradually. New Zealand's tariffs on textiles, clothing, footwear and carpets (TCFC) will phase out over a ten-year period and Thailand's tariffs and other restrictions on sensitive products such as milk powders and beef will phase out over fifteen to twenty year periods.

Relative significance of New Zealand/Thailand bilateral trade

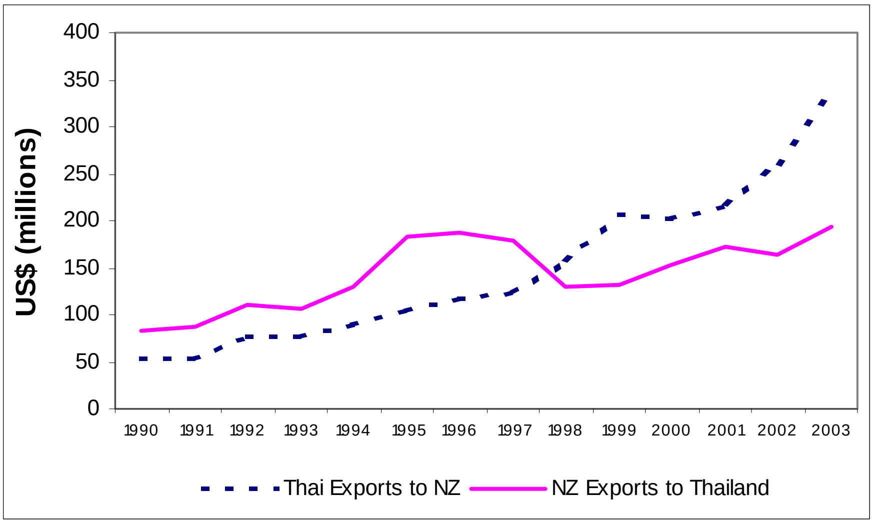
Thailand is a rapidly growing and increasingly affluent economy but it currently ranks:

- 19th among New Zealand's export destinations, accounting for 1.23 percent of exports
- 13th among New Zealand's sources of imports, accounting for 1.89 percent of imports[12].

The pattern of trade between New Zealand and Thailand since 1990 is set out in Figure 3:

[11] This graph is based on New Zealand Customs raw data. This data differs from official trade statistics produced by Statistics New Zealand, which is subject to updating and is compiled according to international standards to facilitate cross-country comparisons.
[12] Based on 2004 Statistics New Zealand data.

Figure 3: Thailand – New Zealand Historical Trade



Source: Statistics New Zealand

More detailed data on the composition of bilateral trade is set out in the two tables below:

Table 1: Thailand's top ten exports to New Zealand (2003, US$ millions)

Product	Export Value	% of Total	Import Market Share
Total Exports	**334.8**		**1.80%**
Vehicles and Automotive Parts	84.3	25%	3%
Machinery (incl. computers)	42.7	13%	2%
Electrical Machinery	26.3	8%	2%
Plastics	25.8	8%	4%
Canned and Processed Seafood	12.2	4%	29%
Glass and Glassware	11.9	4%	9%
Fish and Seafood	9.8	3%	36%
Furniture and Bedding	9.4	3%	4%
Rubber	8.4	3%	4%
Iron and Steel	7.9	2%	3%

Source: World Trade Atlas
NZ Import Data

Table 2: New Zealand's top ten exports to Thailand (2003, US$ Millions)

Product	Export Value	% of Total	Import Market Share
Total Exports	**211.2**		**0.28%**
Dairy	87.6	41%	32%
Infant Milk Food Formula	34.9	17%	21%
Wood	16.3	8%	3%
Seafood	9.6	5%	1%
Woodpulp	5.9	3%	2%
Wool	5.7	3%	4%
Electrical Machinery	5.6	3%	0%
Furskins	4.1	2%	73%
Plastics	3.7	2%	0%
Leather, Skins	3.5	2%	1%

Source: World Trade Atlas
Thai import data

5.1.3.2 Conclusions concerning static gains to New Zealand economy

It can be seen from the above factors, in particular the relatively small place of Thailand in New Zealand's trading profile, that modelling the impact of the CEP with Thailand on the New Zealand economy is unlikely to produce significant overall results relative to the size of the New Zealand economy. In light of this, the Joint Study conducted with Thailand prior to the commencement of negotiations did not include modelling of the kind conducted eg for the China FTA feasibility study.

Even in the absence of modelling, however, it is possible on the basis of the framework outlined in section 5.1.2 above to conclude that modest static gains will flow from reciprocal market access liberalisation under the CEP. As New Zealand and Thailand are both internationally competitive suppliers across most bilaterally traded goods, these gains should not be undermined by trade diversion effects.

The benefits from improved access to the Thai market for New Zealand exporters could take the form of expanded trade volumes (of both current and new export items), increased returns from existing exports, or a combination of the two. And for those products where Thailand's other FTAs provide preferential access to New Zealand's competitors in the Thai market, the CEP will at least help maintain a level playing field. Any expansion of export opportunities would nevertheless be from a small base. Thus it is expected that the impact in the short term on overall employment, production or prices in the New Zealand economy will be relatively small.

Below the macroeconomic level, the CEP can be expected to appreciably improve prospects for those sectors and companies for whom the Thai market is significant. More information on the potential impact on different sectors is provided in section 5.1.3.3 below. The sectors with the greatest potential are likely to be dairy, horticulture/processed food and beverage products, and manufactured goods.

Government agencies are developing a whole-of-government strategy in conjunction with private sector stakeholders to ensure that New Zealand derives as much benefit as possible from the CEP. The focus will be not only on exploiting immediate market access openings but more strategically targeting areas showing the greatest potential for growing New Zealand's exports of both good and services in the next five to ten years. The overall outcome is intended to be strengthened economic ties with Thailand which contribute to New Zealand's skills, innovation, and technology goals. An initial awareness-raising programme dedicated to the Thailand CEP will be conducted nation-wide including through regional seminars for business. Offshore activities in Thailand will complement those being planned in New Zealand. Additional resources have been allocated under the Government's Growth and Innovation Framework to facilitate the design and implementation of the Thailand strategy and to leverage the opportunities to the maximum from the CEP.

It is important to note however that exactly how opportunities opened up by the CEP in the Thai market translate into gains will be affected by a number of factors unrelated to the CEP. These include the level of demand in the Thai market (in turn affected by the state of the Thai economy and evolution in consumer tastes); exchange rates; future developments in Thailand's unilateral and bilateral tariff reductions; and New Zealand's capacity to supply (in turn affected by demand and prices in other markets, climatic influences on agricultural production etc).

In terms of the impacts of domestic tariff liberalisation under the CEP, a muted impact on domestic prices, resource allocation and efficiency can be anticipated, for the same reasons. By the same token, the phased nature of New Zealand's higher tariff reductions means the adjustment process for relevant sectors will be very gradual. Further commentary on the sectors most affected by New Zealand tariff reductions is included in section 5.1.3.5.

5.1.3.3 Overview of market access outcomes

As background to the material in section 5.1.3.4 on the sectors where the main impact of tariff liberalisation under the CEP is likely to be seen, the following section provides an overview of the market access outcomes.

The New Zealand/Thailand CEP will result in the complete removal of tariff and other barriers on bilateral trade over time. The first round of tariff cuts is to take place on implementation of the CEP, scheduled for 1 July 2005, and the second round on 1 January 2006, with subsequent reductions being applied on 1 January each year. This will mean that Thai tariff cuts for New Zealand are on the same cycle as those undertaken by Thailand for Australia from 2006. Provision is included in the CEP for negotiations to be held on acceleration of tariff reductions.

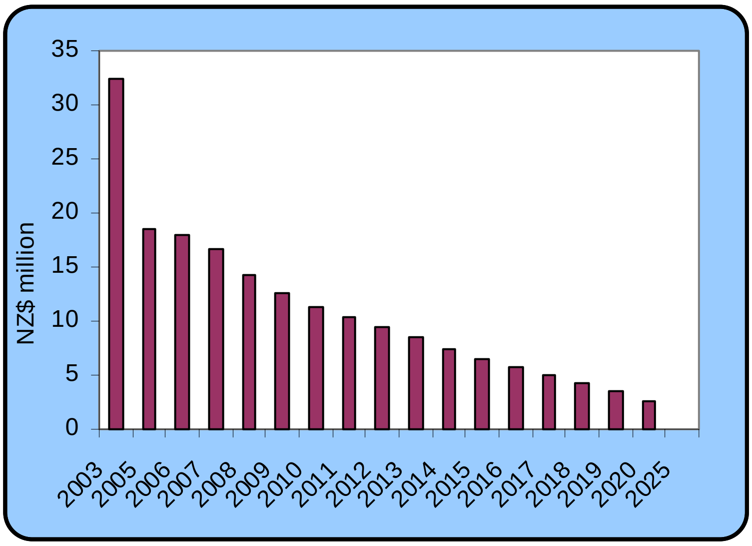
Phase-out arrangements for Thai tariffs and quotas

On entry into force of the CEP on 1 July 2005, Thailand will eliminate tariffs and quotas on 52 percent[13] of imports from New Zealand. This is a significant increase from the 4 percent of imports from New Zealand currently receiving duty free access. By 2010, a further 13 percent of trade will be duty free. Remaining tariffs and tariff quotas will be removed by 2025.

