

New Zealand and the Trans-Pacific Partnership

Introduction

For a small nation like New Zealand, supporting a rules-based world order that promotes international trade has been a feasible and consistent option for its successive leaders. In the case of the Trans-Pacific Partnership (TPP) agreement, New Zealand's leaders have managed to steer the nation to becoming one of the first to ratify the TPP despite widespread opposition, diverging political views on the agreement, and the string of processes the agreement needed to undergo in order to be ratified. This case study seeks to process-trace the factors as to why and how this was possible - from the official commencement of the TPP negotiations in March 2010 to New Zealand's ratification of the agreement in May 2017.¹

Background: New Zealand's foreign trade policy and the TPP

Early bipartisan support for trade liberalisation

New Zealand has a multi-party system. Two major political parties dominate its political landscape – the New Zealand National Party and the Labour Party. Both parties have been instrumental in shaping the nation's foreign trade policy that focuses on trade in both services and goods, particularly in agricultural goods.

Before 1935, New Zealand's governments² were sceptical of the value of joining international organisations such as the League of Nations. New Zealand also had few bilateral relationships with other nations due to its close alignment to the United Kingdom (UK). Being a dominion of the British empire, New Zealand was not granted complete autonomy in foreign affairs. The nation only began witnessing more significant efforts to promote free trade in its foreign trade policy after the Labour Party came into power in 1935. This took place a few years after the British Parliament repealed the Colonial Laws Validity Act, removing the UK's ability to make laws for New Zealand without the latter's consent. The Labour government wanted to expand markets for New Zealand's agricultural exports beyond the UK. The fall of Singapore during the Second World War made the government realise that it was wise to be less dependent on the UK to defend New Zealand as part of the British Empire. By extension, it was prudent to diversify its trade relations beyond the UK.

The next few decades witnessed greater efforts by both Labour and National governments in actively diversifying trade across a wider spectrum of nations, even as they took turns to succeed each other as

¹ This case study will not be focusing on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which was a development after the United States (US) expressed intent to withdraw from the TPP agreement (in January 2017). Instead, the case study will focus on events that led to New Zealand's ratification of the original TPP agreement (in May 2017).

² Prior to 1935, New Zealand's governments were typically formed by the Reform Party and the United Party. Both parties later merged to become the New Zealand National Party.

This case study was written by Chan Jia Hao at the Lee Kuan Yew School of Public Policy with research direction from Assistant Professor Selina Ho, and research assistance from Rebecca Wong. The case has been funded by the Lee Kuan Yew School of Public Policy. The case does not reflect the views of the sponsoring organization nor is it intended to suggest correct or incorrect handling of the situation depicted. The case is not intended to serve as a primary source of data and is meant solely for class discussion.

governments. In 1958, the Labour government signed a breakthrough trade deal with Japan. A first of its kind for New Zealand, tariffs on Japanese imports were lowered and other trade barriers were removed in return for concessions on its wool and meat exports to Japan. The National government later followed suit by signing the New Zealand Australia Free Trade Agreement (NAFTA) with Australia in 1965 and upgraded the agreement in 1983 to eliminate all tariffs between both countries. One significant event that formulated bipartisan support for trade liberalisation was the United Kingdom's joining of the European Community (EEC) in 1973, which resulted in New Zealand losing its preferential market access amid a looming global oil crisis and recession.³ In a bid to further strengthen a trade liberalisation agenda, in 1984, the newly re-elected Labour government ended government assistance to farmers while providing a timeline for ending import licensing and import tariff reduction.⁴

Consistent bipartisan support for free trade agreements, alongside an absence of legal requirements for debates on treaties in the House both before and after their signature,⁵ meant that New Zealand's trade liberalisation agenda would remain fairly stable and long-term in its outlook. At least up till 1975, successive Prime Ministers from both National or Labour-led governments generally held the nation's Foreign Affairs portfolio. They were therefore able to effectively coordinate foreign affairs with other key areas like trade.⁶ To this end, political will and consensus were important in developing greater coherence in the nation's foreign policy and trade matters.

