P4 Engagement with United States

This paper seeks agreement that New Zealand is prepared to signal to the United States and other RP parties (Singapore, Chile and Brunei) its willingness to engage in a negotiating process to explore how the United States might participate in the P4 agreement, with an initial focus on investment.

Previous Consideration

None indicated.

Summary

The paper canvasses the risks and benefits of a possible agreement, and the implications for a possible NZ/US Free Trade Agreement in the future.

While the initial discussions might focus on investment, it is envisaged that the discussions might lead to a more comprehensive agreement in the long term.

The paper also notes the proposal to draw other APEC countries into the negotiations.

Baseline Implications

None at this time.

Legislative Implications

None at this time.
Timing Issues

The next steps may be discussed.

Announcement

Any New Zealand public comment, before any agreement to launch negotiations, would be only in response to comment in the United States or elsewhere in P4.

Consultation

The Minister of Trade indicates discussion is not required with the government caucuses or with other parties represented in Parliament.

Paper prepared by MFA, MAF, MED and Treasury have been consulted. DPMC, Labour and MfE have been informed.

The Minister of Trade recommends that the Committee:

Background

1. [Withheld]

2. [Redacted]

3.

4.

Impact on NZUS FTA negotiation
note that New Zealand’s pursuit of a bilateral FTA negotiation reflects the fact that a comprehensive FTA with the US, as the world’s leading economy and New Zealand’s second largest individual economic partner, is seen as offering significant strategic and economic benefits for New Zealand.

Modalities and timeframes

agreed that New Zealand be prepared to signal to the US and other P4 parties its willingness to engage in a negotiating process with the US.

Negotiating mandate

agree that should such a negotiating process be launched, officials will prepare a detailed negotiating mandate to govern New Zealand’s participation in negotiations for Cabinet approval.
Involvement of other APEC countries

16 note that, s6(01); s6(02)(i) P4 countries and the US will also consider whether any other APEC countries should be invited to join any such negotiating process from the outset.

s6(01); s9(2)(c)(i)

18 note that officials are maintaining contacts with US and P4 counterparts and will report further developments in understanding of respective positions.

Publicity

19 note that the USTR consultation with Congressional Committees may trigger public comment in Washington DC (e.g. in trade media) at some point.

20 agree that any New Zealand public comment, prior to any agreement to launch negotiations, be only in response to comment in Washington DC or elsewhere in P4/ and draw, as appropriate, on language used by the US.

Bob Macfarlane
for Secretary of the Cabinet

Copies to:
Cabinet External Relations and Defence Committee
Chief Executive, DPNC
Director, DESQ, DPMC
Chief Executive, NAA (Agriculture)
Secretary of Foreign Affairs and Trade
Secretary of Defence
Chief of Defence Force
Chief Executive, MED
Minister of Labour
Secretary of Labour
Secretary for the Environment
Chair,
Cabinet Policy Committee

P4 ENGAGEMENT WITH UNITED STATES

Proposal

To seek guidance on New Zealand’s willingness to enter into a negotiation with the US, together with P4 members and potentially several other APEC (Asia-Pacific Economic Cooperation) member countries, on investment as a first step towards a comprehensive FTA (free trade agreement).

Executive Summary

2

s 6(a); s 6(e)(vi); s 9(2)(j)

s 6(a); s 6(b)(i)

s 6(a)

s 6(a); s 6(e)(vi); s 9(2)(j); s 9(2)(d)

1 ‘P4’ is the shorthand reference for the ‘Trans-Pacific Strategic Economic Partnership Agreement’ – a plurilateral FTA between Brunei, Chile, New Zealand and Singapore that entered into force in 2006. The agreement is currently without chapters on investment and financial services, which are due to be negotiated in 2008.
s 6(e)(vi); s 9(2)(j); s 9(2)(d)

8 Entering into a negotiating process does not necessarily imply the successful conclusion of a negotiated agreement. A decision on whether New Zealand was prepared to enter into any resulting agreement would depend on the assessed national interest of the outcome as negotiated, taking into account the estimated economic benefits achieved in areas of offensive interest. Getting to that point is the substance of the negotiation which, if launched, would be undertaken subject to a detailed negotiating mandate to be determined by Cabinet.

9 This paper seeks guidance on three broad issues

- whether the US is willing to enter into negotiations with P4 countries for a comprehensive FTA beginning with investment, whether New Zealand is prepared to engage in this process;

- whether New Zealand is prepared to see any other APEC countries invited to join such a negotiating process

10. USTR consultation with Congressional Committees may trigger public comment in Washington (e.g. in the trade media) at some point. It is suggested that any New Zealand public comment – prior to any agreement to launch negotiations – be only in response to comment in Washington or elsewhere in P4 and draw, as appropriate, on language used by the US.
RELEASED UNDER THE OFFICIAL INFORMATION ACT
s 6(a); s 6(b)(i)

15

. s 6(a); s 6(b)(i)

Comment

16 Key issues involved for each party in this process of domestic consideration are outlined below.

US considerations

17

18

s 6(a); s 6(b)(i)

s 6(a); s 6(b)(i)

19

s 6(a); s 6(b)(i)

s 6(a); s 6(b)(i)
s 6(a); s 6(b)(i)

s 6(a); s 6(b)(i)

s 6(b)(i); s 9(2)(j)

s 6(a); s 9(2)(d); s 9(2)(j)

s 9(2)(j)

s 6(a); s 9(2)(d);

s 9(2)(j)

s 6(a); s 9(2)(d);

P4 country concerns

s 6(a); s 6(b)(i)
New Zealand considerations

27 For New Zealand, the government's pursuit of an FTA negotiation with the United States is a matter of public record for a number of years now.

s 6(a); s 6(b)(i)

28 For New Zealand, the issue of compulsory investor-state dispute settlement (CISD) is a particular consideration.

s 6(a); s 6(b)(i)
32. Most of these issues have been previously advised to Ministers for consideration in the analysis of the outcomes of the US-Australia FTA contained in the submission to the Minister for Trade. Negotiations with the US, and with New Zealand, have been clear that the potential economic and strategic opportunities of concluding an Agreement, while compliers FTAs enter into force, reinforces the importance of New Zealand continuing to place a high priority on opening FTAs.

33. It should be noted that entering into a process does not necessarily imply the successful conclusion of any such agreement.
s 9(2)(j); s 9(2)(d) A decision on whether New Zealand was prepared to enter into any agreement would depend on the assessed national interest of the negotiated outcome taking into account the estimated economic benefits achieved in areas of offensive interest.

