



NEW ZEALAND
FOREIGN AFFAIRS & TRADE



New Zealand Ministry of
Foreign Affairs and Trade
Manatu Aorere

25 July 2014

Jan Rivers

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New Zealand

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Dear Ms Jan Rivers
Via Email

Thank you request of 26 June 2014 in which you requested, under the Official Information Act:

- a) The parties (organisations and individuals) approached directly to submit comments on the Trade in Services Agreement consultation of 2013;
- b) the communications to the wider community advising of the consultation such as press releases, targeted social media, press and magazine articles authored by MFAT;
- c) any supplementary information supplied to invited submitters (This information on this page <http://www.mfat.govt.nz/Trade-and-Economic-Relations/2-Trade-Relationships-and-Agreements/Trade-in-Services/index.php> seems rather broad and non-specific;
- d) the submissions to the consultation; and
- e) the summary of the submissions and any reports from MFAT to Ministers or Cabinet advising on the course of action to be taken with respect to TiSA whether related to the consultation process or no.

In June 2013 the Ministry of Foreign Affairs and Trade (MFAT) initiated public consultation on the Trade in Services Agreement (TiSA). Through our website (<http://www.mfat.govt.nz/Trade-and-Economic-Relations/2-Trade-Relationships-and-Agreements/Trade-in-Services/index.php>) we asked for feedback from exporters, investors, consumers of services imports, non-government organisations and individuals. In regard to your query around the organisations and individuals that were approached to submit comments on the Trade in Services Agreement (TiSA), the Ministry of Foreign Affairs and Trade (MFAT) invited subscribers to MFAT's e-publication BusinessLink (1,787 people/organisations) to submit comments on the TiSA. This edition of BusinessLink is also publically available through the website (<http://www.mfat.govt.nz/Media-and-publications/Publications/Businesslink/april-may-2013/Businesslink-april-may-2013.php>). Other than this invitation and the information available on MFAT's website, no additional material was provided to invited submitters.

At this point in time no public submissions have been received through the process outlined above on the TiSA negotiations.

Copies of documents relevant to your request are attached, including reports to Ministers and/or Cabinet advising on a course of action to be taken with respect to TISA. Some portions of the documents have been withheld, and the relevant Sections of the Act under which the information has been withheld have been noted in the margins of the documents.

Under Section 28(3) of the Official Information Act you have the right to request the Ombudsman to investigate and review the withholding of this information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Walker', is positioned above the typed name.

David Walker
for Secretary of Foreign Affairs and Trade

Office of the Minister of Trade

Chair,
Cabinet Economic Growth and Infrastructure (EGI)

International Services Agreement: New Zealand's Participation in Negotiations and Initial Negotiating Mandate

Proposal

1 This paper seeks Cabinet approval for New Zealand to participate in negotiations on an International Services Agreement with twenty other WTO members and a mandate for the initial phase of negotiations.

Executive summary

2

New Zealand and twenty other WTO members¹ (ISA participants) have been engaging in discussions on the possibility of launching negotiations on a trade in services agreement, provisionally named the International Services Agreement (ISA).² ISA participants have agreed to work towards the launch of negotiations, which are expected to commence in March 2013.

s 9(2)(i)

3

Participation in ISA negotiations is consistent with New Zealand's pursuit of services liberalisation through the WTO and free trade agreements (FTAs), as well as our active role in ISA discussions to date. The current ISA participants account for over 68% of New Zealand's services exports, with ISA negotiations providing an opportunity to secure WTO-plus market access into these services markets.

s 9(2)(j)

s 9(2)(j)

OECD studies have demonstrated that increased services trade, including as a result of market liberalisation processes like the ISA, can help drive productivity gains in an economy and increase higher growth/incomes

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

¹ The United States, the EU, Australia, Canada, Japan, Korea, Chile, Colombia, Pakistan, Switzerland, Chinese Taipei, Hong Kong, Norway, Mexico, Costa Rica, Peru, Israel, Turkey, Panama and Iceland.

s 6(b)(i)

s 6(b)(i)

, as a result of initial exploratory discussions, it has become clear that the ISA will build upon key GATS provisions and will be supplemented by additional rules in areas of priority interest

s6(b)(i)

s6(a)

s9(2)(3)

s6(a)

s9(2)(3)

s6(a)

s9(2)(3)

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56(b)(1)

9 Annex I contains a glossary of technical trade terms used in this paper.

59(2)(j)

Background

59(2)(j)

New Zealand has been engaging in discussions with twenty other interested WTO members in Geneva to explore the possibility of launching negotiations on a trade in services agreement.