Expanding to and beyond multilateral economic cooperation

By the mid-1980s, bipartisan endorsement for trade liberalisation began to focus on developing multilateral economic cooperation, given its greater flexibility in the scope of application over bilateral initiatives. In its first, the New Labour-led government joined the Cairns Group of Fair Trading Nation in 1986, a 19-member interest group to pursue liberalisation of trade in agricultural produce. The group's effort to push the agriculture agenda during the Uruguay Round of the General Agreement on Tariffs and Trade Negotiations eventually led to the formation of the World Trade Organisation (WTO) and New Zealand's membership in it. The National government further spelt out its intention for New Zealand to pursue a multi-track strategy over its existing bilateral approach in a 1993 policy document.⁷ Notably, then, further coherence between foreign affairs and trade issues was aided by a merger in 1988 between the trade and industry department and the foreign affairs department. This streamlined bureaucracies and overlapping functions, and furthered coherence in trade and foreign policy strategies.⁸

³ Maher, Sasha, "Unfair Trade: Protectionism, Protests and the Pursuit of Free Trade in New Zealand.", *Journal of Business Anthropology* 8, no. 1 (2019): 63-85.

⁴ "Story: Overseas trade policy", *Teara*, <https://teara.govt.nz/en/overseas-trade-policy/page-6>.

⁵ According to a Foreign Affairs, Defence and Trade Committee Report, the general stance against such debates taking place is that releasing texts (which are undergoing negotiations) for public wide discussions could jeopardise the government's ability to achieve a quality outcome due to the sensitive nature of treaty negotiations.

⁶ Smith, Anthony L, "The Urgent Versus the Important: How Foreign and Security Policy Is Negotiated in New Zealand", in *Small States and the Changing Global Order*, pp. 13-37, *Springer*, Cham, 2019.

⁷ New Zealand, MFAT, "New Zealand Trade Policy: Implementation and Directions—a Multi-Track Approach." Wellington: Ministry of Foreign Affairs and Trade (1993).

⁸ Smith, Anthony L, "The Urgent Versus the Important: How Foreign and Security Policy Is Negotiated in New Zealand", in *Small States and the Changing Global Order* (Springer, Cham, 2019), pp. 13-27.

However, slow progress in realising the ambitious Bogor Goals⁹ by members of the Asia Pacific Economic Cooperation (APEC), and the subsequent collapse of the World Trade Organisation (WTO) talks in Seattle in 1999, were indicative of the drawn-out nature of multilateral negotiations. There were also fears that as free-trade agreements (FTAs) were popularized across the Asia-Pacific, New Zealand would lose out if it did not actively seek out bilateral preferential trade agreements with other nations, especially if these nations concluded bilateral preferential trade agreements with each other.

In strategizing on both multilateral and bilateral fronts, the Labour-led government stepped up efforts to sign a bilateral preferential trade agreement (known as The Agreement between New Zealand and Singapore on a Closer Economic Partnership) with Singapore in 2000. Two years later, during the APEC Economic Leaders' Meeting in Mexico, this bilateral agreement expanded to include Chile. Following Brunei's participation three years later in 2005, the successful conclusion of the Trans-Pacific Strategic Economic Partnership Agreement (TPSEP) - or more commonly known as the P4 agreement - was officially announced at the APEC Trade Ministers Meeting in June 2005.

Focusing on mitigating risks

For the New Zealand government, its initial focus for the TPSEP agreement was not for it to be extensively trans-pacific. Neither was it too concerned that the TPSEP members' economies only amounted to less than 3 per cent of global trade. Instead, New Zealand's participation in the agreement reflected its domestic frustrations and insecurities. Specifically, it was most concerned with safeguarding its credibility as a small open economy relying on foreign trade and investments, which was at risk of being compromised by slow ongoing multilateral negotiations.