34 This paper addresses only the threshold question of whether New Zealand is prepared to enter a comprehensive negotiating process with the US and other P4 parties, together with the design of that process given the likelihood it will need to be undertaken on a step-by-step basis. If such a process is launched, to be agreed

s 6(a); s 6(e)(vi); s 9(2)(d) it would also need to address the offensive interests of P4 countries, including New Zealand, to the mutual satisfaction of all negotiating parties across a comprehensive FTA agenda. Getting to that point is the substance of the negotiation, which would be undertaken subject to a detailed negotiating mandate to be determined by Cabinet.

35

Involvement of others?

36

s 6(a); s 6(b)(i)

s 6(a); s 6(b)(i)
OFFICIAL INFORMATION ACT

RELEASED UNDER THE

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)

s 6(a); s 6(b)(l)
Publicity

49 Consultation with Congressional Committees may trigger public comment in Washington (e.g. in the trade media) at some point. It is suggested that any New Zealand public comment – prior to any agreement to launch negotiations – be only in response to comment in Washington or elsewhere in P4, and draw, as appropriate, on language used by the US.

50

Consultation

52 The Ministry of Agriculture and Forestry, Ministry of Economic Development and the Treasury were consulted in preparation of this submission and concur with its recommendations. The Department of Prime Minister and Cabinet was also consulted.

Financial Implications

53 There are no financial implications from this paper. Any eventual negotiation of a comprehensive FTA involving the US would include the elimination of all tariffs on imports from the US. Tariff revenue collected on imports from the US amounted to roughly NZ$20 million in 2006.
Human Rights Implications

54 This paper does not raise any inconsistencies with the Human Rights Act 1993 and New Zealand Bill of Rights Act 1990.

Legislative Implications

55 There are no legislative implications from this paper. Any eventual negotiation of a comprehensive FTA involving the US would likely necessitate legislation, including for the elimination of tariffs on imports from the US.

Regulatory Impact and Business Compliance Cost Statement

56 Not required.

National Interest Analysis

57 An NIA is not required at this stage but would be prepared to accompany Cabinet consideration of any outcome to negotiations.

Publicity

58 No publicity is planned as a result of this paper. A possible media approach, should this issue become public (e.g. in Washington), is suggested in paragraphs 49 to 51 above. Publicity would accompany any agreement to launch a negotiation with public consultation being undertaken to inform an initial negotiating mandate.

Recommendations

59 It is recommended that the Committee:

s 6(a); s 6(b)(i)
OFFICIAL INFORMATION

7. Note that New Zealand's pursuit of a bilateral FTA with the US, as the world's third largest economy, and New Zealand's second largest trading partner, is seen as offering significant strategic and economic benefits to New Zealand.

6(a): s 6(b)(ii) pending completion of all elements of the negotiation on a step-by-step basis.

6(a); s 9(2)(ii)

Note that with any negotiations likely to take place on a step-by-step basis:

6(a); s 9(2)(ii)
agree that should such a negotiating process be launched, officials will prepare a detailed negotiating mandate to govern New Zealand’s participation in negotiations for Cabinet approval;

Note that, at and the US will also consider whether any other APEC countries should be invited to join any such negotiating process from the outset.
note that officials are maintaining contacts with US and R4 counterparts and will report further developments in understanding of respective positions;

note that USTR consultation with Congressional Committees may trigger public comment in Washington (eg in trade media) at some point;

agree that any New Zealand public comment - prior to any agreement to launch negotiations - be only in response to comment in Washington or elsewhere in R4 and draw, as appropriate, on language used by the US.

Hon Phil Goff
Minister of Trade
Cabinet Business Committee

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

LATE PAPER: This paper was submitted after the Cabinet deadline and has been accepted for the agenda by the Chair.

P4/US Financial Services and Investment Negotiations

Portfolio Trade

Purpose

This paper seeks approval to negotiating mandates on the outstanding Investment and Financial issues in the negotiations between the P4 members (New Zealand, Singapore, Australia and Brunei) and the United States.

Previous Consideration

In November 2007 the Cabinet External Relations and Defence Committee agreed that New Zealand be prepared to signal to the US and the other P4 partners its willingness to engage in a negotiating process with the US, beginning with investment and financial services.

Summary

Negotiations on P4 concluded in 2005 and the agreement entered into force in 2006. The agreement does not include investment and financial services chapters. P4 members agreed that negotiations on the two chapters would resume within two years of P4’s entry into force. Negotiations were scheduled to resume in 2008.

An initial meeting on investment and financial services involving P4 members and the US was held in Santiago in March 2008. The next meeting is to be held in New Zealand in mid June.

Compulsory investor state dispute settlement (CISD)

CISD provides that investors of other parties have the entitlement to seek remedies from the government through international arbitration rather than through the domestic legal system on matters such as expropriation.
Paper prepared by MEAT. MEAT, the Reserve Bank and the Securities Commission have been consulted. DFMC and MAI have been informed.

No publicity of the contents of the paper under CBC (08) 229 is planned. MEAT will announce that New Zealand is hosting the next P4US meeting.

The Minister of Trade indicates discussion is not required with the government of any other parties. The preparation of the paper is not expected to be published at this time.
The Minister of Trade recommends that the Committee:

1. note that negotiators from P4 countries (New Zealand, Singapore, Chile, Brunei) and the United States (US) held initial discussions on negotiations for investment and financial services chapters to the P4 Agreement in Santiago, Chile, on 5 - 6 March 2008;

2. 

3. 

Investment

Investor-State Arbitration

4. 

5. 

6. 

8.
of regulations and hence regulations do not seek a revised mandate at this time.

Note that discussions on market access commitments are not expected in the next round.

- S 6 (C2) (a), S 6 (C2) (b), S 4 (C2) (c)

- S 6 (C2) (a), S 6 (C2) (b), S 4 (C2) (c)
Financial Services

Note that when discussions do take place it can be expected that particular, will seek liberalisation of aspects of New Zealand's foreign investment regime, including the threshold at which investment is subject to screening.
s 6 (a); s 6 (b)(c); s 9 (2)(d); s 9 (2)(e)

s 9 (2)(a)

for Secretary of the Cabinet

Copies to:
Cabinet Business Committee
Chief Executive, DPMC
Director, PAG, DPMC
PAG Subject Advisor, DPMC
Secretary to the Treasury
Director-General, MAF (Agriculture)
Secretary of Foreign Affairs and Trade
Chief Executive, MED
Chair,
Cabinet Business Committee

P4¹/US Financial Services and Investment Negotiations

Proposal,

That Cabinet approve the basis for negotiations with P4 members and with the United States on investment and Financial Services.

