

Submission

by

Business|NZ

to the

Ministry of Foreign Affairs and Trade

on the

**Proposal for a Closer Economic
Partnership with Thailand**

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1. INTRODUCTION

- 1.1. Encompassing five regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, Canterbury Manufacturers' Association, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 53-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.
- 1.2. In addition to advocacy on behalf of enterprise, Business New Zealand contributes to Governmental and tripartite working parties and international bodies including the ILO, the International Organisation of Employers and the Business and Industry Advisory Council to the OECD.
- 1.3. Business New Zealand's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD (a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services).
- 1.4. It is widely acknowledged that consistent, sustainable growth well in excess of 4% per capita per year would be required to achieve this goal in the medium term.
- 1.5. Given that the New Zealand domestic market is small by international standards, international trade is a vital element in which to boost economic growth and maintain standards of living. However, trade barriers imposed by various countries often curtail the competitiveness of New Zealand exporters. Therefore, trade liberalisation provides exporters with better access to overseas markets as well as the opportunity to increase returns from goods and services sold in overseas markets.
- 1.6. Business New Zealand welcomes the opportunity to comment on the proposal for a Closer Economic Partnership (CEP) between New Zealand and Thailand. We believe that there will be economic benefits for New Zealand from establishing a CEP with Thailand, as well as the opportunity to strengthen and deepen trade ties within the larger Asian region over the longer term. While we have some reservations about the CEP that are discussed below, we are in favour of CEP talks proceeding.

2. Summary of Recommendations

- 2.1. Business New Zealand recommends that:

(a) Talks for a CEP agreement with Thailand should proceed;

- (b) The existing New Zealand-Singapore CEP agreement should be used as a basis for a CEP agreement;
- (c) The emphasis on CEP talks should be on complementarity and cooperation rather than competition in third-country markets;
- (d) Robust and enforceable rules of origin **must** be included in any CEP agreement with Thailand;
- (e) A CEP agreement should be comprehensive, and that efforts should be focused on ensuring that any sensitive areas are satisfactorily addressed over time without resorting to exclusions;
- (f) A chapter on technical barriers to trade/sanitary and phytosanitary/standards and conformance should be included in a CEP and that it should be modeled on the existing chapter in the NZ/Singapore CEP agreement;
- (g) A CEP with Thailand should include an anti-dumping clause similar to that of the New Zealand/Singapore CEP.
- (h) A CEP with Thailand should include an intellectual property rights clause similar to that of the New Zealand/Singapore CEP.
- (i) A CEP agreement with Thailand should comprehensively cover trade in services;
- (j) A CEP agreement with Thailand should seek to encourage and promote greater investment flows;
- (k) Business New Zealand recommends that labour and environmental standards should **not** be covered in a CEP agreement; and
- (l) A CEP agreement with Thailand should **not** include a provision on the Treaty of Waitangi.

3. Why have a CEP with Thailand?

- 3.1. New Zealand already has existing CEP agreements with Australia and Singapore. Negotiations have taken place with Hong Kong, as well as a three-way P3 agreement between New Zealand, Chile and Singapore. A bilateral trade partnership with Thailand would complement existing and emerging CEP agreements, as it would provide New Zealand with a trade window into the second largest economy in South East Asia. Also, the partnership would act as a strategic springboard for New Zealand's profile into other Asian countries.
- 3.2. Thailand's population stands at around 64 million people, roughly 16 times larger than New Zealand's population and the 20th largest population in the world. Thailand's GDP per capita is currently US\$6,900, considerably less than New Zealand's (US\$20,200). However, the spread of incomes amongst

Thais varies greatly. Those working in Bangkok tend to have a far higher income than those in the rural areas, who are typically farmers (in 2002 agricultural workers represented 41% of Thailand's total labour force). Those in blue-collar positions such as manufacturing have also enjoyed higher income rates as global demand for specialised machinery and equipment has risen.