Like the other trade-dependent TPSEP members, New Zealand's objective was to create a high-quality, comprehensive regional agreement which provided a forum to drive trade liberalisation and avoid isolation.¹⁰ The TPSEP members were therefore open to having an accession clause to the TPSEP agreement, which would allow like-minded economies within the region to join. Beyond the TPSEP agreement, New Zealand continued to mitigate risks by further seeking market access through the signing of bilateral agreements with APEC member economies like Thailand (in 2005), China (in 2008), and Malaysia (in 2010).

From mitigating risks to trade liberalisation and beyond

The United States (US), on the other hand, saw the TPSEP agreement as an alternative platform to extend its trade liberalisation agenda. During several APEC and bilateral meetings in the 1990s, the US had already informally broached the idea of an Asia-Pacific-wide agreement which would give effect to a trade liberalisation agenda. New Zealand was one of its initial partners in the early stages of discussion, alongside

⁹ The Bogor Goals were a set of targets that APEC Leaders agreed to in 1994 in Bogor, Indonesia. The leaders committed to achieve free and open trade investment by 2010 and 2020 for industrialised and developing economies respectively. The APEC members agreed to pursue these targets by reducing trade barriers, encouraging investment, and promoting the free flow of goods, services and capital.

¹⁰ Chin L. Lim, Deborah Kay Elms, and Patrick Low, eds, *The trans-pacific partnership: a quest for a twenty-first century trade agreement* (Cambridge: University Press, 2012).

Chile, Singapore and Australia.¹¹¹² However, due to insufficient votes in Congress and a lack of Fast-Track authority¹³, President Clinton had to drop this pursuit domestically, notwithstanding that the US had managed to successfully conclude bilateral free trade agreements with Singapore and Chile respectively. The US, therefore, continued to concentrate its effort on steering its trade liberalisation agenda through multilateral talks such as the WTO Doha Round.

Upon the conclusion of the TPSEP agreement, New Zealand again invited the US to join the agreement. However, the US politely declined again as it was preoccupied with the Doha Round and military operations in the Middle East.¹⁴¹⁵ It was not until 2008, when negotiations in the Doha Round collapsed, that the US was prompted to consider alternative platforms. Towards the end of President Bush's second term in September 2008, then-United States' Trade Representative (USTR) Susan Schwab officially confirmed the superpower's intention to join talks to become an additional member of the P4 agreement.

For the incoming National-led government in 2008, the entry of the US into the TPSEP agreement was seen as a great opportunity to further New Zealand's role as an honest broker and proponent of international trade liberalisation. After all, the immediate previous Labour-led government under Helen Clark had built almost a decade's worth of momentum in concluding bilateral FTAs. Notably, during this time, New Zealand became the first developed nation to sign an FTA with China¹⁶, the fast-growing economic powerhouse. As it turned out, the US' entrance prompted Australia, Vietnam and Peru to join the agreement merely two months later upon persuasion by President Bush.¹⁷

Having the US - a massive economy with total trade of over 25 times larger than New Zealand, join an agreement that was widely perceived as insignificant, meant that the New Zealand-initiated agreement would carry greater weight. This translated into greater pressure on current and future participants to conform to the high and uniform standards set by the agreement. By extension, this also helped reduce confusion over conflict regulations in the trading of goods and services for New Zealand companies. The participation of the US additionally meant that the agreement's scope of application would be widened further. Although the US initially only expressed interest to participate in the financial services and investment aspect of negotiations, FTAs already concluded by the US with Australia, Chile, Peru and Singapore already contained GATS-plus

¹¹ Deborah Kay Elms and Chin L. Lim, "An overview and snapshot of the TPP negotiations.", in *The trans-pacific partnership: a quest for a twenty-first century trade agreement* (Cambridge: University Press, 2012).

¹² Lockwood Smith, "Smith Talks Trade With US," *Beehive.govt.nz*, May 23, 1997, <https://www.beehive.govt.nz/release/smith-talks-trade-us>.