Thailand will apply special safeguards for the most sensitive agricultural products (whole milk powder and a number of other dairy products, beef, beef offal and processed frozen potatoes). Imports of these products will benefit from reducing tariffs up to a certain volume based on historical imports, plus a growth factor. Once the volume of imports from New Zealand reaches this level, these safeguards automatically trigger a snapback to the normal tariff. The same provisions were included in Thailand's Free Trade Agreement with Australia.

New Zealand exports to Thailand in 2003 attracted duty payments estimated at NZ$33m. Figure 4 below illustrates the estimated reduction in duty payments on exports to Thailand over the implementation period of the CEP. These estimates understate the likely benefits, however, as they are based on current trade. Increased exports in response to tariff reductions will generate additional duty savings on a cumulative basis.

Figure 4: Reducing duties on NZ exports to Thailand
(Projections based on 2003 exports)



Source: World Trade Atlas and MFAT Analysis

[13] Percentages are based on 2003 Thai import statistics sourced from World Trade Atlas

Phase-out arrangements for New Zealand tariffs

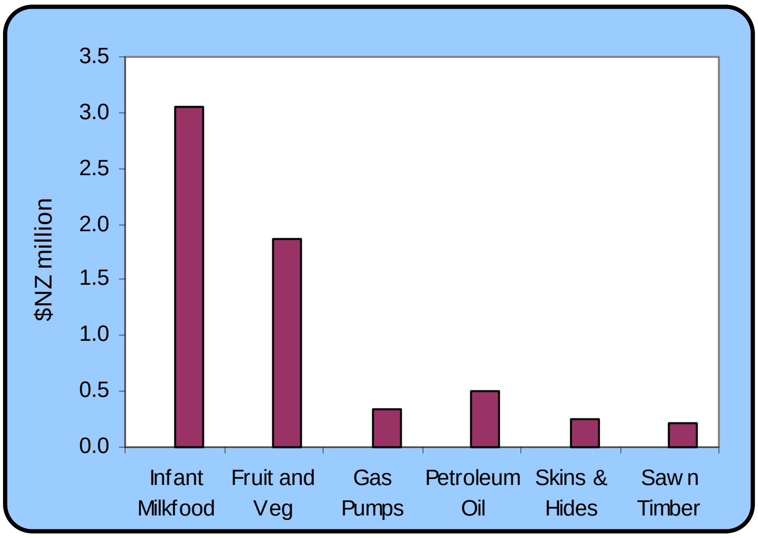
New Zealand currently provides duty free access for 65 percent[14] of imports from Thailand. On implementation of the CEP, New Zealand will eliminate tariffs on a further 20 percent of imports from Thailand. Further items will become duty free by 2010, at which point 97 percent of Thailand's current exports to New Zealand will enter duty free. The remaining tariffs will be phased to zero by 2015. The issue of duty revenue forgone as a result of this tariff reduction is discussed in section 6.1.

5.1.3.4 Outcomes for selected export sectors

The following more detailed information is designed to illustrate the impact of the CEP on a variety of export sectors across the New Zealand economy, selected principally in relation to the importance of the sector in terms of New Zealand's trade with Thailand and the severity of the barriers currently faced in the Thai market. A more detailed summary of the market access outcomes is included in Annex 1: Key Outcomes.

Figure 5 below illustrates products which will benefit particularly from the immediate elimination of Thai tariffs on implementation of the agreement. Further commentary on these and other items is provided in the sectoral analysis that follows.

Figure 5: Savings from immediate elimination of Thai tariffs on selected products
(Projections based on 2003 exports)



Source: World Trade Atlas and MFAT Analysis

Dairy: This sector accounts for 58 percent of New Zealand's exports to Thailand, valued in total at NZ$215.4 million. Dairy is Thailand's most sensitive sector and is

[14] Percentages are based on 2003 New Zealand Import Statistics.

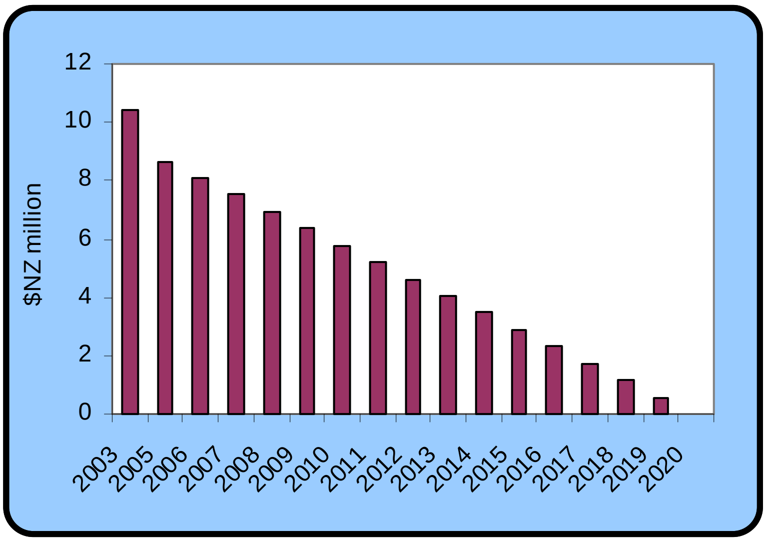
subject to the longest phase-outs under the CEP (through to 2025 for skim milk powder and liquid milk and cream). The CEP nevertheless offers important long-term security for New Zealand dairy exports to Thailand by establishing a schedule leading to full liberalisation of dairy trade on the same footing as Australia. The Dairy Companies Association of New Zealand considers that this is a substantial agreement for the New Zealand dairy industry. It sees it as particularly important because it will re-establish a level playing field with Australia in the market not long after Australia's free trade agreement with Thailand enters into force. Key gains to the dairy sector are expected to accrue through:

- the immediate elimination of the 5 percent tariff on infant milk food, New Zealand's single largest export to Thailand in 2003 when exports were valued at NZ$61 million (see Figure 5 above).

- the same phased elimination of the 18 percent tariff on whole milk powder as in TAFTA (see Figure 6 below). This was New Zealand's next biggest export item in 2003 when exports were valued at $57.8 million.

From implementation of the CEP, annual duty payments of over NZ$3 million on infant milk food, based on current trade, will no longer be levied. For whole milk powder, the CEP enables New Zealand exporters to maintain their competitiveness vis-à-vis Australian suppliers. A significant portion of New Zealand’s whole milk powder exports to Thailand would have been at risk if New Zealand had not achieved a CEP with Thailand. Total duty savings over the period 2005-2015 on whole milk powder, again based on current trade, could amount to NZ$51 million (see Figure 6 below).

Figure 6 : Reducing duties on NZ whole milk powder exports
(Projections based on 2003 exports)



Source: World Trade Atlas and MFAT analysis

Horticulture: Most New Zealand fruit and vegetable exports to Thailand face tariffs of 30 percent or 40 percent, with apples at 10 percent. A key outcome of the CEP negotiations for New Zealand is the immediate elimination of tariffs on most New Zealand horticulture exports to Thailand including sweet potatoes, carrots, frozen peas, frozen mixed vegetables, dried peas, avocadoes, apples, cherries, kiwifruit and persimmons.

The Horticulture Export Authority considers that "The dramatic reduction in tariffs should see exports to Thailand grow as prices to the consumer fall. Thailand has a population of 64 million and a dynamic economy, with a growing number of affluent people wanting good quality, safe food." Elimination of these tariffs will produce duty savings of NZ$1.87 million on current trade of NZ$8.6 million (see Figure 5 above) and will in particular open up opportunities for exports of:

- avocadoes, exports of which are currently impeded by a 40 percent tariff
- cherries, exports of which have doubled each year in recent years despite the 40 percent tariff imposed
- persimmons, for which Thailand is a $700,000 plus market despite the 40 percent tariff
- kiwifruit, where removal of the effective 52 percent tariff on kiwifruit will enable Global Fresh Ltd to build on its current promising collaborative marketing programme with Zespri. The company sees real benefits from the tariff reduction in stimulating its business.

Importantly, the elimination of tariffs on fruit and vegetable exports will enable New Zealand exporters to retain competitiveness in the Thai market vis-à-vis Chinese suppliers who have had duty free access to Thailand since October 2003. For example:

- removal of the 40 percent tariff on carrots will provide the opportunity for New Zealand exporters to regain the NZ$2 million market lost to China since October 2003. One carrot exporter advises: "For us it means that we will be able to continue to sell carrots into this market."