- 3.3. Thailand enjoyed the world's highest growth rate from 1985 to 1995 - averaging almost 9% annually. However, increased speculative pressure on Thailand's currency in 1997 led to a crisis that uncovered financial sector weaknesses and forced the government to float their national currency. After a retraction of the economy by 10.2% in 1998, the economy entered a recovery stage, expanding 4.2% in 1999 and 4.4% in 2000, largely due to strong exports. An ailing financial sector and the slow pace of corporate debt restructuring, combined with a softening of global demand, slowed growth to 1.4% in 2001. Increased consumption and investment spending pushed GDP growth up to 5.2% in 2002 despite a sluggish global economy. Growth is expected to stand at around 6% for 2003, which would make it the fastest growing economy in South East Asia.
- 3.4. Thailand is still plagued with certain internal problems, such as ongoing drug trading, along with trafficking and exploitation of women and children. While there are continued moves towards eliminating human trafficking, recent initiatives to eliminate a large drug trade in the country have had minimal effects. A degree of corruption at various levels still exists, from bribing of police to recent investigations into top Government officials for falsifying financial records.
- 3.5. Despite these problems, Thailand's general view towards trade and business is very positive and open. The current Government is actively pursuing a high economic growth policy drive through domestic reflation, increased exports and foreign direct investment. Overall, the country has enacted various policies to regain foreign confidence, although sometimes including some ill-conceived ones.
- 3.6. Thailand is also currently in the process of negotiating a bilateral trade agreement with Australia. Indeed, the continued push by other ASEAN countries to initiate such trade negotiations rather than wait for full-scale world trade deal means that New Zealand must take opportunities to strengthen trade schemes.
- 3.7. One of Business New Zealand's key priorities for growth is to see a free trade agreement with the U.S.A. Despite a recent lack of progress with the U.S, Business New Zealand considers that a CEP with Thailand would have important signaling effects for other countries, including the U.S.A. Thailand is currently working on a Trade and Investment Framework with the U.S.A, with the possibility of a bilateral agreement with the U.S.A in the future. From a strategic point of view a CEP with Thailand should enhance New Zealand's chances of a free trade agreement with the U.S.A in the future. It should also assist in promoting trade liberalisation in multilateral fora, such as the WTO and APEC.

- 3.8. A CEP agreement with Thailand will also provide New Zealand with an increased presence in Thailand through economic, investment, education, tourism and trade links. Various opportunities exist for New Zealand businesses to start and/or strengthen business ventures in Thailand, as well as to provide neighboring countries with New Zealand expertise in areas such as forestry, meat and dairy production and processing technology.
- 3.9. *Recommendation: Business New Zealand recommends that talks for a CEP agreement with Thailand should proceed, and that the existing New Zealand-Singapore CEP agreement should be used as a basis for a CEP agreement.*

4. New Zealand and Thailand as Global Traders

- 4.1. The bulk of Thailand's exports to all countries involve motor vehicles, rubber, computing equipment and other electrical appliances. In contrast, New Zealand's main exports involve dairy products, meat and wood. There is little cross-over between the two countries in terms of trade, with the strongest being Electrical Machinery and Equipment, where it is the 4th highest import to New Zealand from Thailand in terms of dollar value (\$44.8 million, or 8% of total imports from Thailand), compared with the 3rd highest New Zealand export to Thailand in terms of dollar value (\$11.5 million, or 3.5% of total imports from New Zealand). However, these values are relatively small, and there is little competition between New Zealand and Thailand in important commodity groups for New Zealand. Thailand is New Zealand's 15th largest goods trading partner¹, comprising \$884 million for the year ending June 2003.
- 4.2. Thailand mainly exports to the U.S.A (22%), followed by Japan (14%) and Singapore (8.7%). Overall, its exports are mainly concentrated in the Asian region, although Europe and the America are also well represented. Recent initiatives by the Thai Government have concentrated on expanding their trade base beyond their main trading partners. Currently, exports to New Zealand rank 38th at 0.3% of exports.
- 4.3. New Zealand imported \$555 million worth of goods from Thailand for the October 2003 year, representing 1.7% of total imports. Almost a quarter of New Zealand's imports from Thailand are Vehicles or Parts Thereof (24.6%), followed by Machinery & Mechanical Equipment (12.6%) and Plastics (8.1%).
- 4.4. The largest amount of imports into Thailand come from Japan (around 24%) followed by the U.S.A (12.7%) and Singapore (5.9%). New Zealand ranks 35th at 0.5% of imports. Although Thailand does not play a crucial role in New Zealand's exports, its value of imports from New Zealand is significant enough to rate it the 18th highest dollar value receiver of New Zealand exports. During the October 2003 year, New Zealand exported \$330 million worth of merchandise to Thailand, representing 1.2% of total exports. A large proportion of these exports were in dairy produce (59%), followed by wood & wood articles (5.3%).

