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## Trade Update Review of FTA Negotiations by New Zealand and Australia

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1. Recent activity by the New Zealand Government with respect to the negotiating of Free Trade Agreements (FTA) makes it timely to provide a summary of the FTAs that the Australian and New Zealand Governments have in place, those that are being currently negotiated, and negotiations that are expected to commence shortly.
2. The New Zealand and Australian Governments have independently been pursuing FTA negotiations on a variety of fronts in recent years. The countries have their own Trade Agreement (ANZCERTA) which commenced in 1983.
3. In addition to ANZCERTA, a summary of completed and current negotiations is as follows:

	New Zealand	Australia
1. Completed FTAs	<ul style="list-style-type: none"><li>• Thailand</li><li>• Singapore</li><li>• P4 (Chile, Brunei Darussalam, Singapore)</li><li>• China</li><li>• AANZFTA<sup>1</sup> (Australia, New Zealand, ASEAN)</li><li>• Malaysia<sup>1</sup></li><li>• Gulf Cooperation Council States<sup>1</sup></li><li>• Hong Kong<sup>1</sup></li></ul>	<ul style="list-style-type: none"><li>• Thailand</li><li>• Singapore</li><li>• AANZFTA (Australia, New Zealand, ASEAN)</li><li>• United States</li><li>• Chile</li></ul>
2. Current Negotiations	<ul style="list-style-type: none"><li>• Trans-Pacific Partnership (TPP) (P4 Plus Australia, Peru Vietnam and USA)</li><li>• Korea</li><li>• India</li><li>• PACER Plus<sup>2</sup></li><li>• Thailand<sup>3</sup></li></ul>	<ul style="list-style-type: none"><li>• Trans-Pacific Partnership (P4 Plus New Zealand, Peru Vietnam and USA)</li><li>• Korea</li><li>• India</li><li>• PACER Plus<sup>2</sup></li><li>• China</li><li>• Japan</li><li>• GCC</li><li>• Malaysia</li></ul>

1 Not yet entered into force

2 The Federated States of Micronesia (FSM), Fiji, Papua New Guinea (PNG), Tonga, Samoa, Solomon Islands, Vanuatu, Cook Islands, Kiribati, Nauru, Niue, Palau, the Republic of the Marshall Islands (RMI), and Tuvalu.

3 Services and government procurement.

4. Of the above, New Zealand has completed negotiations with ASEAN, Malaysia, the Gulf Cooperation Council States and Hong Kong this year alone. None of these Agreements have yet entered into force.
5. The first formal negotiating round in PACER Plus has yet to be held. Currently, Fiji is excluded from the negotiations.
6. Summaries and details of all these Agreements are available on the respective MFAT and DFAT websites:

[www.mfat.govt.nz](http://www.mfat.govt.nz)  
[www.dfat.gov.au](http://www.dfat.gov.au)

7. In addition to the above, New Zealand has trade and investment frameworks, or similar arrangements with a number of other countries. It is also actively pursuing negotiations with Japan, and Australia has completed a Feasibility Study prior to commencing negotiations with Indonesia.
8. The FTAs are described by the New Zealand government as “comprehensive and high quality”. Government’s view is that it does a favour to industry by “opening the door” with FTAs. The government then expects industry to deliver the ‘benefits’ of its negotiation of FTAs. It is only recently that the New Zealand government has begun to dedicate resources to the implementation aspect of the FTAs to assist New Zealand companies to extract the maximum advantage from these Agreements.
9. From a commercial viewpoint, the FTAs are different, complex, overlapping in some instances, subject to interpretation and implementation issues, and some are incomplete.
10. Set out below are some general comments which may place the impact of the above Agreements in a commercial perspective:
  - ✧ They are not Free Trade Agreements, they are Preferential Trade Agreements.
  - ✧ The objective of each of the above Agreements is to arrive at a tariff free environment as soon as possible, but in most of the Agreements there is a relatively long phase-out period for sensitive goods.
  - ✧ New Zealand has little negotiating capital left for current and future negotiations. For this reason, what tariffs remain in New Zealand have been frozen until 2015 at the earliest.
  - ✧ Officials regularly comment that tariffs in the region of 5 percent are virtually irrelevant. Our manufacturing clients disagree strongly with this.
  - ✧ Non-tariff barriers and other regulatory impediments to trade remain in varying degrees in all of the FTAs.
  - ✧ Although there is a “common” Rules of Origin template across all the Agreements, the product specific rules differ in each Agreement and need to be fully understood by traders to ensure that the benefits of the FTA can be achieved.
  - ✧ Certificates of Origin are required in the Agreements with China and ASEAN, and are likely to be required by most of our future FTA partners. This has the potential to add significant cost and delay to export trade if not managed properly.

- ✧ None of the FTAs (except ANZCERTA) remove the ability of manufacturers in either trading partner to take trade remedies legislation against unfairly traded imports. A subsidy action can still be taken under ANZCERTA.
  - ✧ The New Zealand government will continue to seek FTA opportunities wherever possible. Economic feasibility studies will always demonstrate a theoretical or perceived advantage in engaging in an FTA negotiation.
  - ✧ Government consultation unfortunately is less than comprehensive. Companies with a particular interest in a negotiation **must** communicate directly, regularly and strongly with officials if their point of view is to be considered.
11. In the current political and economic environment, it is not possible for companies to alter the Government's course of action regarding FTAs. It is important however to ensure that your particular interests are understood by officials and are considered before commitments are made. The onus rests squarely on the trader, and little reliance can be placed on Government officials to look after your interests without assistance and input from you.
12. Blackburn Croft & Co is able to advise clients on all aspects of each of the above completed Agreements, and on the current state of negotiations in the others (subject to government confidentiality restrictions). It is prudent that companies with an interest in any of the above FTAs obtain advice to ensure that they are fully aware of the border and behind the border barriers and thresholds pertaining to their business.

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