New Zealand exports of sphagnum moss to Thailand's orchid industry will benefit from an immediate tariff reduction from 30 percent to 12 percent, which will then phase to zero by 2010.

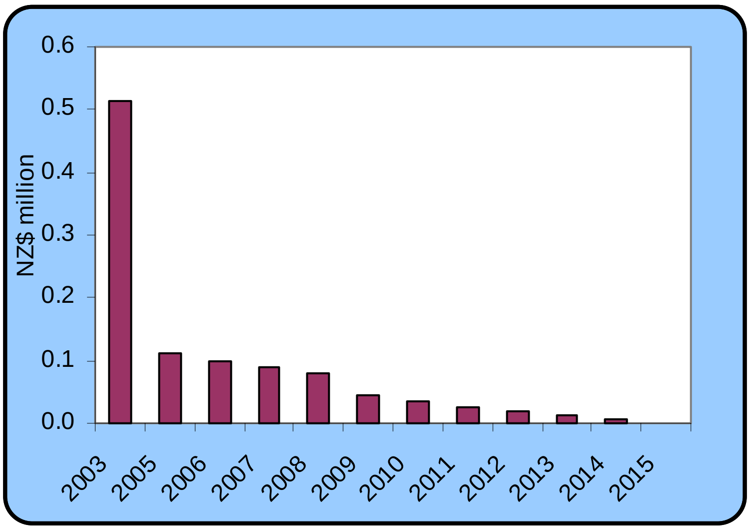
Processed food and beverages: The CEP opens up opportunities in a number of different areas in this sector including the following:

- Fruit-based food ingredient manufacturer Allberry House, based in Mount Maunganui, sees prospects for extending its sales from other South East Asian markets into Thailand as a result of the CEP. The 30 percent tariff, which has historically priced New Zealand product out of the market, will be removed on implementation of the CEP.

- Thailand currently imposes a 60 percent tariff on wine. This will drop to 30 percent on implementation and then phase to zero by 2015. It is hoped that this significant tariff reduction will enable New Zealand to build on the current low base of NZ$220,000 in exports.

- Extremely high tariffs per litre of spirits and liqueurs (equivalent to 521 percent on an ad valorem basis) will be cut to 30 percent on implementation and phase to zero by 2010. Figure 7 below illustrates the impact of the CEP for wine and other alcoholic beverages.

Figure 7: Reducing duties on exports of wine and other beverages
(Projections based on 2003 exports)

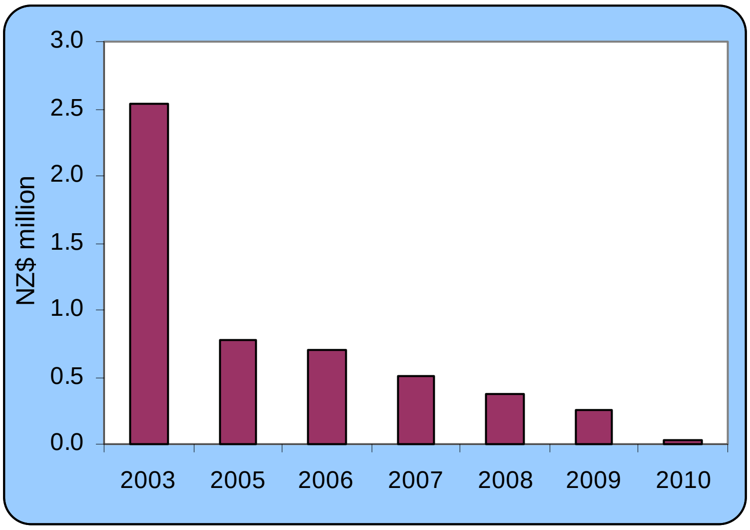


Source: World Trade Atlas and MFAT Analysis.

Manufactured goods: New Zealand exports of manufactured goods to Thailand face tariffs which generally range from 1 to 40 percent, and average 13 percent. While manufactured exports represent only 14 percent of current exports to Thailand (NZ$52.4 million in 2003), liberalisation under the CEP will overall open up opportunities for manufactured exports more rapidly than for primary products (see Figure 8 below).

Tariffs on 72 percent of current manufactured exports will be eliminated on implementation of the CEP. All tariffs currently at 30 percent which are not eliminated immediately will reduce to 20 percent on implementation. Virtually all Thailand's tariffs on current and potential New Zealand manufactured exports will be removed by 2010 and all tariffs on manufactured goods will be gone by 2015.

Figure 8: Reducing duties on NZ exports of manufactured goods
(Projections based on 2003 exports)



Source: World Trade Atlas and MFAT Analysis.

Examples of Thai tariff cuts which will be of particular benefit to current New Zealand exporters include:

- immediate elimination of the 15 percent tariff on gas pumps, the 5-10 percent tariffs on plastic moulding equipment, and the 15 percent tariff on radio parts
- halving of the 30 percent tariff on plastic packaging and of the 40 percent tariff on makeup and skincare products on implementation, with phase-out of both by 2010
- phase-out of the 7.5 percent tariff on aluminium foil in 2007 (in line with the phase-out for this product under TAFTA)
- reduction of the 12.5 percent tariff on fibreboard to 5 percent in 2005 and removal in 2012.

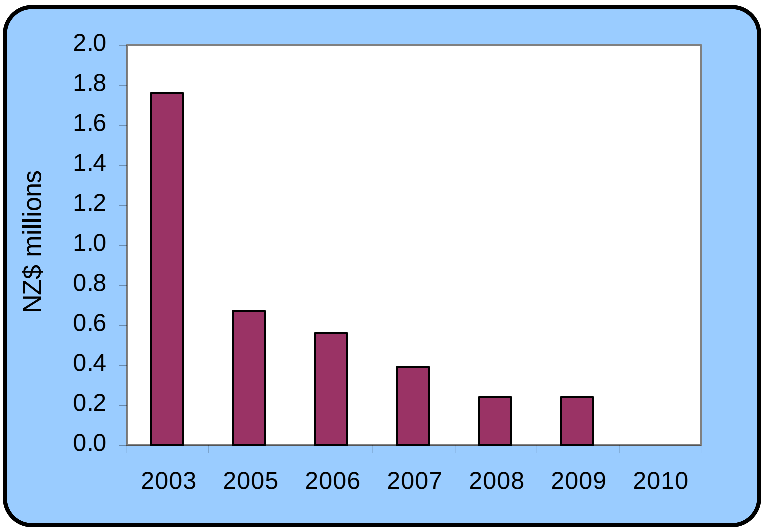
In addition, opportunities will be opened up in the following areas where New Zealand manufacturers advised that Thai tariffs are currently impeding any exports:

- the 30 percent tariff applying to plastic components for motor vehicles will be removed on implementation. This will open the way for New Zealand companies such as Hamilton-based Proform Plastics to tap into supplying products such as plastic liners for ute trays to Thailand's substantial automotive industry.

- Thailand's 20-30 percent tariffs on air conditioners will also be removed on implementation, enabling New Zealand companies successfully exporting elsewhere in South East Asia to pursue opportunities in the Thai market.

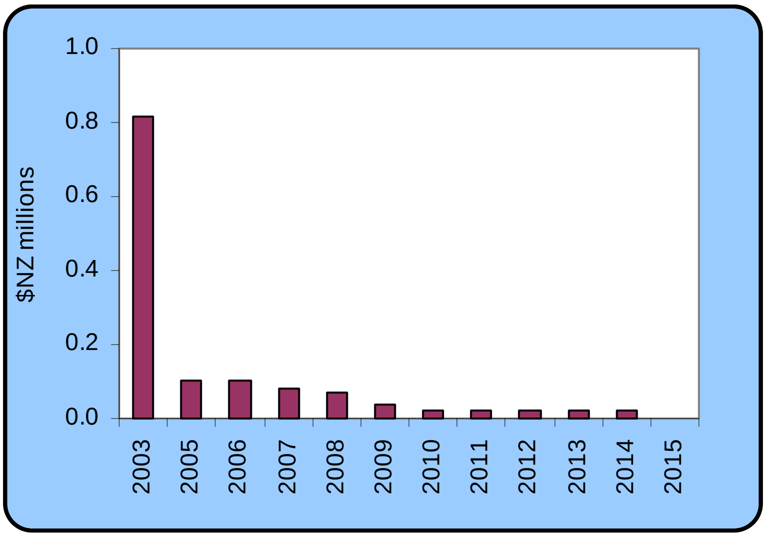
The graphs in Figures 9 and 10 below illustrate the duty savings on plastics and machinery/electrical equipment exports.

Figure 9: Reducing duties on plastics exports
(Projections based on 2003 exports)



Source: World Trade Atlas and MFAT analysis.

Figure 10: Reducing duties on machinery and electrical goods
(Projections based on 2003 exports)



Source: World Trade Atlas and MFAT analysis.