¹ This is the total of New Zealand exports to Thailand and imports from Thailand.

- 4.5. While some level of competition will undoubtedly exist regarding third markets with countries New Zealand pursues a CEP agreement with, there appear to be few areas of sensitivity in merchandise trade with respect to a CEP with Thailand. A CEP between the two countries would greatly improve collaboration and joint ventures in third-markets, as opportunities for business ventures would be strengthened.
- 4.6. *Recommendation: Business New Zealand recommends that the emphasis on CEP talks should be on complementarity and cooperation rather than competition in third-country markets.*

5. New Zealand's Sensitive Sectors

- 5.1. New Zealand retains significant tariff protection only on Textiles, Clothing, and Footwear (TCF). Thailand does export such items to New Zealand, valued at around \$22.5 million for the November 2003 year. However, this represents only 4% of total imports from Thailand, and only 1.2% of all TCFs that are imported into New Zealand. Thailand's stance as a 'less developed country' means that it already enjoys a preferential tariff rate for certain goods, including some TCF items it exports to New Zealand. In addition, continued reductions for all tariff rates as outlined by the Government² starting July 2006 means that Thailand's exports after a CEP arrangement should have little effect on New Zealand's TCF export sector.
- 5.2. It is Business New Zealand's strong submission that any trade agreement with Thailand must include robust rules of origin that will ensure that only goods of New Zealand and Thailand origin benefit from tariff preferences under a CEP agreement. While Thailand is not a significant exporter of TCFs, it has begun work on bilateral trade agreements with countries that may be more significant low-cost producers of products sensitive to New Zealand interests, such as China, India and Bangladesh.
- 5.3. Also, an important issue would be the percentage of local content required for products to comply with rules-of-origin requirements and the type of costs that may be included in calculations. The bilateral agreements with Australia and Singapore have 50% and 40% local content requirements respectively. There are some differences in definitions of the costs that can be included in these calculations, such as marketing expenses and profits are often explicitly excluded.
- 5.4. A robust rules-of-origin enforcement regime will also be required with severe penalties for those attempting to abuse the tariff preferences, and it will also be very important that rules of origin can be effectively enforced through customs procedures at the Thailand border.
- 5.5. *Recommendation: Business New Zealand recommends that robust and enforceable rules of origin **must** be included in any CEP agreement with Thailand.*

² "Decisions on post 2005 tariffs", Hon Lianne Dalziel, 30 September 2003.

6. Thailand's Sensitive Sectors

- 6.1. Thailand already imposes significant tariffs and other restrictions on a variety of goods covering most commodity groups, with some completely restricting the ability of New Zealand products to compete in the Thai market. A CEP would take a large step towards dismantling such barriers for New Zealand exporters, as current restrictions include leading commodity exports to Thailand, such as dairy produce, wood & wood articles and electrical machinery/equipment.
- 6.2. Given the extensive trade restrictions that Thailand currently has in place, New Zealand should seek the inclusion of all products in a CEP with Thailand. Ministerial and diplomatic efforts should be focused on ensuring that any sensitive areas, such as dairy, are satisfactorily addressed without resorting to exclusions.
- 6.3. *Recommendation: Business New Zealand recommends that a CEP agreement should be comprehensive, and that efforts should be focused on ensuring that any sensitive areas are satisfactorily addressed over time without resorting to exclusions.*