¹³ "Lack of U.S. Fast-Track Authority Puts Damper on Americas Summit", *The Wall Street Journal*, January 4, 1998, <https://www.wsj.com/articles/SB892831399982215000>.

¹⁴Jin Yuan, Wen, "The Trans-Pacific Partnership and China's Corresponding Strategies: A Freeman Briefing Report", *Centre for Strategic & International Studies*, June 2012, https://csis-website-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/120620_Freeman_Brief.pdf.

¹⁵ Maher, Sasha, "Behind closed doors: Secrecy and transparency in the Trans-Pacific Partnership trade negotiations.", *Sites: a journal of social anthropology and cultural studies* 13, no. 2 (2016): 187-209.

¹⁶ While New Zealand's FTA with China was entered into force in October 2008 under the National-led government, it was signed in April 2008 under Helen Clark's Labour-led government.

¹⁷ New Zealand United States Relations, Second Edition Revised and Expanded, published in November 2016. First edition published in June 2000 as New Zealand United States Relations: Friends No Longer Allies.

approaches to trade liberalisation in services.¹⁸ There were therefore expectations that the participation of the US would bring negotiations further than those at the Doha Round.¹⁹

The accession of the US into the TPSEP alleviated some concerns that New Zealand's agricultural export shares to the US might be overtaken by Chile and Australia, given that the latter had signed an FTA with the US in 2004. Additionally, since New Zealand had failed to conclude any bilateral agreement with the US, it could now leverage the TPSEP to strengthen trade relations with the US and the Asia-Pacific region. In the worst-case scenario, even if the new TPSEP negotiations were stalled, New Zealand would still have been able to secure the original TPSEP while manoeuvring towards a bilateral negotiation with the US.

¹⁸ The General Agreements on Trade in Services (GATS) is a multilateral rule-based agreement that came into force in 1995, covering trade in services. It seeks to ensure that all signatories are treated equitably when accessing foreign markets. It also aims to eliminate trade barriers in services to enable further participation in one another's markets through various mechanisms over the long term. "GATS Plus" entails expanded rules for specific services sectors such as telecommunications, financial services and e-commerce towards a greater market access end.

¹⁹ Jane Drake-Brockman, Sherry Stephenson and Robert Scollay, "The TPP – Opportunity for a New Approach to Services Trade and Investment Liberalisation?", *Pacific Economic Cooperation Council*, June 12, 2011, <https://www.pecc.org/resources/trade-and-investment-1/1712-the-tpp-opportunity-for-a-new-approach-to-services-trade-and-investment-liberalisation/file>.

Domestic interests and concerns of the TPP in New Zealand

The first round of negotiations among New Zealand, Singapore, Chile, Brunei, the US, Australia and Peru was in March 2010 in Melbourne. These negotiations were already commonly termed the Trans-Pacific Partnership (TPP). Later that year, Malaysia announced that it would join the TPP negotiations. Canada and Mexico subsequently joined in 2012 upon encouragement from President Obama.²⁰ Japan was the last entrant into negotiations and joined in 2013. This 12-party pact represented more than a third of the world's global domestic product (GDP) and more than 800 million consumers.²¹

As negotiations ensued, more complex agendas emerged. These include market access to goods, financial services, customs cooperation, telecommunications, other institutional issues, and the environment.²² Meanwhile, narratives surrounding the unprecedented nature of the TPP and New Zealand's contributory role were popularized. For example, the New Zealand Ministry of Foreign Affairs and Trade (MFAT) were quick to frame New Zealand's "future...as a trading nation. TPP will help support that by setting a new standard for trade and investment". The office also stated that "[o]ver time, TPP will help remove unnecessary duplication, reduce costs, and foster greater opportunities".²³

However, even by the 15th round of the negotiations in December 2012 in Auckland, little was known about the extent and substance of the negotiations. Despite legislators from nine TPP nations calling for their Trade Ministers to release the TPP's draft text to allow for public scrutiny and debate, most of the general public remained uninformed.²⁴