5.1.3.5 Potential sectoral impacts from New Zealand tariff liberalisation

Certain sectors of the New Zealand economy will face moderately increased exposure to imports from Thailand following implementation of the CEP. Despite the difference in cost structures between New Zealand and Thailand, the extent of this increased competition will however be limited both by the broad complementarity between our production bases and the fact that 65 percent of imports from Thailand entered New Zealand duty free in 2003. This included Thailand's principal exports, motor vehicles and computers (representing 33 percent of total imports from Thailand).

The major imports from Thailand which currently attract duty are as shown below.

Table 3: Major dutiable Thai imports

Product	Imports from Thailand NZ$ 2003	Thai share of NZ import market	Current duty rate (GSP[15] where applicable)	Tariff elimination endpoint
Air conditioners	18,896,099	35%	5.5%	2005
Furniture	10,096,179	8%	5.5% - 8%	2010
Refrigerators and freezers	6,919,700	8%	5.5%	2010
Jewellery	6,495,830	11%	5.5%	2005/08
Noodles and Pasta	5,670,589	14%	5%- 5.5%	2005
Haircare products	5,240,530	7%	5.5%	2005/08
Skincare products	4,520,058	4%	5.5%	2005
Paper and paperboard	3,783,954	58%	6.5% - 7%	2010
Footwear (with leather upper)	1,464,869	1%	17.5% - 19%	2015

Source: World Trade Atlas and MFAT analysis

The clothing, footwear and carpet sector, where the highest tariffs of 17-19 percent prevail, has traditionally been the most sensitive to tariff reductions. Independent modelling work undertaken in 2002 to inform the Tariff Review process confirmed

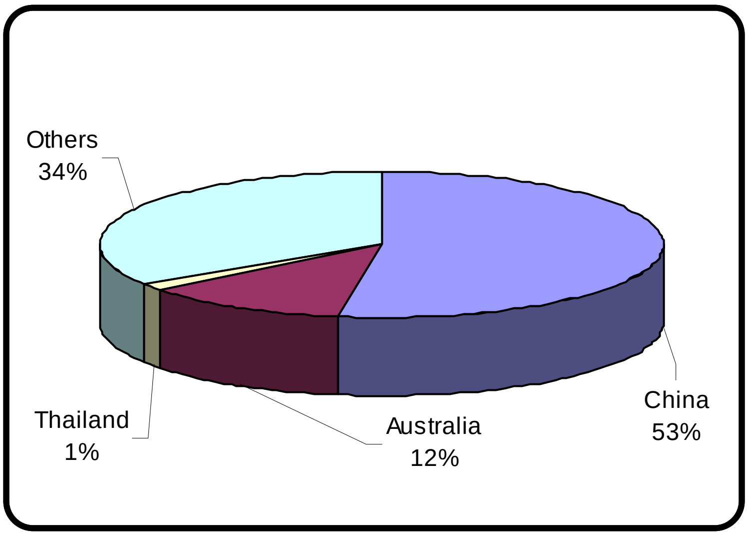
[15] Generalised System of Preferences for developing countries under which New Zealand already offers Thailand duty preferences on some products.

that the most significant effects of unilateral tariff liberalisation in terms of employment and output are likely to be felt in New Zealand's clothing and footwear industries. At the same time, lowered protection in the textile, clothing and footwear (TCF) sector is expected to improve economy-wide efficiency, expand exports somewhat and provide benefits to consumers through lower prices.

Particular concerns in relation to imports from Thailand have also been raised in respect of whiteware, plasterboard, steel and certain textiles.

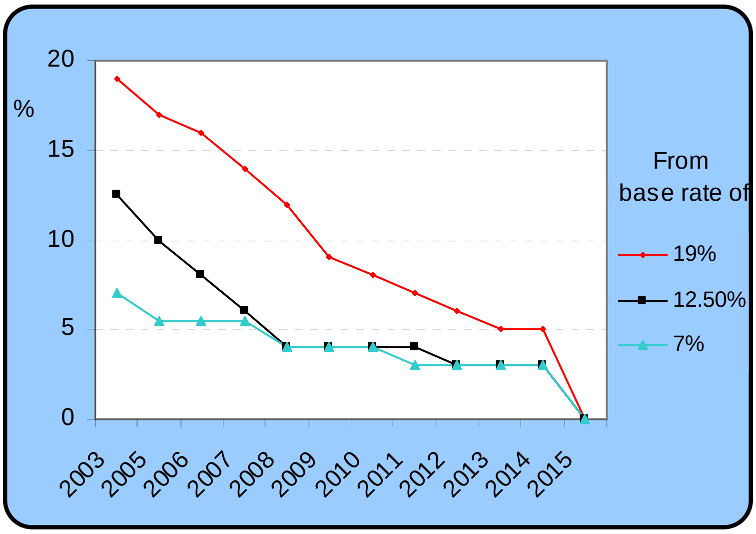
Similar, but smaller scale, effects might be expected from bilateral liberalisation under FTAs to those identified in the Tariff Review. However, in the case of the New Zealand/Thailand CEP, the actual effects are expected to be particularly muted. This reflects three key factors. First, Thailand accounts for a tiny proportion of New Zealand's TCF imports (see Figure 11 below) and is dwarfed by imports from China and Australia. Second, New Zealand's tariffs on TCF products will be phased out gradually (see Figure 12 below) and preference will apply only to goods that meet the rules of origin requiring 50 percent Thai content as well as a change of tariff classification. For the lower tariff sensitive products such as whiteware, existing tariffs will effectively be maintained at current levels before being removed from 2010. Third, New Zealand's tariffs on imports from all countries will in any case be reducing over the period 2006-2009 as a result of the Tariff Review.

Figure 11: NZ textile, clothing and footwear imports by source in 2003



Source: World Trade Atlas and MFAT Analysis

Figure 12: Reduction in NZ tariffs on textile, clothing and footwear imports from Thailand



Source: NZ Tariff schedule for Thai CEP

Any expansion of imports from Thailand is, if anything, more likely to displace imports from other sources. Thus, while the CEP may result in a modest increase in New Zealand TCF imports from Thailand, the increase in global TCF imports is likely to be negligible and the impact on New Zealand production and employment is not expected to be significant.

In addition government financial support for the TCF sector will lessen the impact of increased import competition as a result of unilateral tariff reduction and of current and potential free trade agreements. In the 2004 Budget the government provided funding of $2.3 million for initiatives to build skills and assist in the transformation of the textile, clothing, footwear and carpet industries to a globally competitive and high value production sector. In February 2005 the government provided a further $1.125 million to help the sector maintain its research and development capability and reinforce its efforts to achieve transformation.

5.1.4 Second-order effects on New Zealand of the New Zealand/Thailand CEP

In the context of the CEP with Thailand, the second-order effects of specific interest are those relating to the regulatory frameworks governing the New Zealand-Thailand trading relationship. As outlined in section 5.1.2.2, increased trade and investment flows facilitated by regulatory improvements under trade agreements can help generate wider dynamic productivity gains throughout the national economy.

This section identifies those aspects of the CEP which might help produce second-order benefits from the Agreement. These relate to the provisions outlined in sections three and four, in particular: customs procedures; technical barriers to trade; sanitary and phytosanitary measures; electronic commerce; government procurement; intellectual property rights (IPR); competition policy; investment; and consultation and dispute settlement procedures. The drivers in these provisions for improving the regulatory framework governing trade between New Zealand and Thailand include:

- transparency requirements (these cover general laws and policies affecting trade and investment as well as specific areas such as Customs procedures and practices and government procurement).
- practical cooperative mechanisms for minimising the impact of regulations on trade and enhancing understanding of each other's regimes (for example, in respect of Customs procedures, SPS and TBTs).
- bilateral mechanisms for resolving problems (ranging from consultations to resolving concerns about SPS measures or food standards to full dispute settlement procedures to address issues in a range of areas which have not been resolved through other means).
- reduced transaction costs (including through harmonisation and recognition of equivalence of technical regulations and conformity assessment results; and promotion of paperless trading).
- promotion of greater certainty and predictability (eg advance rulings on classification of goods; investment protection measures; binding of access for manufacturing investment; online consumer protection provisions; IPR enforcement; application of competition laws).
- measures to facilitate temporary entry of business people into Thailand.
- cooperation provisions and opportunities for policy dialogue (including in relation to competition policy and intellectual property rights).
- built-in mechanisms for monitoring and reviewing the operation of the Agreement (notably through annual Joint Commission meetings and five yearly reviews).

Collectively, these provisions should over time significantly enhance the predictability and transparency of the New Zealand/Thailand trading relationship. Taken together with the market access improvements related to reductions of tariffs and non-tariff barriers noted in the static effects section, these are expected to help generate the second-order effects related to dynamic productivity.