Comment

56(b)(i)

Broad outlines of the ISA

56(a)

12 It has generally been accepted that the ISA will build upon the GATS. This will mean that the ISA will adopt a similarly wide scope in its application to trade in services,⁵ incorporating areas such as temporary entry and aspects of investment in its general obligations as well as providing for service-sector specific provisions (e.g. telecommunications and financial services). This GATS approach of addressing this broad range of areas as trade in services issues is different from our approach in FTAs, where such topics such as telecommunications are dealt with in discrete FTA chapters.

56(b)(i)

⁵ "Services" are not defined in the GATS. For the purposes of structuring their commitments, WTO members have generally used a classification system comprising of the following twelve core service sectors: business services (including professional services and computer services); communication services; construction and related engineering services; distribution services; educational services; environmental services; financial services (including insurance and banking); health-related and social services; tourism and travel-related services; recreational, cultural and sporting services; transport services and other services not included elsewhere.

s6(b)(i)

s6(b)(i)

s9(2)(j)

s9(2)(j)

s6(a)

s6(a)(i)

s9(2)(j)

s9(2)(j)

s6(b)(i)

s9(2)(j)

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Benefits from New Zealand's participation in ISA negotiations

18 Engaging in ISA negotiations from the outset will provide New Zealand with the opportunity to influence key issues such as scope and level of ambition of the ISA. Participation is also consistent with New Zealand's pursuit of services liberalisation through the WTO and FTAs, as well as our active role in ISA discussions to date. Research from the OECD's International Collaboration Initiative on Trade and Employment's project illustrates how increased trade in services can help drive productivity gains in an economy (and thus higher growth/incomes). In particular, many services are inputs into the productive process and sources of employment. The OECD research found that a one percentage point higher services import share is associated with a 0.3 percentage point higher export share. These figures are even higher for low-tech manufacturing, high-tech industries and business services.⁷

19 New Zealand's services exports were \$14 billion in 2012 (June 2012 year-end), with exports to ISA participants accounting for over 68% of this total.⁸ ISA negotiations provide a real opportunity to unlock further export growth potential by securing WTO-plus services market access.

S9(2)(j)

A full list of the 20 other ISA participants and their related FTA status with New Zealand is noted in the table below:

⁷ A one percentage point higher services import share is associated with a 1.4 percentage point higher export share for low-tech manufacturing, a 0.8 percentage point higher export share for high-tech industries and a 1.2 percentage point higher export share for business services.

⁸ The contribution of ISA participants to services exports is conservative as this calculation is based on the combined contribution of ISA participants that are in our top 20 services markets (June 2012 year-end).

ISA participant	Existing FTA	Negotiating FTA	No existing FTA or current FTA negotiations
Australia	✓		
Chile	✓		
Hong Kong	✓		
United States		✓	
Korea		✓	
Mexico		✓	
Canada		✓	
Peru		✓	
Chinese Taipei ⁹		✓	
Japan			
EU			✓
Switzerland			✓
Israel			✓
Costa Rica			✓
Norway			✓
Panama			✓
Colombia			✓
Turkey			✓
Pakistan			✓
Iceland			✓

22 The possibility of expanded participation in the future holds further potential value for New Zealand.

s 9(2)(c)
s 6(b)(i)

s 9(2)(c)

s 6(a)

ISA participants consider that the current initiative is consistent with guidance agreed by Ministers at the 8th WTO Ministerial Conference in 2011, which stated that members needed to 'fully explore different negotiating approaches while respecting the principles of transparency and inclusiveness'.

s 6(a)

s 9(2)(c)

s 6(a)

Proposed negotiating mandate:

GATS-plus rules

24 Consistent with our approach to FTA negotiations, ISA participants are pursuing GATS-plus rules, including both new and enhanced rules, in the interests of seeking a high-quality services outcome.

59(2)(i)

25 Given the diverse services interests of ISA participants, there is a broad range of proposals for inclusion in the ISA as GATS-plus rules, with ISA participants able to add new proposals during the course of negotiations.