For New Zealand, the scope and depth of TPP negotiations remained highly confidential despite the nation being the official depository for all TPP documents and the Secretariat for negotiations. Then-Trade Minister Tim Groser from the National Party even rejected a request under the Official Information Act for eight categories of information about the TPP. This led to a High Court order for the Minister to comply with his statutory obligations of disclosure under the said Act.²⁵

Although the original negotiating members had entered into a confidentiality arrangement to withhold the negotiating texts at least until after the last round of negotiations²⁶, Minister Groser was rather forthcoming

²⁰ New Zealand United States Relations, Second Edition Revised and Expanded, published in November 2016. First edition published in June 2000 as New Zealand United States Relations: Friends No Longer Allies.

²¹ Ibid.

²² Deborah Elms and C.L. Lim, "The Trans-Pacific Partnership Agreement (TPP) Negotiations: Overview and Prospects", RSIS Working Paper No. 232, *S. Rajaratnam School of International Studies Singapore*, February 21, 2012, <https://www.rsis.edu.sg/wp-content/uploads/rsis-pubs/WP232.pdf>.

²³ "Trans-Pacific partnership: Overview", *New Zealand Foreign Affairs & Trade*, https://ndhadeliver.natlib.govt.nz/webarchive/20180323090214mp_/https://tpp.mfat.govt.nz/assets/docs/TPP_factsheet_Overview-v15.pdf.

²⁴ Kelsey, Jane. "New Zealand and the Trans-Pacific Partnership agreement negotiations: Strategy, content and lessons." In *New Zealand and the world: Past, present and future*, pp. 145-167. 2018.

²⁵ Ibid.

²⁶ Maher, Sasha. "Behind closed doors: Secrecy and transparency in the Trans-Pacific Partnership trade negotiations." *Sites: a journal of social anthropology and cultural studies* 13, no. 2 (2016): 187-209.

about New Zealand's disappointment with negotiations. In a telephone interview with Japan's Nikkei Business Daily in August 2015, he suggested that New Zealand's interests in dairy products were not sufficiently addressed in negotiations. Additionally, he opined that the TPP, which was nearing conclusion, was at risk of becoming a mere bilateral negotiation between the US and Japan. This, together with the secrecy enshrouding negotiations, fuelled speculations among the New Zealand public.²⁷

Accordingly, in late 2015, as TPP negotiations neared their conclusion, public opposition intensified. In August 2015, thousands rallied against the TPP across different parts of New Zealand. A protestor group called "Show Us Ya Text" stormed into the headquarters of MFAT and demanded that a thousand English and Māori versions of the TPP text be publicly released and distributed to libraries across the nation.²⁸ However, it was not until November 2015, following the conclusion of the TPP negotiations, that the draft TPP text was released. An opinion poll conducted in the same month indicated that 52 percent of New Zealanders opposed the TPP, despite little knowledge about the technical aspects of the agreement.²⁹

Māori interest and the Treaty of Waitangi

In particular, one group that voiced concerns about the TPP was the Māori community. In July 2015, at the height of public discontent against the government for the lack of transparency, a total of nine claims were lodged to the Waitangi Tribunal on behalf of prominent Māori individuals, tribes and organisations. One such claimant included the New Zealand Māori Council, a statutory body intended to ensure Māori participation in national policy-making.³⁰ The claimants primarily sought an urgent hearing by the Permanent Commission of Inquiry for the government to stop TPP negotiations due to concerns that the Crown's obligations to the Māori conflicted with New Zealand's new obligations under the TPP. In addition, there were claims by some Māori representatives that they had been excluded from discussions on the TPP by the government.