7. Non-Tariff Barriers

- 7.1. Business New Zealand strongly supports efforts to reduce non-tariff barriers. Non-tariff barriers impose significant compliance costs on our exporters and can be more of an impediment to free and fair trade than tariffs (which are at least relatively transparent). New Zealand should therefore actively pursue means to reduce and eliminate such barriers to doing business, both multilaterally (for example through the WTO, OECD and APEC) and bilaterally.
- 7.2. New Zealand exporters already face significant non-tariff barriers in Thailand. Business New Zealand agrees that a CEP agreement between the two countries that seeks to address or eliminate non-tariff barriers would be beneficial to New Zealand businesses. A chapter on technical barriers to trade/sanitary and phytosanitary/standards and conformance should be modeled on the existing chapter in the New Zealand-Singapore CEP agreement.
- 7.3. Recent events such as the SARS outbreak in Asia and our own recent scares over exotic insect pests have increased the awareness of how important it is to maintain a secure border. Although the Thai Government has stringent rules and regulations over border control in place, concerns still exist over its actual effectiveness. Reports nevertheless transpire of various illegally imported goods from neighboring countries. We would be wary about a CEP agreement that would compromise our ability to maintain in place a robust biosecurity regime.
- 7.4. *Recommendation: Business New Zealand recommends that a chapter on technical barriers to trade/sanitary and phytosanitary/standards and*

conformance should be included in a CEP and that it should be modeled on the existing chapter in the NZ/Singapore CEP agreement.

8. Dumping Issues and Intellectual Property Rights

- 8.1. Both New Zealand and Thailand are members of the World Trade Organisation (WTO) Agreement on anti-dumping. However, to ensure that there is greater discipline towards dumping and a minimisation of opportunities to use anti-dumping in an arbitrary or protectionist manner, Business New Zealand would want to see a specific reference to this in any CEP with Thailand, especially considering a strong track record of dumping investigations against Thailand in comparison with other countries (see table 1).

Table 1: Anti-Dumping Country Investigations by
New Zealand 1982-2001³

<i>Country</i>	<i>Total Investigations</i>
European Union	15
Thailand	12
Korea	11
Australia	10
Indonesia	9
China	8
Taiwan	5
Japan	3
Malaysia	2

- 8.2. Business New Zealand notes that an anti-dumping clause was provided for the New Zealand/Singapore CEP. We would want to see a similar clause provided for the New Zealand/Thailand CEP.

Recommendation: Business New Zealand recommends that a CEP with Thailand should include an anti-dumping clause similar to that of the New Zealand/Singapore CEP.

- 8.3. Business New Zealand is also concerned that breaches of intellectual property rights such as piracy, copyright and patent breaches could occur after a New Zealand/Thailand CEP has been agreed to. Thailand is well known as a country that continues to have piracy and copyright issues, despite recent initiatives by the Thai Government to eradicate the problem.
- 8.4. To illustrate the extent of the problem, a study by the Business Software Alliance (BSA) found that Thailand was ranked ninth in the world for the amount of business software in use in 2002 that was pirated (77%)⁴. The BSA also found that of the 21 APEC nations, Thailand ranked fifth.

³ Table 2, "Anti-Dumping Law and Practice in New Zealand", Ministry of Economic Development, March 2001.

⁴ "APEC proposal to turn piracy fight on disc production", www.computerworld.co.nz, 21 October 2003.

- 8.5. Again, Business New Zealand would want to see the New Zealand/Thailand CEP include a similar provision regarding intellectual property rights as that contained in the New Zealand/Singapore CEP.

Recommendation: Business New Zealand recommends that a CEP with Thailand should include an intellectual property rights clause similar to that of the New Zealand/Singapore CEP.