59(2)(i)

Inclusion of such new and enhanced rules will assist New Zealand services exporters by reducing barriers to trade. For example, enhanced provisions on domestic regulation assist services exporters dealing with regulatory and licensing approval processes when operating in international markets by ensuring, among other outcomes, that governments publish all applicable laws and regulations.

59(2)(i)

28 Officials will continue to engage with relevant agencies and stakeholders as proposals for GATS-plus rules are addressed in negotiations.

56(b)(i)

56(b)(i)

s6(b)(i)

s6(a)
s6(b)(i)

s9(2)(j)

s9(2)(j)

s9(2)(j)

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35 Officials will continue to consult with relevant agencies throughout the negotiations in relation to New Zealand's market access offers.

Treaty of Waitangi

36 Consistent with New Zealand's approach in the GATS, officials will seek to include specific limitations in our market access offers to make it clear that New Zealand reserves the right to provide special treatment to Maori organisations or individuals where such special treatment might otherwise constitute discrimination between a foreign and a domestic services supplier.

Most Favoured Nation (MFN)

s6(b)(i)

38 The inclusion of a MFN provision in FTAs is a long standing policy objective of New Zealand. Such a provision ensures that New Zealand services exporters automatically benefit from any more liberal commitments our FTA partners undertake in future negotiations (with some exceptions⁴²). These provisions also apply on a reciprocal basis meaning that our FTA partners also benefit from more liberal commitments that New Zealand makes in future agreements.

s9(2)(j)

s9(2)(j)

s9(2)(3)

s9(2)(3)

Ratchet mechanism

41 A ratchet mechanism is a core component of our FTAs and an important element (along with MFN) for ensuring the access afforded through trade agreements remains relevant over time. Although a ratchet mechanism is not included in the GATS, officials do not see any reason to deviate from our standard FTA approach and would support its inclusion in the ISA in the interests of achieving a high quality services outcome.

Consultation

42 The following agencies have been consulted in the preparation of this paper and concur with its recommendations: Ministry of Business, Innovation and Employment, Department of Conservation, Department of Corrections, Ministry for Culture and Heritage, New Zealand Customs Service, Ministry of Defence, Ministry of Education, Ministry for the Environment, ERO, Ministry of Health, Inland Revenue Department, Department of Internal Affairs, the Overseas Investment Office, Ministry for Primary Industries, Te Puni Kokiri, the Reserve Bank of New Zealand, Ministry of Transport and the Treasury.

43 The Department of Prime Minister and Cabinet have also been informed.

Financial implications

44 The ISA negotiations and subsequent implementation of any agreement reached will have financial implications, although it is too early to clearly identify the nature and magnitude of costs. The overall costs are likely to comprise the following components, which are expected to be incurred across different departments, within existing departmental baselines, and over a number of years:

- Negotiations-related: includes preparatory work leading to negotiation rounds, travel, consultation and outreach. These costs will be incurred for the duration of the negotiations. Five meetings of negotiators are planned for 2013;
- FTA implementation

59(2)(j)

- Any resources required as part of a negotiated outcome on capacity building or cooperation activities.

Human rights

45 This paper contains no proposals inconsistent with the Human Rights Act 1993 or the New Zealand Bill of Rights Act 1990.

59(2)(j)

Regulatory impact analysis

47 Not required. If officials seek decisions from Ministers in the future that may require legislative or regulatory change for implementation, assessments of regulatory impact will be provided.

Publicity

48 New Zealand's participation in the exploratory discussions for the ISA has been previously publicised by the Minister of Trade in discussing issues of trade liberalisation and by the Ministry of Foreign Affairs and Trade, including as part of business and other stakeholder engagement. In particular, the Ministry of Foreign Affairs and Trade has used its businesslink publication to inform services exporters of ISA discussions. Following commencement of ISA negotiations, officials will engage further with interested services industries.