After examining these claims, the Tribunal declined an urgent hearing. It reasoned that the filing of the claims was very late and there were no real prospects to conduct one before the probable conclusion of negotiations. In any event, both the Māori claimants and the Tribunal did not have access to the final TPP texts for further assessment.³¹ However, the Tribunal agreed to conduct a hearing once the final TPP texts were available. The Tribunal also found that the government had engaged with the Māori to some extent, albeit with limitations. For instance, the MFAT had set up an online platform called "TPP Talk" in 2011 which contained opposing views of the TPP to further debate but had deliberately excluded the public comment functionality.³² In

²⁷ "New Zealand Trade Minister says TPP must address interests beyond U.S.-Japan: Nikkei", *Reuters*, August 6, 2015, <https://www.reuters.com/article/us-trade-tpp-newzealand-idINKCNOQB07B20150806>.

²⁸ Taroi Black, "Protestors demand release of full text of TPPA deal", *TEAO Maori News*, August 11, 2015, <https://www.teaomaori.news/protesters-demand-release-full-text-tppa-deal>.

²⁹ Kelsey, Jane. "New Zealand and the Trans-Pacific Partnership agreement negotiations: Strategy, content and lessons." In *New Zealand and the world: Past, present and future*, pp. 145-167. 2018.

³⁰ Kawharu, Amokura. "Process, politics and the politics of process: The 'trans-pacific partnership' in New Zealand." *Melbourne Journal of International Law* 17, no. 2 (2016): 286-312.

³¹ *Ibid.*

³² "Report On The Trans-Pacific Partnership Agreement - Waitangi Tribunal Report 2016", *National Library of New Zealand Cataloguing-in-Publication Data*, 2016,

another instance, the government hosted several ‘hui’ (referring to public gatherings in Māori language) in 2015 to discuss the TPP but failed to give sufficient notice on when the gatherings would take place despite requiring registration for attendance.³³ Nevertheless, the Waitangi Tribunal opined that consultations with Māori leading up to the claims in 2015 tended to be selective and limited.³⁴ Additionally, the Tribunal found in favour of the Māori claimants that despite the Crown’s position that a term of exception concerning the Treaty of Waitangi used in previous FTAs had been similarly tabled by the New Zealand government in negotiations on the TPP³⁵, the Māori claimants would have had no way of knowing this as they had not been able to examine the TPP texts before they were released.

These concerns only diminished when the final TPP text, released in November 2015, revealed that a Treaty of Waitangi exception had been included in the annex of the TPP’s chapter on intellectual property.³⁶ Accordingly, after surveying the TPP text, the Tribunal found that there was no breach of principles concerning the Treaty of Waitangi. Although the Tribunal suggested that constructive dialogues be set up with the Māori on future FTAs moving forward, it found that there were multiple safeguards in the TPP to protect Māori interests.³⁷ Thereafter, the New Zealand Māori Council, one of the oldest Māori representative groups and the national policy-making body for Māori, took the lead in expressing acceptance of the Tribunal’s decision.³⁸

Pro market access agenda among the government-business community

By comparison, the New Zealand business community has been a more supportive group of the nation’s trade liberalisation agenda. This support extends to the government’s endeavours toward the TPP. In 1986, the business community in the US established the US-NZ Council in Washington DC to strengthen bilateral trade ties. New Zealand’s government and business community eventually reciprocated by co-funding a New-Zealand based NZ-US Council in 2001. The Council has since held a NZ-US Partnership Forum every 18-24 months to lobby for a NZ-US FTA.³⁹ However, a key stumbling block in the negotiations of an FTA has been New Zealand’s unwavering anti-nuclear policy and its refusal to support the US military interventions in Iraq.

TPP negotiations eventually superseded New Zealand’s initial priority in negotiating a bilateral NZ-US FTA. However, the industry’s perception that the TPP ought to serve as an “NZ-US FTA plus” meant that New Zealand “[could not] accept a TPP agreement with the level of dairy market access currently on the table”.⁴⁰ The business community therefore continually pushed for better terms for the agricultural industry.

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_104833137/Report%20on%20the%20Trans-Pacific%20Partnership%20Agreement%20W.pdf.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Kawharu, Amokura. "Process, politics and the politics of process: The 'trans-pacific partnership' in New Zealand." *Melbourne Journal of International Law* 17, no. 2 (2016): 286-312.