Executive Summary

2 Negotiations on investment and financial services amongst P4 members were [{(a)} when they founded in 2005. The involvement of the United States has added a new dynamic.

3 Based on initial discussion in Santiago in March;

4

5 The first is the question of compulsory investor-state dispute settlement (CISD). 

1 'P4' is the shorthand reference for the 'Trans-Pacific Strategic Economic Partnership Agreement' between New Zealand, Chile, Singapore and Brunei that entered into force in 2006.
8 Discussions on market access commitments are not expected in the next round of negotiations and hence negotiators do not seek a revised mandate at this time. When discussions do take place, it can be expected that s6(c), in particular, will seek liberalisation of aspects of New Zealand’s foreign investment regime, including the threshold at which investment is subject to screening.

Background

9 Negotiations on P4 concluded in 2005 and the agreement entered into force in 2006. The concluded agreement did not include investment and financial services chapters (although some aspects of investment are covered through the inclusion of commitments on "mode 3 commercial presence" in the services chapter). P4 members agreed that negotiations on the two chapters would resume within two years of P4’s entry into force. Negotiations were therefore scheduled to resume in 2008.

10 P4 is open to accession "by any APEC Economy or other State" on terms to be agreed among P4 members.

In November 2007 [ERD Min (07) 8/4] Cabinet agreed that New Zealand be prepared to signal to the US and other P4 parties its willingness to engage in a bilateral process with the US, beginning with investment and financial services.

11 In February 2008, US Trade Representative Ambassador Susan Schwab announced that the US would join the P4 negotiations on investment and financial services and would also begin a detailed exploratory process to determine whether it should participate in the full P4.

Mode 3 commercial presence: a foreign service supplier establishes a presence in another country to provide a service, through incorporation, branch offices, a joint venture or other form of business entity.
12 An initial meeting on investment and financial services involving P4 members and the US was held in Santiago on 5-6 March 2007.

13 The next meeting on investment and financial services is scheduled to take place in New Zealand in the week of 16 June 2008. A negotiating mandate is sought in advance of the meeting.

Comment

P4 Engagement with US
New Zealand’s interest in negotiations with the US.

New Zealand has long been pursuing a bilateral FTA with the US.

s 6 (a)

s 9 (2) (b) (i)
Investment

23. Within that overall mandate, Ministers emphasised the importance of investment provisions reinforcing transparency around foreign investment policy and decision-making.

REMOVED INFORMATION
31. New Zealand has agreed to CISD in the recently signed New Zealand/China FTA. Agreement to CISD in the China FTA and the provisions of that FTA contain a range of safeguards intended to protect government regulatory prerogative and guard against exposure to inappropriate expropriation claims. CISD-type provisions were also agreed in New Zealand's bilateral investment Treaties with Hong Kong in 1996, and Chile in 1999.

32. The US is New Zealand's second largest source and destination of Foreign Direct Investment (after Australia). In March 2007, New Zealand investment in the US totalled NZ$26.6 billion (23.9% of total overseas investment). Portfolio investment accounts for a large proportion of this investment. New Zealand's outward direct investment into the US was estimated at around NZ$1.8 billion (9.5% of total outward foreign direct investment) to March 2007.


The New Zealand/Chile Investment Protection and Promotion Agreement was signed in July 1999, but was never ratified.
Increasingly, New Zealand companies are investing in production facilities in the US to be closer to market and remitting profits back to New Zealand, which does not show up in trade statistics. In March 2007, US investment in New Zealand totalled NZ$41.5 billion (16.3% of total foreign investment in New Zealand), with NZ$10.5 billion being inward foreign direct investment (11.8% of the total).

35 New Zealand also enjoys healthy investment relationships with other P4 countries, with investment in Chile and Singapore in particular increasing in recent years.

36 Risk management through safeguards

37 Agreeing to CISD is not without its policy risks, including fiscal and resource risk, and potential constraints on a government's freedom to regulate in the face of possible challenge by a foreign investor.

38 Fiscal/resource risks: CISD involves some risk that New Zealand would be exposing itself to potentially costly (and time consuming) actions being taken against it by, in particular, well-resourced investors, both in terms of the legal resources needed to prevent, manage or defend such claims, as well as the possibility of large monetary awards against the New Zealand Government.

39 Potential constraints on regulatory space: Some use of CISD, for example under NAFTA, has given rise to concerns; especially amongst civil society groups, relating to the impact of CISD on a government's ability to regulate. In New Zealand, a submission from the CTU opposed the inclusion of CISD within P4, and Forest and Bird and the Association of University Staff have opposed CISD in previous consultations on other FTA negotiations (e.g. New Zealand/China FTA). The concern of these civil society groups is that
bona fide government regulation undertaken in the public interest, but which impacts on investors, will be found to violate the provisions on indirect expropriation and the minimum standard of treatment, resulting in a potential dispute and finding against the government. Opponents of CSD argue that the mechanism deters governments from taking these actions, therefore constraining a government’s “regulatory space” resulting in a “regulatory chill”.

40 The role of safeguards:

41 By way of example, the New Zealand-China FTA includes expropriation provisions which are designed to better insulate non-discriminatory government action taken for legitimate public purposes, and elaborate the criteria to be used to assist a tribunal in determining whether an indirect expropriation requiring compensation has taken place, consistent with the criteria that have been applied by recent tribunals. Thus, under the NZ/China FTA, regulatory measures “as may be reasonably justified in the protection of the public welfare, including public health, safety and the environment, shall not constitute an indirect expropriation”, except in rare circumstances.

42 While it is not possible to predict with certainty how a particular tribunal will interpret equivalent language in a P4/US(chapter), recent case law has indicated that arbitration tribunals have been able to distinguish between indirect expropriation and non-compensable regulatory measures, with the result that certain non-discriminatory regulatory measures have been upheld as not breaching investment agreements. A good example of this is the NAFTA Methanex case. In that instance, the Tribunal made a clear statement that, as a matter of general international law, a non-discriminatory regulation for a public purpose which is enacted in accordance with due process is not expropriatory, and does not require compensation unless specific commitments have been given by the regulating government to the foreign investor that the government would refrain from such regulation.