56(b)(i)

Recommendations

50 The Minister of Trade recommend(s) that the Committee:

Approve New Zealand's Participation in ISA negotiations

1. Note that officials have been engaging in discussions with a group of twenty other WTO members to explore the possibility of launching negotiations for a trade in

services agreement amongst willing WTO members, currently referred to as the International Services Agreement (ISA);

- 2. Note that participating in ISA negotiations is consistent with New Zealand's pursuit of services liberalisation through the WTO and free trade agreements (FTAs) and would present opportunities to secure GATS-plus services commitments from ISA participants,

s9(2)(j)

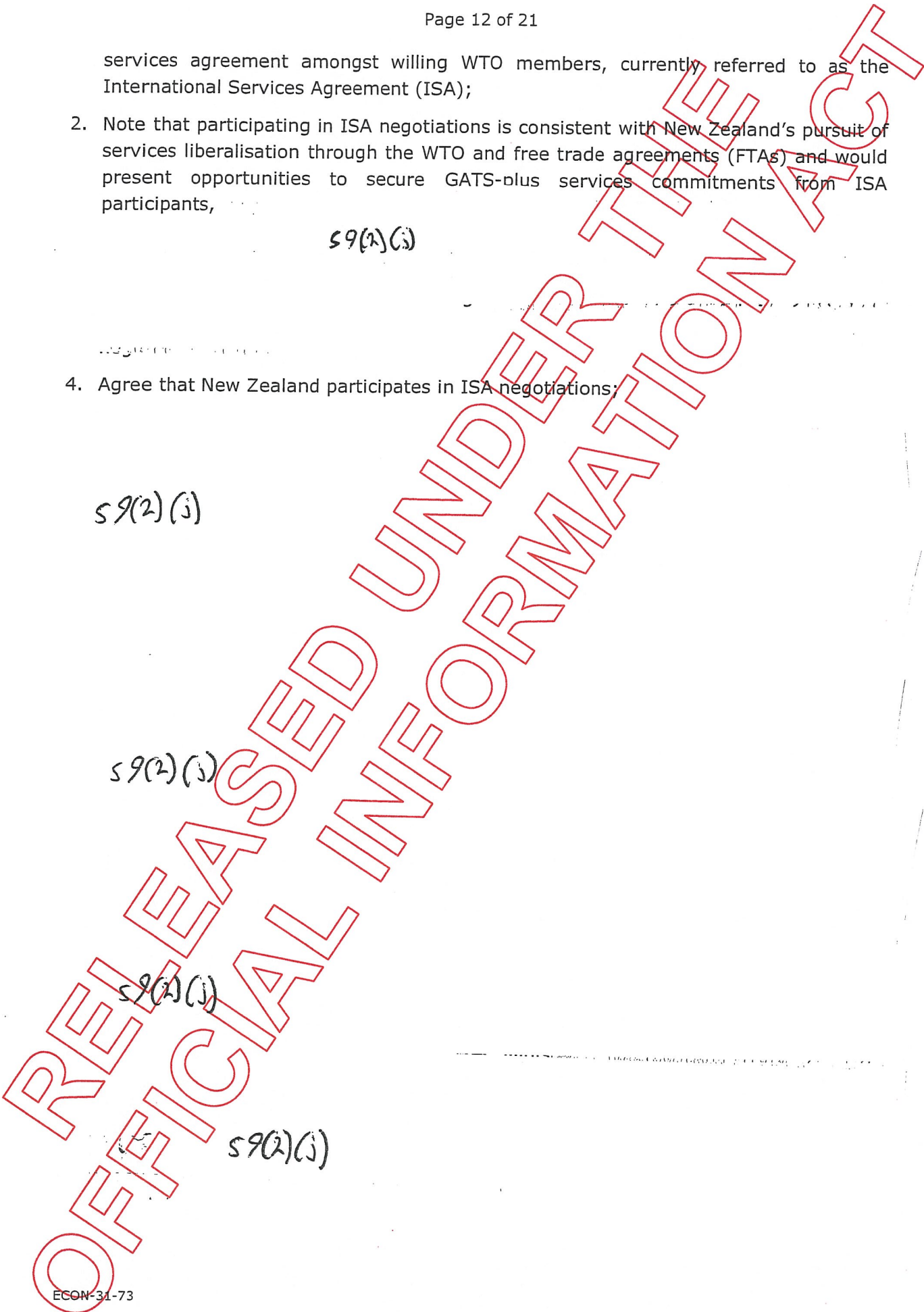
- 4. Agree that New Zealand participates in ISA negotiations:

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9. Invite the Minister of Trade to seek further mandates from Cabinet, as appropriate, as the negotiations progress.

Hon Tim Groser

Minister of Trade

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