

Notes from Auckland TPPA Stakeholders Meeting

Wednesday 3 July 2013

Auckland Chamber of Commerce

The meeting began at 2pm with a brief introduction by the Chamber's International Manager Fuimaono Tuiasau about the work that the Auckland Chamber of Commerce does and a description of its constituency, comprising 6000 members from large and small.

The focus then shifted over to David Walker, Deputy Secretary of the Trade and Economic Group, who was presenting on the Trans-Pacific Partnership. He was accompanied by Brad Burgess, the services and investment negotiator, although he remained silent throughout.

The presentation began with a short history of the agreement, beginning with the P4 process, and the rapid expansion of membership and scope as the United States joined. With Mexico and Canada joining last year the stakes became higher (as this currently represents a \$1 billion export market) and then when Japan decided to join it reached new heights, adding another \$6 trillion to the total economic activity within the agreement's contemplation (to a total of \$27 trillion).

This market will comprise 5 of New Zealand's 10 largest trading partners (Australia, the United States, Japan, Singapore and Malaysia), providing a platform for regional integration and a basis from which to work towards an APEC-wide agreement.

Broad Outlines

- Comprehensive market access for good, services and FDI
- A single tariff schedule and a set of common rules of origin; this regional platform will provide synergy from which to work from throughout the region and beyond
- Consistent regulatory practice
- Processes and rules around emerging trade issues (for example how to deal with the impact of the internet and digitisation of trade)
- A living agreement that will continue to evolve

What's in it for New Zealand business?

- Tariff elimination, reduced compliance costs for exporters
- More opportunities to access government procurement contracts
- Reduce barriers to services trade and investment
- Maintaining (securing) a competitive playing field for NZ exporters across the region

There was also some limited discussion on modelling and the use of computable general equilibrium models (described as too complex to explain to lay persons). With these models it has apparently been estimated that NZ's GDP will be 1-2% better off on a yearly basis. Then David posed the

hypothetical counterfactual of being left behind, being “disadvantaged by being outside the preferences” granted to members states.

Sticking Points

- Intellectual Property
- Health – David made it clear that NZ was not willing to negotiate away the fundamentals of the NZ health system, although he did little to outline what those fundamentals were. He also said that this doesn’t mean there will be nothing done that impinges on Pharmac.
- Investment – There will be a mechanism for ISDS but it will also provide safeguards for public interest regulators. He was silent as to what form this would take.
- “Nothing is final till everything is final.”

Japan

- Value-add
- Invitation and Integration
- Broader membership interest
- New entrants must share the ambition of those nations already negotiating
- They must also contribute to the momentum

Questions

These came from the floor, and (in my opinion) very few of them received satisfactory responses. I have left out a few which I wasn’t able to write down or that didn’t seem very relevant.

1. Natasha Hamilton-Hart (UoA Business School)

What is the average marginal difference between current and projected post TPPA MFN tariff levels for NZ exports amongst negotiating nations?

It differs (an exact response could not be given), but the core point is that we are looking to get rid of all, trying to address all tariffs, especially in the primary sectors.

What steps are being made to address non-tariff barriers?

The main focus is on harmonising Sanitary and Phytosanitary barriers and addressing Technical Barriers to Trade.

2. David Hodges (Auckland Natural Health)

The question was on market access with regards to US agricultural markets, citing recalcitrance and the requirement the other countries liberalise while their system of subsidies is never dismantled.

Walker acknowledged the US' "chequered track record" but said that he had seen some very strong signs that this time would be different.

3. Guy Slocum (Sentinel International)

What evidence do you have to support the above answer?

What we're doing to the contrary is the clearest illustration of the US' negotiating objective.

4. Barry Coates (Oxfam NZ)

Considering the aforementioned sticking points and their enormous significance in public debate so far, has any opportunity been proposed so far for access to a draft text?

We don't start negotiating these agreements from a ground zero position, they are the product of the cumulative experience of past negotiations (i.e. if you want to know what's in the agreement look at past ones for a starting point). At the same time, the agreement is not taking place exclusively between trade negotiators – in many instances other interested parties are either directly at the table or intensely consulted. An example of this is the stakeholder engagement processes.

5. Peter Hosking (Human Rights Foundation NZ)

What are the chances for an Human Rights Impact Assessment, in accordance with the UN Guiding Principles on trade and investment agreements?

There are no plans afoot for a human rights impact assessment for its own merits, but an analysis of the full relationship of our bilateral relations is constantly under discussion.

Why not ask the Human Rights Commission to undertake this work?

We must bear in mind all elements of the national interest, not just human rights.

So that's a no?

Walker nods

6. Edward Miller (FIRST Union)

The leaked text on investor-state dispute settlement contained provisions strictly prohibiting the use of capital controls in all circumstances. Consider this is no longer reflects the institutional view of the IMF, and that this round of negotiations are taking place in Malaysia, whose survival in the Asian financial crisis can largely be owed to the deployment of capital controls, what is the negotiating position of the NZ government?

We should be careful about taking leaked texts as relevant guides on what is to be decided at the end of the negotiation. It is more important to take a holistic view and see what the final

outcome is, and certainly NZ will be looking to ensure that flexibility is maintained throughout.

So New Zealand will be negotiating on the basis of looking to preserve policy space in this area?

Yes.

7. Andrew Parker (AJ Park)

What is the negotiating position regarding non-pharma IP?

The question of appropriate balance is in the forefront, wants to maintain space but at the same time reward innovation. IP cannot be negotiated on the basis of a one-size-fits-all approach.

8. Chris Nobbs

Given the threats posed by IP and ISDS, what is not on the table?

I could not really understand the answer that came back, something about how the public interest was best served by moving with the pack. Peter Hosking followed up by saying that on ISDS the Australian position was that the public interest was best served by not following the pack, which David Walker disagreed with.

9. Rob Scollay (UoA Business School)

With services being negotiated on a negative list, is there a high degree of consensus regarding the level at which this will be set?

There is definitely a high degree of ambition amongst negotiating nations, however this must be balanced with sufficient technical assistance for those countries for whom this is a more difficult area.

Can you give any details on the extent of sectoral coverage?

We are beginning with all sectors and working our way through the various non-conforming measures. We cannot summarise where we'll get to.

10. Edward Miller (FIRST Union)

Given that the US has a list of 600 business advisors who are allowed access to the text, including environmental, consumer and public interest groups and trade unions, why do we not take a similar approach here in NZ?

Each country takes its own approach, and the downside of the US approach is that those organisations that get access to the text are not allowed to discuss in public what they know.

So there are no legal impediments to NZ setting up a similar system?

No legal impediments, no.