Although it is not possible to quantify the precise economic effects of these provisions, it can be assumed that New Zealand companies are more likely to benefit than lose from the application of improvements to the regulatory framework governing the trade and economic relationship with Thailand. In this context, modest dynamic productivity gains are expected to accrue to the New Zealand economy. That said, it is important to emphasise that, given the relatively limited significance of the Thai market for New Zealand compared with other international markets, the overall impact of the CEP is likely to be small and distributed over a period of time.

5.2 Social Effects

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

5.2.1 Employment

A CEP of the kind negotiated with Thailand could in principle have an impact on the domestic labour market. At the same time as some sectors benefit from improved export market access, phasing out of New Zealand tariffs can lead to imports displacing domestic production in some sectors Similarly, employment can be affected by changes in inward or outward investment decisions. And measures which provide better access for temporary employment can likewise have an impact on employment in New Zealand.

In the case of the New Zealand/Thailand CEP, it is not expected that tariff reduction/removal on imports from Thailand will have a direct impact on employment for the reasons outlined in section 5.1 on economic effects. Given that New Zealand exporters will have access to relatively much more significant market opening in Thailand than vice versa, it could be expected that any net employment effects from the CEP would be positive rather than negative. In terms of investment, the CEP is unlikely to have any significant direct impact on employment but any effects can be expected to be positive rather than negative. Tariff liberalisation under the CEP reduces any direct incentive for New Zealand firms to re-locate to Thailand to avoid tariff barriers. On the other hand the CEP should create an environment propitious to two-way investment which will serve both countries' interests in regional and global markets. Adding Thailand to New Zealand's regional FTA relationships may also somewhat enhance New Zealand's attractiveness as a destination for foreign direct investment (FDI).

The access granted for specialist Thai chefs to work in New Zealand without labour market testing under the Exchange of Letters on temporary employment is not expected to displace New Zealand workers. Demand for the specialised skills of Thai chefs has already resulted in significant numbers of work permits being granted under existing policy. In order to gain access under the CEP provisions, Thai chefs will need to comply with the qualification and work experience requirements, and to have a firm job offer which does not undercut New Zealand workers' conditions. New Zealand's willingness to consider similar temporary employment provisions for traditional Thai massage therapists will depend on the feasibility of developing a system for recognising their qualifications and ensuring the integrity of any system for temporary employment access ultimately offered.

5.2.2 Social regulation/labour standards

New Zealand's social legislative and regulatory frameworks will not be affected by the CEP. The government's right to regulate for national policy objectives (ie including labour protection) is explicitly recognised. Moreover the Arrangement on Labour, negotiated with Thailand in parallel with the CEP, reaffirms New Zealand's commitment to maintaining sound labour policies and practices. This Arrangement contains strong political commitments to:

- work to ensure that labour laws, regulations, policies and practices are in harmony with recognised labour principles and rights (in particular the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work).

- not use labour laws, regulations, policies and practices for trade protectionist purposes or to seek trade or investment advantage by weakening or derogating from their labour laws and regulations.

- promote public awareness of labour laws, regulations, policies and practices domestically and ensure processes for the operation and enforcement of labour laws are fair, equitable and transparent.

In line with the government's *Framework for Integrating Labour Standards and Trade Agreements*[16], the Arrangement also establishes mechanisms through which specific labour issues can be addressed via cooperative and consultative processes with Thailand. A programme of cooperation activities will be implemented under the Arrangement in areas including collective bargaining, resolution of labour disputes, labour protection for vulnerable workers, promotion of labour rights and obligations, labour/management cooperation, employment promotion, training and skill development.

5.2.3 Immigration

The promotion of business and investment opportunities under the CEP may stimulate Thai interest in immigration to New Zealand under existing immigration policy which targets skilled migrants who can be expected to make a contribution to the New Zealand economy.

5.3 Cultural effects

The CEP includes safeguards which will ensure that there are no adverse effects on New Zealand cultural values including Maori interests.

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[16] <http://www.mft.govt.nz/foreign/tnd/newissues/labour/labourframework.html>

There is a general exception allowing New Zealand and Thailand to adopt measures in relation to goods, services and investment which are necessary to protect national treasures or specific sites of historical or archaeological value, or to support creative arts of national value. The specific reference to creative arts is not included in the standard exceptions listed in the WTO Agreement and was included at New Zealand's request.

The Agreement gives successive New Zealand governments the right to adopt measures they deem appropriate in relation to Maori including in fulfilment of Treaty of Waitangi obligations (provided such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade or investment). The relevant provisions simply ensure that this Agreement has no capacity to interfere with any such decisions.

Finally, the provision in the Intellectual Property chapter recognising the right of both countries to establish measures to protect traditional knowledge will ensure that New Zealand's interests in this area are protected.

More broadly, the closer people-to-people linkages which the CEP should foster can be expected to have a positive impact on New Zealanders' understanding of Thailand and Thai culture, and on the place of the 10,000-strong[17] Thai community in New Zealand.

5.4 Environmental effects

New Zealand approached the CEP negotiations with Thailand in the context of the government's policy of ensuring that sustainable development and environmental objectives are appropriately supported by trade agreements as set out in the 2001 *Framework for Integrating Environment Standards and Trade Agreements*[18]. New Zealand's approach was also in line with the Growth and Innovation Framework (GIF) which seeks a higher level of economic growth in the context of a 'sustainable path and one that adequately protects natural capital.'

The key conclusion of the analysis below is that New Zealand has sufficiently robust environmental laws, policies, regulations and practices in place to manage any potential negative impacts from the New Zealand/Thailand CEP. New Zealand's ability to pursue and apply these laws, policies, regulations and practices will not be affected by the CEP. The CEP may also produce some positive environmental outcomes for New Zealand. Moreover, the CEP itself and the Environment Arrangement both support the aim of harmonising objectives for trade and the environment.

[17] Royal Thai Embassy estimate
[18] <http://www.mfat.govt.nz/foreign/tnd/newissues/environment/envframework.html>

5.4.1 The Arrangement on Environment and Environment-Related Provisions in the CEP

The CEP with Thailand addresses environmental issues in two ways.

First, the CEP Agreement recognises the right of governments to regulate for national policy objectives and permits the Parties to adopt measures for the purposes of conserving natural resources and protecting animal or plant life or health and the environment.

Second, the Arrangement on Environment negotiated in parallel with the CEP contains strong political commitments to sustainable development and maintaining high levels of environmental protection. New Zealand and Thailand affirm their sovereign rights to set environmental policies and standards and enforce environmental laws and regulations and undertake:

- to work to ensure that their environmental laws etc are in harmony with international environmental obligations
- not to seek to gain trade or investment advantage by weakening or derogating from their environmental laws and regulations
- not to use their environmental laws etc for trade protectionist purposes
- to promote public awareness of their environmental laws etc domestically and ensure their processes for the operation and enforcement of their environmental laws are fair, equitable and transparent.

The Arrangement sets up mechanisms for cooperation and exchanges on environmental issues and consultative processes for addressing any issues that arise under the Arrangement.

It is envisaged that the Environment Arrangement and the CEP will provide opportunities for both countries to enhance their environmental expertise and to promote trade in goods and services that benefit the environment.

5.4.2 Analysis of environmental effects

The potential environmental effects of bilateral free trade agreements are discussed in general and applied to the specific circumstances of the New Zealand/Thai CEP below in terms of their regulatory, product, structural and scale implications.

5.4.2.1 Regulatory effects

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

In general terms, the international experience on the effect of trade agreements is that positive regulatory effects can be assured if care is taken not to undermine the ability of the government to pursue appropriate and effective environmental policies.

New Zealand has in place policies and legislation to prevent or mitigate potential adverse environmental effects of all economic activities including those arising from trade agreements. Relevant legislation includes the Resource Management Act 1991, the Hazardous Substances and New Organisms Act 1996, the Biosecurity Act 1993, and the Climate Change Response Act 2002. In addition, the government has instigated a range of voluntary initiatives which will assist in addressing potential adverse environmental effects. These include the New Zealand Packaging Accord and the Clean Streams Accord. The government also promotes adherence to the OECD Guidelines on Multinational Enterprises which encourage multinational enterprises to establish and maintain environmental management systems and take into account the environmental impact of their actions.

The New Zealand-Thailand CEP does not in any way affect the government's ability to regulate as it sees fit for environmental protection. Indeed, the Environment Arrangement explicitly promotes high levels of environmental protection and precludes either country from weakening or derogating from its environmental laws and regulations in order to gain trade or investment advantage. No adverse impacts on New Zealand's biosecurity are anticipated as existing policy and practice will be maintained.

5.4.2.2 Product effects

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

The CEP with Thailand will open up opportunities for New Zealand production and export of goods that benefit the environment. The current value of New Zealand's exports of environmental goods (using the APEC and OECD definitions) to Thailand is NZ$6 million. Thailand's current tariffs on environmental goods range from 1 percent to 30 percent. Under the CEP, Thailand will eliminate all tariffs on environmental goods by 2010. Particular benefits will accrue to New Zealand exports of CNG refueling equipment on which the 20 percent tariff will be eliminated immediately.