The New Zealand-China FTA, for instance, enables a government to object to arbitration if a claim is “manifestly without merit or is otherwise outside the jurisdiction or competence of the tribunal”.
All of pages 10 to 13 withheld in full under the following provisions of the OIA:

- S 6 (a)
- S 6 (b)(i)
- S 6 (b)(vi)
- S 9 (2)(c)(d)
- S 9 (2)(c)(j)
- S 9 (2)(b)(i)
REleased under the Official Information Act

65. Market access commitments
66. The negotiations currently focused on chapter texts, official statements, and non-conforming discuss discussions on market access commitments and non-conforming measures on investment for some time.

S 6 (c)(ii)
Financial services

68. At the point of the suspension of negotiations in 2005, there were a number of unresolved issues in the draft financial services chapter.
Compulsory investor-state dispute resolution withheld.

74 The first possible issue relates to New Zealand's proposed wording to reflect the fact that there are some limits in New Zealand on the extent to which central government can direct self-regulatory financial organisations.
Consultation

81 In the lead up to and during the P4 negotiations between 2002 and 2005, officials conducted a consultation programme on P4 generally. Calls for public submissions from businesses and other groups with an interest in investment or financial services involving Chile and Singapore were made in October 2002 and again in July 2004.

82 In February 2003, officials called for public submissions from those with an interest in financial services and investment involving the US and with any new or updated information and views on investment and financial services involving Chile, Singapore and Brunei Darussalam.

83 Four submissions were received. Fonterra and the Wellington Chamber of Commerce were strongly in favour of the negotiations. Fonterra expressed the view that the Chile/US FTA provided a good model for an investment chapter and that it wished to see a chapter which went beyond the New Zealand Singapore CEP. The Wellington Chamber of Commerce commented that the investment balance was in the US's favour and that it would like to see an increase in New Zealand investment in the US. It also commented on the importance of services
(including financial services) to New Zealand’s economy. The Council of Trade
Unions said it did not support the investment and financial services negotiations
involving the US and raised concerns in particular to do with CISDS and
investment screening.

84 The Reserve Bank, the Securities Commission and the Ministry of
Economic Development have been consulted in the preparation of this paper and
agree with its contents. The Department of Prime Minister and Cabinet and the
Ministry of Agriculture and Forestry have been advised of this paper.

85 The Treasury has also been consulted on this submission and it has
supplied the following comment:

- s b (a)
- s b (e) (a)
- s q (2) (d)
- s q (2) (e)
Financial Implications
86 None.

Human Rights Implications
87 None.

Legislative Implications
88 None.

Regulatory Impact and Business Compliance Cost Statement
89 None.

Publicity
90 No publicity of the contents of this Paper is planned. It is intended that New Zealand's hosting of the next P4/US meeting in June will be publicly announced by MFAT as is standard for such events.

Recommendations
91 The Minister of Trade recommends that the Committee:

1 note that negotiators from P4 countries and the US held initial discussions on negotiations for investment and financial services chapters to the P4 Agreement in Santiago on 5-6 March;
Investment

Investor-State Arbitration

withheld:
- 86(a)
- 86(c)(i)
- 86(c)(2)
- 89(c)(4)
- 89(c)(5)
REleased UnDer THE OFFICIAL INFORMATION ACT
Financial Services

withheld:

- S 6 (a)
- S 6 (b)(ii)
- S 6 (b)(vi)
- S 9 (2) (a)
- S 9 (2) (b)
- S 9 (2) (c)

REleased under the Official Information Act
RELEASED UNDER THE OFFICIAL INFORMATION ACT
Annex 1: Existing Mandate

All of this Annex C pages 25 to 38 are withheld in full on the following grounds of the OLA:

- s 6 (a)
- s 6 (b) (i)
- s 6 (c) (vi)
- s 9 (2) (a)
- s 9 (2) (c)
Chair
External Relations and Defence Committee

The Trans-Pacific Partnership Agreement: the challenges ahead

Proposal

This paper proposes a New Zealand approach to the initial phase of the expanded Trans-Pacific Strategic Economic Partnership Agreement (TPP) negotiations. Within this broad approach, a separate paper seeks approval of initial negotiating positions across the range of specific issues likely to arise in the negotiation.

Executive Summary

The significance of this initiative

Overall this is the most important negotiation we have undertaken since CER and the Uruguay Round.

Expanding the ‘P4’ Agreement

3 The original agreement (better known as P4) between Brunei, Chile, New Zealand and Singapore was a high-quality deal. But P4 was designed from the outset to allow new members to join the Agreement. That early design work is now paying off: the United States, Australia, Peru and Viet Nam are joining the P4 group in the TPP negotiations.

4 Within the Asia-Pacific region there are a number of active regional processes designed to promote greater economic integration. , all participants see the TPP as laying the

1 For simplicity’s sake in this paper we use ‘P4’ as shorthand for the existing agreement between New Zealand, Brunei, Chile and Singapore; we use TPP to refer to the negotiation to expand P4 to include Australia, Peru, the US and Viet Nam.
foundations for a future high quality regional FTA and therefore want to see the membership expand further at a future stage.

\[ S 6(a); \]

\[ S 6(4)(i); \]

Specific New Zealand interests

\[ S 6(c2); S 9(c2)c5 \]

We also expect substantial gains, \[ S 6(c2); S 9(c2)c5 \] and in any future regional deal, from services and investment (though the impacts are difficult to model) and from greater cooperation between regulators so as to avoid disruption and barriers to trade.
Being involved in the TPP also minimises the risk to New Zealand of being shut out of FTAs involving key economies in the region.

**Risks to balance against the gains**

- $s \beta (a)$,
- $s \beta (b) c_i$,
- $s \beta (c) c_j$

**Motivation of others**

- $s \beta (a)$,
- $s \beta (c) c_j$
Initial phase

This will be first occasion for the eight delegations to meet, attempt to find common ground on broad goals and approach, reach some understandings on process and undertake a first reading of the existing P4 text to identify issues and questions. We would expect a gap of a few months between subsequent rounds. For the first two or three we may still be in exploratory mode. It will take some time before we get to the point of tabling detailed proposals and texts and market access offers.

New Zealand approach

Role of Ministers

18 The foundation for previous New Zealand FTAs has been political understandings developed between our Ministers and their counterparts in other capitals. TPP is in the same situation, though we have yet to bring all eight countries together at ministerial level. At some point in the process there will emerge serious differences on many questions of ambition and approach. At these points, ministerial intervention will be important to provide clarification or resolution. It might be possible to deal with some issues bilaterally. But on those involving most or all of the eight countries we can expect APEC ministerial events to become key decision points.