9. Services Trade

- 9.1. Business New Zealand recognizes that services are a significant and growing component within our total export and import trade. However, despite the service sector's global and national importance, in many countries it has traditionally been a restricted sector with many institutional and regulatory barriers to access. Only in recent years, has attention turned to opening and deregulating services markets.
- 9.2. Thailand is already fairly open in the services trade, which New Zealand has enjoyed the benefits of in recent years. During the December 2002 year, the services trade between the two countries came to NZ\$159 million. Thailand is New Zealand's leading provider of fee-paying students from South East Asia, an industry in which New Zealand educational institutions have been strongly pursuing in recent years. Tourism continues to grow in both directions, and some New Zealand businesses already have offices in Thailand. A comprehensive CEP agreement that covers trade in services would undoubtedly provide further opportunities for trade between the two countries, which would be to the long run benefit of both economies.
- 9.3. *Recommendation: Business New Zealand recommends that a CEP with Thailand should comprehensively cover trade in services.*

10. Labour and Environmental Standards

- 10.1. Business New Zealand recognises that the Government places a high importance on labour and environmental standards, but we would be concerned if such considerations became the overriding factor in whether to negotiate a CEP with any economy.
- 10.2. Notwithstanding the fact that free trade has proven to be beneficial to developing countries in raising living standards, opponents of free trade have used labour and environmental standards as a smokescreen to mask their inherent protectionism. While on one hand complaining about the gap between rich and poor, the anti-globalisation lobby has sought to keep developing countries impoverished by effectively seeking to restrict their ability to trade and grow their economies by insisting on adherence to strict labour and environmental standards.
- 10.3. Business New Zealand does not believe that New Zealand should include labour and environmental standards as part of a CEP with Thailand. Regarding labour standards, Thailand has ratified 4 of the 8 core ILO

conventions. While this may be considered low, it is also important to bear in mind that New Zealand has not ratified all core ILO conventions either (currently 6 of the 8). Across all countries, 99 have ratified all 8 core ILO conventions out of the 177 countries that have ratified at least one core ILO convention. Regarding environmental standards, Thailand ratified the Kyoto protocol in 1992 (although not an Annex 1 country), and has been part of various emissions research projects with other countries over the last decade.

- 10.4. While it would be difficult to accurately assess whether the inclusion of labour and environmental standards would end up being sticking points for Thailand, it is important to be aware that previous CEPs such as the New Zealand-Singapore CEP does not cover labour and environmental issues. Business New Zealand would not want to see provisions that could in any way jeopardise the possibility of increasing New Zealand's involvement in bilateral agreements, which are an increasingly important way of enhancing trade opportunities.
- 10.5. *Recommendation: Business New Zealand recommends that labour and environmental standards should **not** be covered in a CEP agreement.*

11. Investment

- 11.1. One of Business New Zealand's objectives is to see increased investment, including Foreign Direct Investment (FDI) to enhance economic growth. Recent policies by the current government have included active pursuing of foreign investment, including corporate tax incentives in 2002 to attract foreign companies to shift their regional headquarters to Thailand. An open door policy towards foreign investment means that a CEP between the two countries would assist in this regard.
- 11.2. *Recommendation: Business New Zealand recommends that a CEP with Thailand should seek to encourage and promote greater investment flows.*

12. Treaty of Waitangi

- 12.1. The information paper that MFAT has published on the New Zealand-Thailand CEP has mentioned the provision for the Treaty of Waitangi.
- 12.2. Business New Zealand is opposed to the inclusion of a Treaty of Waitangi clause being written into a CEP agreement with Thailand. We would not support any measures that would allow the Government to give any special interest group preferential treatment. This could be construed to be protectionism by another name, and Business New Zealand would be concerned if a clause were to be viewed by Thailand with suspicion and if it increased the risk of our negotiations having to make important concessions in other areas.
- 12.3. The paper also mentions that measures would be adopted to "accord more favourable treatment to Maori". However, there is no mention of what form this favourable treatment would be. If these measures were in the form of

non-tariff barriers or subsidies, this could place additional costs on the economy, as well as the misallocation of resources.

- 12.4. *Recommendation: Business New Zealand recommends that a CEP with Thailand should **not** include a provision on the Treaty of Waitangi.*