Some parties in New Zealand have expressed concern that domestic dairy production will increase in response to liberalisation of Thailand's dairy sector and result in increased pollution of New Zealand waterways. While the benefits of dairy liberalisation in Thailand are very worthwhile for New Zealand, they are not expected to be of sufficient magnitude to prompt, on their own, a significant supply response from milk producers. The market opportunities that are created are thus likely to be met at least in the short term from existing production and, in any case all dairy production in New Zealand will be subject to existing regulation and other specific measures designed to reduce dairy emissions into waterways (including the Clean Streams Accord signed between the government and Fonterra in May 2003 and aimed at reducing dairy emissions into New Zealand waterways).

The biosecurity systems that New Zealand has in place will not be affected by the CEP and any imports of new Thai products will undergo the normal risk assessment processes.

Officials do not judge that there is a serious risk related to movements of environmentally hazardous or environmentally sensitive goods and endangered species in the case of the CEP with Thailand. Moreover, New Zealand's current environmental laws, regulations, policies and practices are sufficiently robust to address any particular problems related to product effects that might arise.

5.4.2.3 Structural effects

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

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

In the case of the New Zealand-Thailand CEP, negative structural effects are not likely to be problematic. As outlined in the section on regulatory effects, New Zealand already possesses robust environmental and sustainable development policies that are well integrated both vertically and horizontally across the New Zealand economy. The process of structural reform in sectors such as forestry and fisheries has already established sustainable production and management practices that will be sustained under the CEP with Thailand and other free trade agreements.

5.4.2.4 Scale effects

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

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

Given the modest economic impact of the CEP with Thailand on the New Zealand economy (see section 5.1), it is not expected that there will be any substantive negative scale effects that cannot be addressed by the current framework of environment and sustainable development-related legislation, policies and practices.

6 COSTS

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

6.1 Tariff revenue

In 2004 revenue collected on imports from Thailand totaled NZ$6 million. As tariffs are phased out over the ten-year transition period under the CEP, the Customs Service will collect progressively less revenue from duty payments. The exact amount of duty collected in coming years will be influenced by any variation in the pattern of imports from Thailand and by the proportion of those imports that qualify for tariff preference under the rules of origin. The revenue foregone as a direct result of the Thai CEP will also be offset by the parallel implementation of the government's unilateral tariff reduction programme over the period 2006-2009.

It should be noted that revenue concerns have not been a determining factor in tariff policy decisions since the mid-1980s and were not considered fiscally significant in the 2002 Tariff Review process.

6.2 Cost to government agencies of implementing and complying with the CEP

One-off costs associated with implementing the CEP, incurred over the period January-July 2005, are estimated to amount to NZ$6,600. These largely cover non-recoverable costs associated with preparing a new edition of the Working Tariff (other costs will be recovered through sales of the new edition) and preparing Customs Service staff for implementation of the new rules of origin. In addition, an estimated two FTEs within existing agency establishments (Ministry of Foreign Affairs and Trade, Customs Service, and Ministry of Economic Development) have been devoted to implementation activities over this period.

The ongoing annual costs of meeting New Zealand's obligations under the CEP are estimated at around NZ$280,000 annually over the next few years (beyond which it is difficult to estimate annual costs). These cover such activities as attending regular meetings of bilateral committees on trade facilitation, the CEP Joint Commission and the Labour and Environment Arrangement committees, new full or partial positions in Ministry of Foreign Affairs and Trade, Ministry for the Environment and Department of Labour for servicing New Zealand's obligations under the CEP and associated arrangements, and Customs Service monitoring of imports from Thailand. Funding will be provided from existing departmental baselines and any additional funds allocated through the Growth and Innovation Fund in the next Budget.

Government agencies will also be working with the private sector and others to implement strategies for leveraging opportunities from the CEP. Such activities represent an investment in the CEP rather than a compliance cost.

7 FUTURE PROTOCOLS

While no protocols are envisaged at this point, it is intended that the Agreement will be amended following the conclusion of negotiations on liberalisation of trade in services, and in light of further liberalisation in the area of trade in goods and investment. Additional disciplines on government procurement may also be agreed and the special agricultural safeguard mechanism is subject to review.

Within the ambit of technical barriers to trade (TBT) there is provision for the development of Annexes that set out agreed principles and procedures relating to technical regulations, standards and conformity assessment procedures, as well as Implementing Arrangements that set out the details relating to the implementation of future TBT Annexes.

8 IMPLEMENTATION

A small number of legislative and regulatory amendments are required to align New Zealand's domestic legal regime with certain rights and obligations created under the CEP Agreement and thereby to enable New Zealand to ratify the Agreement. Proposed legislation, the New Zealand/Thailand Closer Economic Partnership Agreement Bill, will provide for the following substantive changes:

- amendments to the Tariff Act 1988 which would mean that preferential tariffs conferred by FTAs can be implemented by Order in Council under the Tariff Act. A new provision would be inserted into the Tariff Act creating a Schedule to the Tariff Act, which would list those countries with whom New Zealand has entered into an FTA. Thailand would then be included in this list. A further Order in Council pursuant to the Tariff Act would then establish the specific schedule of preferential tariffs for Thailand as conferred under the CEP Agreement.

- amendments to the Tariff Act 1988 to establish a new general mechanism to implement the right to apply transitional safeguards provided for under the CEP Agreement with Thailand and possible future FTAs. The mechanism would provide New Zealand industry with a remedy where it were found to be suffering serious injury as a result of a surge in competing imports pursuant to the CEP Agreement or future FTAs. It is intended to give industry the right to request the Chief Executive of the Ministry of Commerce to initiate a safeguards investigation, and enable the Minister, if warranted, to apply a transitional safeguard measure against such imports.

In addition, amendments to the Customs and Excise Regulations 1996 will be required to enable administration of the rules of origin set out in the Agreement.

The Regulatory Impact Statement prepared for the CEP Agreement contains further details on the legislative and regulatory amendments required to implement the CEP.

The undertaking reached under the CEP Agreement for New Zealand to accept Thai chefs to work temporarily in New Zealand does not require legislative or regulatory amendment, but rather a change to NZIS Operational Policy.

9 CONSULTATION

9.1 Inter-departmental consultation process

Negotiation of the CEP and associated Arrangements with Thailand was conducted by an inter-agency team led by the Ministry of Foreign Affairs and Trade and comprising officials from the Ministry of Economic Development, the Ministry of Agriculture and Forestry, the Treasury, New Zealand Customs Service, New Zealand Trade and Enterprise (NZTE), the Department of Labour, the Ministry for the Environment and the New Zealand Food Safety Authority. In addition, Te Puni Kokiri and the Ministry for Culture and Heritage were consulted on areas of specific interest, and Te Puni Kokiri regional directors were briefed on the negotiations. Meetings were held with NZTE staff in Auckland and Christchurch in the course of the negotiations.

9.2 Public consultation process

Starting in November 2003, the Ministry of Foreign Affairs and Trade, in conjunction with other government agencies, organised and implemented a broad-ranging consultation programme to raise public awareness of the New Zealand-Thailand CEP negotiations and to elicit stakeholder views.

This programme used printed, emailed and website information, backed up with extensive, targeted discussions with key stakeholders, particularly exporters and industries likely to be affected by removal of tariffs on imports from Thailand.

9.2.1 Communication programme

The communications supporting the consultations involved:

- an initial information paper and invitation for submissions, emailed to a targeted selection of 615 MFAT contacts in December 2003, and in January 2004 to 504 NZTE clients and the other known exporters to Thailand

- a mail-out of the Joint Feasibility Study in April-May 2004

- an information paper describing the process and objectives for the negotiations and inviting further input, emailed to stakeholders who had registered interest in the negotiations in July 2004

- posting of the above material on MFAT's website and links into this website from NZTE

- updates in the bi-monthly MFAT news bulletin, Business Link, with similar items in NZTE's '*MarketNewZealand.com'* email bulletin

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

9.2.2 Consultation programme

The above communications were supplemented by a consultation programme involving:

- meetings and email correspondence with companies and sectoral organisations with an interest in access to the Thai market for goods and services under the CEP
- meetings and email correspondence with companies and sectoral organisations with an interest in New Zealand's tariff phase-out arrangements under the CEP
- meetings with organisations with a broad interest in the negotiations, including Business New Zealand, the Council of Trade Unions, the Federation of Maori Authorities, the Employers and Manufacturers' Association (Northern), Canterbury Manufacturers' Association, Local Government New Zealand, the ASEAN/New Zealand Business Council, Chambers of Commerce, the Council for International Development, and the Royal Forest and Bird Protection Society of New Zealand
- a number of hui covering wider trade issues which also provided opportunity for input from Maori groups and individuals on the Thai CEP
- meetings with firms and organisations in Auckland, Tauranga, Rotorua, Hamilton, Wellington, Hawkes Bay and Christchurch.