Domestic process

19 The initial Cabinet mandate has been cast in the form of broad objectives and approaches. As we approach the point where negotiators have more precision on others’ positions and are set to move into actual negotiating mode officials will need to come back to Cabinet for a more precise mandate on specific issues.

20 At ministerial level, the Minister of Trade will take the lead role. Within the broad terms of the Cabinet mandate, there will from time to time be a need to consult or bring together interested Ministers on specific issues that arise in the course of the negotiations.

Engaging stakeholders

21 There has been an initial round of public submissions. Officials are following up with groups and individuals on specific issues. Feedback from stakeholders on goals, risks and approaches will continue to be factored into advice to Ministers on choices we face in the negotiations.
mandate required at this point

Negotiators seek:

- A negotiating mandate – in the form of broad objectives, approaches and positions – for the initial phase.

Attachments

Annex One gives additional background on the TPP negotiation, specific New Zealand interests in the negotiations, the handling of domestic policy risks and process for coordination of policy and tactics. Annex Two provides further detail on the relationship between the TPP negotiation and other parts of the complex regional agenda. Annex Three summarises feedback from the initial round of public consultation.

The detail on individual negotiating issues is set out in the accompanying ‘mandate’ paper.

Consultation

The following departments have been consulted in the preparation of this paper and concur with its recommendations: Ministry of Agriculture and Forestry, New Zealand Customs Service, Ministry of Economic Development, Ministry for the Environment, the New Zealand Food Safety Authority, Ministry of Health, the Department of Labour, the National Library of New Zealand, Reserve Bank of New Zealand, New Zealand Trade and Enterprise, and the Treasury.

Financial Implications

The TPP negotiations and subsequent implementation of the agreement will have fiscal implications, although it is too early to clearly identify the nature and magnitude of costs at this stage.

The overall fiscal costs of TPP are likely to comprise the following components, which are expected to be incurred across different departments and over a number of years:

- Negotiations-related – includes preparatory work leading to negotiation rounds, outsourcing of analysis to external consultants, travel, consultation and outreach. These costs will be incurred for the duration of the negotiations. While officials envisage at this stage that these will be able to be met within existing departmental baselines and the interdepartmental
fund for trade negotiations, given the scope of the TPP negotiations and pressures from other negotiations under way, additional funding may be required over and above existing funding.

- Implementation – includes costs arising from any changes required to domestic policy settings and ‘operational’ costs (for example from increased transparency and consultation requirements). Although the magnitude of costs here is unknown at this stage, it is likely to be more significant relative to the other components outlined;

- Reduction in tariff levels resulting in reduced Crown revenue.

28 As a whole, the above costs are expected to be higher than those incurred for past FTAs given the significance of TPP in terms of opportunities and risks, and its complexity in terms of who the negotiating partners are and the number involved.

29 Officials will provide detailed information to Cabinet on these costs, and submit funding proposals as required, as costs become clearer throughout the course of negotiations. It should, of course, be borne in mind that the long-term economy-wide benefits to New Zealand from successfully concluding the TPP are likely to be well in excess of these direct financial costs.

Human Rights Implications

30 There are no inconsistencies with the Human Rights Act 1993 and New Zealand Bill of Rights Act 1990.

Legislative Implications

31 None at this stage. New Zealand will need to amend its domestic legislation to enable fulfillment of the international legal obligations it will assume under the TPP.

Regulatory Impact Analysis

32 Not required at this stage. An extended National Interest Analysis (incorporating a Regulatory Impact Analysis) will be presented to Cabinet when negotiations have concluded and the text of the TPP is submitted for approval for signature.

Publicity

33 There has been publicity and media interest surrounding the expansion of the TPP to include the United States, Australia, Peru and Viet Nam. The
The negotiations are likely to continue to attract a high level of public interest, some of
it critical, and will raise issues (eg around health policy and pharmaceuticals) that
have not featured in other trade negotiations.

34 Through an interagency process, officials have developed a strategy for
ongoing domestic consultation and outreach. The strategy aimed at getting
stakeholder input into the negotiating mandate and providing information about the
negotiating process.

35 It is expected that the Minister of Trade would take the lead in responding to
media enquiries to Ministers regarding the TPP negotiations.

Recommendations

36 The Minister of Trade recommends that the Committee:

1. note that the expansion of the TPP ranks with earlier negotiations such as
   CER and the Uruguay Round in its potential long-term significance for New Zealand;

2. note that the outcome of the TPP process will be important both
   and for prospects of
developing regional architecture in the Asia-Pacific region that reflects
New Zealand's interests in open trade and economic policies;

3. note that the interests of other participants in the TPP process will
   present New Zealand with real negotiating challenges;

4. note that there is increasing interest from others in the Asia-Pacific
   region in being part of a TPP deal, with the result that the process for
managing the group's future expansion will require close attention;

5. note that potential benefits to New Zealand from a TPP result include:

   - Gains from tariff elimination, liberalisation in the services and
     investment sectors and from more effective regulatory cooperation within the current group of TPP participants,
     including the United States;

   - Longer-term and more substantial benefits from wider
     economic integration in the Asia-Pacific region as other large
     regional economies join the group; and

   - Limiting the risks of New Zealand exclusion from a major
     regional economic initiative;
8 note that the involvement of the United States is likely to generate a high level of public interest within New Zealand, some of it critical;

9 note that there will be a need for close coordination between the work of negotiators and Ministers in support of New Zealand negotiating objectives;

10 note that the Minister of Trade will have lead responsibility for the negotiations, including on issues that require public comment from the Government;

11 note that the Minister of Trade will consult other Ministers on issues affecting their portfolios as the issues develop, within the broad mandate determined by Cabinet, to provide negotiators with guidance on specific policy or tactical issues.

12 note that for most issues the initial rounds of the negotiation will be exploratory in nature, generally requiring only broad guidance on goals and approaches;

13 note that a separate paper will seek Cabinet decisions on specific issues within the negotiation to guide New Zealand negotiators in the initial phase of the negotiation;

14 note that the TPP negotiations and subsequent implementation of the agreement will have fiscal implications, although it is too early to clearly identify the nature and magnitude of costs at this stage; and

15 note that the overall fiscal costs of TPP are likely to be related to negotiations, implementation, capacity-building for or cooperation with developing country partners, and reduction in tariff levels, and that new funding may be required for these costs.

Hon Tim Groser
Minister of Trade
The Challenges Ahead

Introduction

P4 was the first FTA linking Asia, the Pacific and the Americas. It was conceived from the outset as a possible future vehicle for wider economic integration in the Asia-Pacific region.