³⁷ Ibid.

³⁸ Ibid.

³⁹ "Our Story", *NZ-US Council*, <https://www.nzuscouncil.org/about/>.

⁴⁰ "NZ Industry Rep Says Gov't Willing To Delay TPP Over Dairy", *Inside U.S. Trade's World Trade Online*, July 29, 2015, <https://insidetrade.com/daily-news/nz-industry-rep-says-govt-willing-delay-tpp-deal-over-dairy>.

At the sectoral level, expanding market access has been generally welcomed. This is especially so for the agriculture sector. Even though New Zealand only produces a small percentage of the world's milk, the US remains one of New Zealand's largest export partners.⁴¹ The dairy sectors in both countries have established high levels of cooperation in forming international standards, research and development, and taking common positions in related global trade negotiations.

There is much room for New Zealand to expand export growth. Even when New Zealand had to enter into several voluntary export restraint agreements with the US, such as in the case of its beef exports, New Zealand could not meet US market demands. This is especially given that the US had been increasingly forming a complementary product pattern by importing beef for local ground beef production.⁴² With a multilateral trade agreement like the TPP, New Zealand farmers could diversify from the US market. They would be less deterred from producing more; arising from decades of US export restraints, while being incentivised with tariff reductions through preferential access into other new markets.

For these reasons, support for the TPP among the business community has generally been unwavering. For instance, amid the TPP negotiations in 2012, the Chairman of the NZ-US Council and NZ International Business Forum wrote an open letter to then-Prime Minister John Key, expressing support for the TPP negotiations and offering assistance to New Zealand's trade negotiators on the TPP.⁴³ The letter, which was written on behalf of several major New Zealand companies and leading business organisations, underscored what the TPP meant to them:

*"We see great advantages for New Zealand arising from a future agreement that is high quality, comprehensive and ambitious, one that eliminates trade barriers, lowers the cost of doing business and makes improvements to the way regional supply chains can link producers and consumers in the region. In particular, we see value from an effort to create an agreement which meets business and wider needs and reflects the way business is being done today and will be done in the future. This will assist economic growth and job creation in New Zealand".*⁴⁴

Structurally, support for free trade by New Zealand businesses was also facilitated by governmental efforts. In particular, the business community has benefitted from having various forums to advocate their interests. Highly concerned with the then-National government's policy of "domestic defence" after global oil shocks, a fragmented business community came together as a more united voice to lobby for the expansion of New Zealand's markets. This eventually gave rise to a 'Top Tier' group comprising chief executives from the Federated Farmers of New Zealand, Employers' Federation, Retailers' Federation and Chamber of Commerce

⁴¹ William Speagle, "A summary of the views, evaluations, cost-benefit analyses of FTAs in the Asia-Pacific", *Waseda University*, June 25, 2011, <https://www.waseda.jp/inst/oris/assets/uploads/2015/10/i3-3.pdf>.

⁴² "The evolving NZ-US trade relationship: Selected case studies", *NZ Institute of Economic Research Working Paper 2011/01*, March, 2011, https://web.archive.org/web/20130210123006/https://www.nzier.org.nz/sites/nzier.org.nz/files/WP%202011-1%20The%20evolving%20NZ-US%20trade%20relationship_0.pdf.

⁴³ "Open letter in support of the TPP negotiations", December 3, 2012, <https://media.nzherald.co.nz/webcontent/document/pdf/201249/tpp.pdf>.

⁴⁴ *Ibid.*

in 1977. This 'Top Tier' group began to present its plans to the government; most prominently, a joint business manifesto on strategic economic policies to the incoming Labour government led by David Lange in 1984, just hours after its electoral win.