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

9.2.3 Submissions process

The submissions process elicited 82 written submissions or emails, of which:

- 51 supported the CEP initiative, 15 opposed it and 16 expressed no view either way, or conditional support
- 71 were from business
- two came from the trades union sector
- four came from NGOs
- five were from individuals with no expressed sectoral interest
- one came from a political party
- none came from local government or anyone identified as a Maori organisation or individual.

In addition, a number of individuals and organisations opposing aspects of the CEP submitted their views to Ministers.

9.2.4 Issues covered in consultation process

Input was sought from stakeholders on the full range of issues in the negotiations, as outlined in the initial December 2003 information paper.

Among those supporting the CEP initiative, most emphasized the benefits of more open and streamlined market access, including mitigating the risk of ‘losing ground’ against other countries securing bilateral trade agreements with Thailand.

Among submissions critical of the CEP, most cited among their reasons ‘unfair’ competition stemming from Thailand’s labour conditions and environmental regulation, plus concerns about the risks of ‘dumped’ Thai products undercutting New Zealand domestic producers. Some of these submissions also raised concerns about the approval process for treaties of this kind and called for rigorous cost benefit analysis before the CEP is signed.

While most submissions supporting a CEP identified opportunities for New Zealand exporters, several highlighted areas such as technology transfer or capacity building that might benefit Thailand.

The summary below canvasses the key issues on which input was received. The government was advised of stakeholder views in the context of considering New Zealand’s negotiating objectives.

Strategic Considerations

Several submissions highlighted the perceived merits of pursuing a comprehensive bilateral agreement with an economy largely complementary to New Zealand’s. A CEP would not only improve access between New Zealand and Thailand but would also enhance engagement with a wider region of increasing importance to New Zealand.

Some submissions urged the government not to let such bilateral initiatives sidetrack New Zealand from multilateral negotiations under the World Trade Organisation Doha Round.

Several noted the recently concluded Thailand-Australia Free Trade Agreement (TAFTA) and Thailand-China FTA (covering horticulture products only at this stage) as a spur to New Zealand negotiators. These set a positive benchmark for New Zealand to match or better but also highlighted the risk of New Zealand exporters being at a competitive disadvantage vis-à-vis Thailand’s imports of similar goods and services from Australia or China.

Tariffs and Non-Tariff Barriers (NTBs)

More than half the submissions mentioned duty rates and non-tariff barriers (NTBs) such as quotas and paperwork as impediments to trade with Thailand.

These submissions established eliminating tariffs as a priority negotiating objective. These tariffs impact most severely on dairy, meat, horticulture and wood products, but have also hampered or deterred manufactured imports from New Zealand, including moulded plastics. Particularly obstructive for New Zealand was tariff escalation – duty rates that rise the more a commodity is processed into a higher value item.

On the defensive side, some submitters called for New Zealand to retain tariffs where they remain significant, eg in textiles, clothing and footwear (TCF) or at least to ensure tariff reductions are reciprocal. There were calls for robust, transparent and enforceable rules of origin to prevent third-country imports piggybacking on Thailand's preferential access under a CEP.

Offsetting this concern were cited benefits to the New Zealand consumer from access to cheaper Thai imports.

Several submissions highlighted the risk to New Zealand producers of imported products being dumped below Thai domestic prices and called for New Zealand's standard antidumping regime to be maintained under the CEP.

Submissions detailed many NTBs, including administrative practices that hamper access to the Thai market. They include sanitary and phytosanitary (SPS - human, animal and plant health) requirements, product standards, professional qualifications requirements, excessive paperwork and unpredictable – some say irregular – treatment of imports by various Thai government agencies. Some firms said the deadweight cost effect or the complexity of these obstacles had deterred them from entering the Thai market.

The main SPS concern among exporters to Thailand was the unnecessary pre-washing of potatoes, shortening their freight life, while in New Zealand the Poultry Industry Association cautioned to retain the current measures relating to chicken imports to uphold New Zealand's disease-free status.

Some submissions noted the CEP provided an opportunity to achieve greater transparency and consistency, saving time, money and improving the prospects for New Zealand goods and services to compete on their merits.

Government procurement

Some submissions identified difficulties relating to purchasing contracts by Thai government agencies. Concerns were expressed about preferences for local suppliers, including in consultancies, and about the use of out-dated technical specifications.

Business conditions for services providers

Several submissions detailed business impediments for foreign services providers relating to setting up, staffing and running a business in Thailand and repatriating profits. A CEP was seen as a way of improving this regime and making investment rules clearer and more enforceable.

Massey University regards the tertiary sector market in Thailand as very significant, with considerable potential for growth. It notes a well established specialisation in educating Thais in biological sciences but also sees wide scope for developing English language tuition, including establishing a commercial presence in Thailand.

The Association of University Staff warned that a CEP should not undermine employment conditions for locally engaged staff at New Zealand universities through the employment of Thai casual staff. The AUS believed mutual recognition of qualifications could be pursued outside of a trade context and should not lead to the dilution of New Zealand content or quality.

Intellectual property protection

Some concerns were expressed about the prevalence of software piracy in Thailand and about Thailand's protection for plant varieties.

Labour and environmental standards

Several submissions advocated inclusion of core labour standards in the CEP and verification and inspection of work conditions in Thailand. Several noted Thailand had ratified only four of eight core International Labour Organisation conventions. These submissions painted a picture of inferior working conditions, including some practices that were seen to have infringed basic rights and also supported a production cost structure well below New Zealand's. Business NZ and Trade Liberalisation Network opposed any labour or environmental provisions.

Several individual submissions argued a CEP would exacerbate environmental pressures, both through increased transport emissions and increased New Zealand dairy production. There were calls for biosafety risks and an energy audit to be a core element of cost-benefit analyses and for New Zealand's biosecurity regime to be reflected in an explicit reference to international biosafety conventions.

Public services

Several submissions called for public services to be excluded from improved access conditions under a CEP. The AUS highlighted education, state-funded research and broadcasting, the CTU added cultural services, while Forest and Bird advocated conservation, environmental and recreational services for exclusion.

Right to regulate/investor-state dispute resolution

A number of submissions opposed any dilution, under a CEP, of local or central government's right to regulate in the public interest. Some argued that any 'investor-state dispute resolution' provision enabling a private investor from one country to sue the government of the other for regulation that impacted on profit would be detrimental to the public interest.

Treaty of Waitangi

There were mixed views on reflection of the Treaty in the CEP. Some supported inclusion of a Treaty clause no less explicit than that contained in New Zealand's 2000 CEP with Singapore while others opposed such a clause.

9.2.4.1 Specific consultation on New Zealand tariff reductions

In preparing New Zealand's offer to Thailand for reciprocal removal of New Zealand's tariffs, officials endeavoured to identify and consult directly with those industries which had specific concerns about competition from Thai imports and also those industries that are generally more sensitive to tariff reduction or removal. The latter group included textile, clothing, footwear and carpet (TCFC) manufacturers and the automotive component manufacturers. These industries currently have higher tariffs than most other manufactured goods.

There were mixed messages from these industries. Many firms were not concerned about Thai imports specifically, but have concerns about increased competition from low-cost Asian suppliers generally. A few saw potential export opportunities in free trade with Thailand. Few firms appeared to source inputs or other product from Thailand.

To address the concerns of the TCFC sector and the automotive component manufacturers, gradual tariff reduction schedules have been negotiated, through to 2015 for the TCFC sector and to 2010 for automotive components. Similarly the concerns of those industries which indicated a particular sensitivity to Thai imports, for example the whiteware, steel and plasterboard industries, have also been addressed through maintaining tariffs largely at their current 5 percent to 5.5 percent levels before elimination in 2010.

9.2.4.2 Detailed consultation on New Zealand export interests

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

10 WITHDRAWAL OR DENUNCIATION

Either Party, on giving written notice to the other Party, may terminate the Agreement. The Agreement terminates twelve months after the date of the notice of termination.