2 A negotiation to expand the agreement – now tagged ‘TPP’ (Trans-Pacific Partnership) – to include Australia, Peru, the United States and Viet Nam is about to get under way. This gives us an opportunity not only to pursue free trade with the United States but also to influence the future shape of trade and economic structures in the region.

3 The strategic opportunities this negotiation offers are large. So too are the policy risks and the management challenges. There will be a need for efficient ministerial governance and oversight arrangements for what will be a complex negotiation with far-reaching consequences. At certain points there will be a need for direct ministerial engagement with counterparts from other capitals.

4 This paper has four main parts:

- The first offers an outline of existing P4 agreement and the developments that led to the new negotiation.

- The second part, from paragraph 23, focuses on the interests and motivations of the main players and how these may affect the negotiation.

- A third part, from paragraph 34, takes a closer look at specific New Zealand interests in the negotiation.

- The final part, from paragraph 45, discusses the management challenges as the negotiation gets under way, including the handling of domestic policy risks (some of which will have a high public profile).

5 The analysis aims to provide context for specific decisions on an initial negotiating mandate which will be covered in a separate paper.

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2 For simplicity’s sake in this paper we use ‘P4’ as shorthand for the existing agreement between New Zealand, Brunei, Chile and Singapore; we use TPP to refer to the negotiation to expand P4 to include Australia, Peru, the US and Viet Nam.
PART 1: SETTING THE SCENE

The original P4 agreement

Building on the original FTA between New Zealand and Singapore, formal P3 (New Zealand, Singapore and Chile) negotiations began in September 2003 and concluded in April 2005. Brunei participated as an observer from the second round of negotiations and became a full participant shortly before the last round. P4 came into force in 2006.

P4 eliminates tariffs between its four members; most tariffs went to zero on entry into force and all remaining tariffs will be removed by 2017 at the latest. P4, when fully implemented, will essentially deliver a free trade in goods, including sensitive agricultural products.

P4 is not limited to goods. It also covers services, intellectual property, government procurement and competition policy and includes dispute settlement provisions. It is designed to improve the flow of trade, with measures to enhance customs cooperation and reduce regulatory barriers. There are linked agreements on environment and labour cooperation.

The founding members agreed to hold negotiations on investment and financial services within two years. The negotiations on those two chapters began, with US participation, in March 2008.

Expanding the group

P4 was designed specifically to facilitate accessions by other countries. In February 2008, the United States announced that it would join upcoming P4 negotiations on investment and financial services and at the same time begin a detailed exploratory process to determine whether it should participate in the full Agreement. The United States participated in the three rounds of investment and financial services negotiations, held in March, June and September 2008.

On 22 September 2008 in New York, Ministers from the United States and the P4 partners announced the launch of negotiations for the United States to join the full Agreement. On 20 November 2008 in Lima, Ministers from Australia and Peru joined their P4 and US colleagues in announcing their intention to join the negotiations. In December 2008, Viet Nam said it would also like to join the negotiations, participating initially as an observer but deciding within three rounds whether to continue as a full participant.
How significant is this initiative?

A handful of earlier trade negotiations have had special significance to the New Zealand economy: those associated with British entry to the Common Market; CER; the GATT Uruguay Round; and the FTA with China.

The TPP ranks with those earlier negotiations for several reasons:

- It opens the door to a much closer economic relationship with the United States

In the longer-term, the TPP has become the most obvious platform for economic integration in the Asia-Pacific region.

The current level of interest from others in the region (as described in further detail below) indicates that the TPP could become a credible launching pad for a regional initiative leading to closer economic integration, through freer trade and investment and greater regulatory cooperation.

The TPP and the regional agenda

The Pacific Rim – including China – has become the main engine of global growth. It is set to remain so as world markets recover from the current economic crisis. The APEC and Pacific Island countries together account for 55 per cent of global GDP and roughly 50 percent of international trade. (More than 70 per cent of New Zealand’s trade and investment occurs within the region). Much of the growth has come on the back of new business structures: regional production networks allowing specialisation and diversification of roles and sourcing.

Yet the opening up of trade and economic links in the region has a long way to go. There are many protected sectors in key markets and large barriers to flows of goods, services and investment. Governments in the region have recognised that these evolving commercial structures – requiring much more movement of parts, services and capital across borders – need to be underpinned by efforts at government level to facilitate trade and investment flows and regulatory harmonisation.
Untangling the noodles

16. There has of course been bilateral activity. New Zealand's negotiation with Singapore, launched in 1999, triggered a wave of new FTA activity. These bilateral deals have generated some significant liberalisation but they have also produced a 'noodle bowl' of cross-cutting rules (in particular rules about whether goods qualify as 'originating' in a particular country) that frustrate traders.

17. Over time the TPP initiative aims to both open up links in the region and address the noodle bowl problem. The new TPP participants, in announcing their decision to join the negotiation, have emphasised its importance as a vehicle for economic integration in the Asia-Pacific region:

- $s_b (a)$
- $s_b (b) (i)$
- $s_b (b) (j)$
- $s_b (c) (j)$

(Different agendas)

22. The regional agenda has become complex, with multiple strands of work under way on trade and economic structures. To help decipher the tangle, Annex 1 sets out:

- The main elements of the regional economic architecture
- New Zealand's current and mooted FTA initiatives in the region
The set of trade agreements in the Asia-Pacific region which make up the 'noodle bowl'.

PART 2: WHAT'S DRIVING THE OTHER PLAYERS?

How we see US motivation

withheld

- 6(b), 6(b)2(i)
- 9(c)2(i)

All of page 14 also withheld in full on the grounds of the OIA set out above.
Candidates for the next tranche

34 Since the announcement of US involvement there has been increasing interest in the TPP from others beyond Australia, Peru and Viet Nam. The TPP has real potential as a platform for a regional trade agreement in the medium term.

...This has forced many in the region to give the TPP serious consideration:
At the stage when others do come on board, New Zealand will need to carefully assess the opportunities and risks that each new participant presents.

PART 3: SPECIFIC NEW ZEALAND INTERESTS

37 Any calculation of potential benefits to New Zealand has to cover both the current negotiation and future scenarios involving wider groups:

- The most obvious interest for exporters is gains from tariff elimination within the current group of TPP participants – $b(\mathcal{A})$, $b(\mathcal{U}_i)$, $b(\mathcal{V}_j)$

But it is likely that there will be gains of at least the same order from other sectors such as services and investment, and from more effective regulatory cooperation within the group.