Prepared by Ministry of Foreign Affairs and Trade, in consultation with other government agencies
March 2005

ANNEX 1

NEW ZEALAND/THAILAND CLOSER ECONOMIC PARTNERSHIP AGREEMENT

KEY OUTCOMES, DECEMBER 2004 INFORMATION RELEASE

FOR NEW ZEALAND EXPORTERS TO THAILAND

Overall Outcomes	• On entry into force of the CEP on 1 July 2005, Thailand will eliminate tariffs and quotas on 52% of imports[19] from New Zealand. Currently only 4% of imports from New Zealand receive duty free access. • By 2010, a further 13% of trade will be duty free. Another 20% of trade will have tariffs phased out by 2020. Trade restrictions on the remaining 15% of imports (covering only skim milk powder and liquid milk and cream) will be eliminated by 2025. • The first round of tariff cuts will take place on implementation of the CEP on 1 July 2005 and the second round on 1 January 2006, with subsequent reductions being applied on 1 January each year. • There is scope within the Agreement to accelerate these tariff reductions in the future. • The following section covers the outcomes on tariff reductions for New Zealand's major export sectors to Thailand.
Dairy	• Tariffs on infant milk formula (currently 5%), casein (5%), lactose (up to 10%) and protein concentrates (5%) will be eliminated on implementation. • Tariffs on yoghurt (5%), buttermilk (5%), milk protein concentrate (5%) and butterfat (5%) will be removed by 2009. • The 18% tariff on whole milk powder will drop to 15% on

[19] All percentages of trade are estimates based on 2003 trade by value statistics.

	implementation and then phase down to zero by 2020. • Tariffs on cheese and butter will phase to zero by 2020. • Tariff and quota restrictions on skim milk powder imports from New Zealand will be removed by 2025.
Fruit and Vegetables	• Thailand will, on implementation, eliminate tariffs on most New Zealand horticulture exports to Thailand including sweet potatoes, carrots, frozen peas, frozen mixed vegetables, dried peas, avocadoes, apples, cherries, kiwifruit and persimmons. These items currently face tariffs of up to 40%. • Thailand will establish and then gradually increase additional New Zealand-specific quotas for imports of fresh potatoes and onions. All trade restrictions on these products will be removed by 2020.
Forestry Products	• Most New Zealand forestry exports to Thailand currently face a tariff of only 1%, which will be removed on implementation. • Other tariffs of up to 30% will be either eliminated on implementation or phased out by 2010. The 12.5% tariff on fibreboard will be cut to 5% in 2005 and removed in 2012.
Meat	• The 30% tariff on sheepmeat will drop to 24% on implementation, then phase out by 2010. • The 50% tariff on beef will drop to 40% on implementation and will phase down to zero by 2020. • The 30% tariff on beef offal will phase to zero by 2020.
Seafood	• Thailand's higher tariffs (20-30%) on seafood products will phase to zero by 2010. • The 5% tariffs on New Zealand's main seafood exports to Thailand will variously be eliminated on implementation or be phased to zero by 2009 or 2015. (Note: These tariffs are not applied to fish exported to Thailand for processing and re-export.)
Processed food and beverages	• Thailand's current 60% tariff on wine will drop to 30% on implementation and then phase to zero by 2015. • Thailand will phase out the current 30% tariff on processed potatoes by 2015.

Manufactured Goods	• Almost all Thailand's tariffs on imports of mechanical and electrical machinery items from New Zealand will be eliminated either on implementation or by 2010. • Tariffs on most other industrial items will phase to zero in 2010 although a selected number will be eliminated immediately. • Significant New Zealand manufactured exports which stand to benefit from the CEP include gas pumps (15% tariff to be eliminated on implementation), plastic goods (tariffs of up to 30% to be phased to zero in 2010) and aluminium foil (7.5% tariff to be phased to zero in 2007).

FOR NEW ZEALANDERS DOING BUSINESS AND INVESTING IN THAILAND

	Under the CEP, Thailand will take some steps towards making it easier for New Zealand business people and investors to operate in Thailand.
Temporary entry for business people	• Business visitors will be eligible to apply for one-year multiple-entry non-immigrant business visas valid for visits of up to 90 days at a time. Business visitors with a non-immigrant business visa will be granted a temporary stay and work permit for up to 90 days. • New Zealand business people with a non-immigrant business visa will be permitted to conduct business meetings in Thailand for stays of up to 15 days (90 days for APEC Business Travel Card holders) without a work permit. A notification procedure applies. • New Zealand investors with fully paid up capital of at least 2 million Baht will have access to Thailand's One Stop Service Centre for visa and work permit applications. • Intra-corporate transferees employed as managers, executives or specialists in Thailand can have their work permits extended annually, up to a maximum of five years. • Intra-corporate transferees will be permitted to attend business meetings and seminars anywhere in Thailand without giving prior notification to the Thai authorities. • New Zealand companies in Thailand may apply for work

	permits for New Zealand employees prior to their entry into Thailand. • The spouses of investors and intra-corporate transferees with non-immigrant visas will have the right to be employed as managers, executives or specialists, provided they comply with the relevant Thai laws and regulations.
Investment	• Thailand is committed to allowing 100% New Zealand equity participation and not restricting the number of New Zealand directors for investments in a number of manufacturing sectors including machinery and mechanical appliances, food processing, paper products, software manufacture, furniture and textile manufacture. • The Agreement provides for additional protections for New Zealand investments. These include compensation for losses and appropriate protection against expropriation unless internationally accepted criteria are met.

NEW ZEALAND'S COMMITMENTS

• **Goods**	• New Zealand currently provides duty free access for 65% of imports from Thailand. • On implementation, New Zealand will eliminate tariffs on a further 20% of imports from Thailand, covering a range of items including the remaining tariffs on agricultural products, air-conditioning machines, processed food and sporting equipment. • New Zealand will remove tariffs on further items by 2010, at which point 97% of Thailand's current exports will become duty free. This list includes aluminium products, some automotive parts, furniture, plastics, steel and iron products, plasterboard and wallboard, and whiteware items. • The remaining tariffs, covering textile, apparel, footwear and carpet products, will be phased to zero by 2015.

Investment	• Thai investors will remain subject to New Zealand's overseas investment screening regime. • The CEP provides for any disputes between investors and governments to be resolved through domestic courts or, if both Parties agree, through international dispute settlement mechanisms.
Temporary Employment	• New Zealand will provide access for qualified Thai chefs to be employed on contract in New Zealand without labour market testing for up to four years. • New Zealand will also explore the scope for developing a system to recognise the qualifications of traditional Thai massage therapists with a view to facilitating their entry into New Zealand for temporary employment purposes.

<u>OTHER PROVISIONS</u>

Rules of Origin	• Products must be substantially transformed in either country to qualify for preferential tariff treatment under the Agreement. • A change of tariff classification (CTC) rule is used to determine if the 'substantially transformed' requirement has been met (a value-added rule serves this purpose in CER and the New Zealand/Singapore CEP). • Textile, apparel, footwear and carpet products must meet a 50% FOB[20] Thai/New Zealand content rule, in addition to the change of tariff classification requirement. • Robust provisions for verification of the rules of origin are included.
Trade Remedies	• Under the CEP, both parties will retain their existing WTO rights and obligations on anti-dumping and countervailing duties procedures and the use of global safeguard measures (although there is discretion to exclude partner country trade from any global safeguard action). • Bilateral transitional safeguards will also be available. These will allow either Party to address situations of serious injury to domestic industries caused by increased imports due to tariff reductions under the CEP by reverting to higher tariffs for a

[20] Free on board

		certain period.
	•	Thailand will apply special safeguards for the most sensitive agricultural products (whole milk powder and a number of other dairy products, beef, beef offal and processed frozen potatoes). Imports of these products will benefit from reducing tariffs up to a certain volume based on historical imports, plus a growth factor. Once the volume of imports from New Zealand reaches this level, these safeguards automatically trigger a snapback to the normal tariff. The same provisions were included in Thailand's Free Trade Agreement with Australia.
Other Trade Related Issues	•	The CEP contains provisions aimed at facilitating trade and reducing transaction costs through cooperation and information sharing. The CEP will establish mechanisms for regulators and officials to work together more effectively to resolve any barriers to trade in the areas of: o customs procedures; o sanitary and phytosanitary measures; o standards and conformance; and o electronic commerce.
	•	Efforts will be made to facilitate consideration of each Party's sanitary and phytosanitary requests within the existing biosecurity regimes.
	•	The CEP reaffirms both countries' WTO commitments on intellectual property rights. It also aims to facilitate the enforcement of intellectual property rights and the promotion of innovation through cooperation between the Parties.
	•	A chapter on competition policy is included in the CEP to promote fair competition in line with the APEC Principles of non-discrimination, comprehensiveness, transparency and accountability.
Services	•	A substantive negotiation on the liberalisation of services trade (including recognition of qualifications) is scheduled to commence within three years after entry into force of the CEP.
Government Procurement	•	The two countries will work progressively to eliminate barriers

		related to government procurement. Further substantive negotiations to expand on the initial commitments are envisaged.
Treaty of Waitangi	•	As in the New Zealand/Singapore CEP, this Agreement contains a specific provision whereby New Zealand maintains its rights to take measures including in fulfilment of its obligations under the Treaty of Waitangi.
Creative Arts	•	Similar to what was negotiated in the New Zealand/Singapore CEP, this Agreement will not preclude the Parties from taking the necessary measures to protect national treasures or specific sites of historical or archaeological value or to support creative arts of national value.
Reviews	•	Both sides are committed to a general review of the Agreement after five years and specifically to review the special agricultural safeguard mechanisms after three years.