- The big gains – $b(\mathcal{A})$, $b(\mathcal{U}_i)$ are more likely to come in the longer term as a result of TPP delivering a platform for wider economic integration in the region. Gains from services and investment along with regulatory cooperation will again be important.
Much of the value of the TPP is the reduced risk of New Zealand being left out of a major regional initiative.

Potential gains from the current negotiation

- $6(a) \leq 9(2)c_5$

What we stand to gain – or lose – from wider regional deals

40 Our assessment is that the larger gains will flow from the success of the TPP initiative in expanding further and lead to greater trade liberalisation in the wider region.

We also expect substantial gains from services and investment (though the impacts are difficult to model) and from greater cooperation between regulators so as to avoid disruption and barriers to trade.

41 The counterfactual – being left out of a regional FTA – is also important. New Zealand would face large opportunity costs if we found ourselves shut out of FTAs involving key economies in the region. These include the negative impact of being excluded from liberalisation of services and investment and missing out on the benefits of closer cooperation within this group of countries in areas such as technical barriers to trade and sanitary and phytosanitary measures.

Risks to balance against the gains

- $6(q) \leq 9(2)c_d$
- $\leq 9(2)c_5$
PART IV: CHALLENGES AHEAD - AND HOW TO MANAGE THEM

45 The first three parts of this paper set out the background and the factors that will shape the negotiation. The practical question now is what approach we should take to the management of the process, both the domestic aspects and the actual negotiation.
Continuing effort to engage stakeholders

56. Given the commercial opportunities and policy risks entailed, and the involvement of the United States, the negotiations are likely to have a high public profile. There is full information in the public domain on the existing P4 agreement but there is close interest in the pressures we might face and the changes, for better or for worse, that might result from negotiations. As the negotiations proceed we will face questions about New Zealand’s approach and the results being achieved.

57. There are established processes for seeking input from stakeholders, both at the preparatory stage for new trade negotiations and as negotiations proceed. Interests typically range from groups with a commercial stake in the outcome...
to those with concerns about domestic policy settings.

One early step, which has already been undertaken, is to seek initial public submissions (summarised in Annex 2). Officials will use these submissions to help shape future targeted consultations with groups and individual stakeholders. They will also help shape advice to Ministers on policy choices in the negotiation relating both to export objectives and policy and commercial risks.

Tight coordination needed

60 The formal guidance for trade negotiations is provided by Cabinet after considering officials’ advice on policy options. Officials will report to Cabinet at key points in the process. But beyond this there is likely to be a need for negotiators to consult a group of interested Ministers on specific policy and tactical issues that arise. Such groups would normally be convened by the Minister of Trade and might, depending on the issue, include the Minister of Finance, the Minister of Commerce, the Minister of Health, or the Minister of Agriculture and Forestry. The Minister of Trade should also take the lead in speaking for the government on policy or negotiating issues that call for public comment.
The Regional Agenda

Regional Initiatives

Trade initiatives in the region include those promoted by regional groupings which participate in periodic high level meetings but which have aspirations to become free trade blocs in the future.

Table 1: Asia-Pacific Regional Trade Initiatives

<table>
<thead>
<tr>
<th>Country</th>
<th>2007</th>
<th>2012</th>
<th>2013</th>
<th>2016</th>
<th>2018</th>
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<tbody>
<tr>
<td>New Zealand</td>
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<tr>
<td>Australia</td>
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<td>NORTH ASIA</td>
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<tr>
<td>China</td>
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<td>Hong Kong, China</td>
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<td>Chinese Taipei</td>
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<td>Japan</td>
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<tr>
<td>Korea</td>
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<td>SOUTH/SOUTHEAST ASIA</td>
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<tr>
<td>Brunei</td>
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<td>Cambodia</td>
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<td>India</td>
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<td>Indonesia</td>
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<td>Lao</td>
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<td>Malaysia</td>
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<td>Myanmar</td>
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<td>Philippines</td>
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<td>Viet Nam</td>
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<td>NORTH AMERICA</td>
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<td>United States</td>
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<td>LATAMERICA</td>
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<td>Colombia</td>
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<td>Mexico</td>
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<tr>
<td>Peru</td>
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<tr>
<td>Total Members</td>
<td>107</td>
<td>12</td>
<td>13</td>
<td>16</td>
<td>21</td>
</tr>
</tbody>
</table>

2. The East Asia Summit (EAS) is promoting a regional trade initiative known as the Comprehensive Economic Partnership in East Asia (CEPEA), an FTA which would include ASEAN, New Zealand, Japan, Korea, China, Australia and India.

3. New Zealand is a member of the Asia-Pacific Economic Cooperation forum (APEC). APEC’s 21 members share the goals of dismantling trade and investment barriers between the members and supporting an open multilateral trading system. APEC’s regional trade agenda includes working towards Free Trade Area of the Asia Pacific (FTAAP) though this is primarily regarded as a long term aspiration. At
most recent APEC Ministerial and Leaders Meetings in Peru (in November 2008), there was strong support for advancing the FTAAP agenda and the 2009 APEC year has flagged regional integration as a priority theme.

4 All of the participants in the TPP negotiations are members of APEC. The TPP initiative is being seen by the participants as reinforcing the APEC goal of promoting regional economic integration and it has been billed as a potential building block for the FTAAP.

5 Negotiations on the Agreement establishing the ASEAN-Australia and New Zealand Free Trade Area (AANZFTA) concluded in 2008 and the Agreement is scheduled to be signed in early 2009. AANZFTA has been an important step towards trade integration in the Asia-Pacific region.

Bilateral Initiatives

6 Alongside these regional initiatives, a large number of bilateral trade agreements have been concluded or are under negotiation between economies in the Asia-Pacific. As of 2008, there were 153 FTAs in force, 21 awaiting implementation, 72 being negotiated and 81 being explored. This has helped to create the ‘noodle bowl’ of trade rules.

Table 2: The FTA ‘noodle bowl’ FTAs in the Asia-Pacific

<table>
<thead>
<tr>
<th>New Zealand</th>
<th>Australia</th>
<th>China</th>
<th>Hong Kong, China</th>
<th>Chinese Taipei</th>
<th>Japan</th>
<th>Korea</th>
<th>ASEAN</th>
<th>India</th>
<th>United States</th>
<th>Canada</th>
<th>Chile</th>
<th>Colombia</th>
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<td>ASEAN</td>
<td>India</td>
<td>United States</td>
<td>Canada</td>
<td>Chile</td>
<td>Colombia</td>
<td>Mexico</td>
<td>Peru</td>
</tr>
</tbody>
</table>

7 New Zealand has been actively negotiating FTAs in the region. New Zealand's first FTA, signed in 1983 with Australia (Closer Economic Relations, or CER), has been described by the World Trade Organisation (WTO) as "the world's most comprehensive effective and mutually compatible free trade agreement".
two economies are now highly integrated. Discussions are now focussed on the development of a 'single economic market'.

8 Our FTA with Singapore, which entered into force in 2001, is also a comprehensive agreement, providing full duty-free trade between New Zealand and Singapore. New Zealand’s FTA with Thailand entered into force in 2005 and will eliminate tariffs on all goods over twenty years. It does not cover the trade in services.

9 New Zealand’s FTA with China entered into force on 1 October 2008 and is a very significant achievement for New Zealand. As well as delivering commercial benefits to New Zealand traders, this was the first FTA that China concluded with a developed country and it has raised New Zealand’s profile internationally as a proponent of high quality trade liberalisation. Under the China FTA, tariffs on 96 percent of New Zealand’s exports are eliminated over a maximum of twelve years. The FTA also helps to and so should help maintain momentum towards our wider goal of multilateral trade liberalisation through the WTO and greater economic integration in the Asia-Pacific region.

10 New Zealand and Malaysia are currently negotiating a high quality and comprehensive FTA which will build on the AANZFTA outcome. The reopening of negotiations with Hong Kong was announced on 10 February. The launch of bilateral FTA negotiations with Korea is scheduled for announcement during the visit to New Zealand by Korean President Lee Myung-bak on 3 March.

11 New Zealand would like to have an FTA with Japan and has been taking steps towards this objective. Japan is the world’s second largest economy, and our third biggest export market. Japan is also following TPP developments closely. New Zealand is close to concluding a study with India that could lead to the launch of FTA negotiations later this year.
TPP Public Submissions

Submission Process

- The Ministry of Foreign Affairs and Trade made a call for submissions on 12 October 2008. The submissions deadline was 9 December 2008.

- Sixty-five submissions were received through this process, covering a wide range of issues. They came from an assortment of individuals, businesses and umbrella organisations, and were often accompanied by requests for further consultation throughout the process, both targeted to specific stakeholders and in general with the wider public.

- While some were written in general support of, or opposition to, the Agreement, most provided details of important issues and desired outcomes as requested.

Commercial interests for New Zealand businesses

- A number of the submissions, particularly those from exporters and their representative groups, were written in support of the agreement and described particular offensive interests or potential benefits. These related mostly to market access, government procurement and technical barriers to trade.

- In terms of market access, there was a strong desire for a comprehensive agreement including all categories of goods, with several references made to the exclusion of certain sectors under the Australia-United States bilateral free trade agreement. Specific sectors identified for tariff elimination included dairy, wine, cut flowers, air conditioners and wool. A reduction in US agricultural subsidies was also seen as desirable.

- Some exporters, including those in the aviation and audiovisual industries, as well as the New Zealand Chambers of Commerce as an umbrella group, were seeking the removal of barriers to US government procurement contracts, including the need for a local partner.

- Other submissions referred to equivalence of standards, citing organics and animal welfare as areas where there were current technical barriers to trade.

- Several submissions, including from the Employers and Manufacturers’ Association and the New Zealand horticulture industry, referred to the need for science-based sanitary and phytosanitary (SPS) rules and noted current trade barriers in the area of food safety.
Improvements were also sought to customs and import procedures. The Employers and Manufacturers Association recommended that the rules of origin provisions be kept at the level of principle to simplify their use. Temporary entry was raised in some submissions as an area where increased liberalisation would benefit New Zealand businesses and individuals.

The Employers and Manufacturers Association and the New Zealand Horticulture Industry, among others, referred to the need for science-based sanitary and phytosanitary rules.

In relation to intellectual property, some submissions were received in support for increased data protection (Agcarm) and strengthened intellectual property laws, but these were greatly outnumbered by the negative submissions on this issue as outlined below.

On a similar note, the support by the Dairy Companies Association of New Zealand for investor-state dispute settlement went against the trend described below. On a more general level, there was some support for further expansion of the TPP in future.

Concerns raised

Intellectual Property

The submissions that were written in opposition to the TPP expansion, or to raise particular risks and defensive interests, were predominantly concerned with intellectual property. The Council of Trade Unions raised this as an area in which Australia was required to make undesirable concessions under AUSFTA.

Individuals and organisations including the Library and Information Advisory Commission, the New Zealand Chambers of Commerce and the New Zealand Vice-Chancellors' Committee noted the current system represented an appropriate balance between the rights of intellectual property owners and the legitimate users of information and this balance should be maintained. Submissions further noted that lengthening the term of copyright could act to stifle innovation and increase costs to consumers, libraries and universities.

A number of submitters expressed concern that commitments undertaken under the TPP could impact upon the information technology sector, particularly on the availability of free and open-source software. Such submitters were concerned about the potential for increased prescription of the role of internet service providers, increase of restrictions relating to technological protection measures and strengthening of existing of copyright and patent terms and scope.

There was also concern about preservation of local content from some submitters, including the New Zealand Musicians Union and the New
Zealand Society of Authors. Ngati Kahungunu, along with the Library and Information Advisory Commission, also raised the protection of Maori traditional knowledge as an issue of concern.

The potential vulnerability of New Zealand companies to (sometimes frivolous) US lawsuits as a result of an FTA was also raised as a risk, in particular by Phitek Systems, a New Zealand company that has recently faced an intellectual property litigation challenge in the United States.

Other

Other potential risks were mentioned in relation to investment screening. There was concern about the possible introduction of compulsory investor-state dispute settlement and the implications this would have for the New Zealand government’s ability to regulate. Other submissions raised more general concerns about wholesale purchases of New Zealand assets by US buyers should investment screening laws be relaxed.

Submitters were also preoccupied with the global financial crisis and the calls worldwide for increased regulation of the financial sector; many commented that this was not the time to be pursuing increased liberalisation in financial services.

In relation to pharmaceuticals, there was opposition to changes to the PHARMAC system, notably from the Council of Trade Unions and Ngati Kahungunu.

Retention of our screening process for genetically modified organisms, and particularly GE labelling on food, was seen as a priority by some submitters.

Use of submissions

These submissions provided useful information for officials in terms of gauging the interests and concerns of businesses and the general public. The information gathered will be used in developing plans for further consultation, and will help shape priorities and approaches as the negotiations get under way.