Successive New Zealand governments have since continued efforts to cultivate a more closely knit and pro-free trade business community beyond the 'Top Tier' group. One strategy has been to promote the concept of a "New Zealand Incorporated" or "NZ Inc". According to the New Zealand Asia Institute, "NZ Inc" is defined by the New Zealand Trade and Enterprise (NZTE) as a 'government ecosystem to support exporters'. It links public sector agencies like NZTE and MFAT as the inner core to private sector advisory firms and business organisations as the outer core.⁴⁵ Through this arrangement, public sector agencies can offer subsidies, grants, and advice, and promote local businesses to expand overseas beyond their local borders.⁴⁶

Against this backdrop, it is notable that MFAT and its career civil servants (who are fairly insulated from public opinion, partisan support or removal) serve as the constant 'caretaker' of NZ Inc and the nation's pro-market access agenda. This is as opposed to the Minister for Foreign Affairs and Trade (or his/her respective political parties). This 'caretaker' role and its significance in providing "effective strategic leadership" was explicitly confirmed in a June 2017 Brief which stated that:

"The Ministry of Foreign Affairs and Trade is the Government's principal agent for pursuing the country's interests and representing New Zealand internationally".⁴⁷

Successive Ministers of Foreign Affairs and Ministers for Trade and Export Growth, who are political appointees, may tend to focus on differentiating their domestic policy positions to compete with parliamentarians from other parties. However, while these Ministers may not belong to the same political party, they still communicate MFAT's common foreign trade policy positions, effectively allowing MFAT to articulate the nation's foreign trade policy direction in the long term. Regardless of the political affiliation of the government of the day, MFAT is backed by regional, function and support divisions which allow it to conduct the day-to-day foreign affairs of the nation.⁴⁸

Opposition parties

Labour Party

Both the National and Labour Party initially shared optimism about New Zealand's participation in the TPP. It was perceived that the TPP would help address the absence of an NZ-US FTA and promote further market

⁴⁵ Natasha Hamilton-Hart, "NZ Inc: Supporting international business growth", *NZAI Working Paper, New Zealand Asia Institute, The University of Auckland*, October, 2021, <https://cdn.auckland.ac.nz/assets/business/about/our-research/research-institutes-and-centres/NZAI/nzai-workingpaper-nzinc-2021web.pdf>.

⁴⁶ Ibid.

⁴⁷ Smith, Anthony L. "First amongst equals: the foreign ministry's primacy in New Zealand's international engagement." *Political Science* 72, no. 2 (2020): 145-165.

⁴⁸ Buchanan, Paul G. "Lilliputian in fluid times: New Zealand foreign policy after the Cold War." *Political Science Quarterly* 125, no. 2 (2010): 255-279.

access. In fact, the TPSEP was negotiated under the Labour Party when it was in government from 1999 to late 2008.

However, as negotiations revealed the TPP's widening scope of application, the Labour Party (an opposition party then) eventually refused to support the ratification of the TPP and criticized the National Government for failing to represent New Zealand's long-term interests in the TPP negotiations.⁴⁹

Before the official release of the TPP texts in late 2015, the Labour Party announced five 'non-negotiable bottom lines' that the National government had to meet to gain Labour's support for the TPP. These bottom lines and the government's responses are set out below.⁵⁰

⁴⁹ "International treaty examination of the Trans-Pacific Partnership Agreement", *Report of the Foreign Affairs, Defence and Trade Committee*, May 4, 2016, https://www.parliament.nz/resource/en-NZ/51DBSCH_SCR68965_1/017c7d1eedfaa46cda74da3faa83982cee1ab4d3.

⁵⁰ Vernon Small, "Labour sets 'non-negotiable' stance on TPP free trade talks", *Stuff Limited*, July 23, 2015, <https://www.stuff.co.nz/business/industries/70496910/labour-sets-non-negotiable-stance-on-tpp-free-trade-talks>.

Labour Party’s non-negotiable bottom lines for the TPP	Government’s responses and clarifications
<p>The Pharmaceutical Management Agency, better known as Pharmac, which purchases medicines and pharmaceutical products and decides which are to be subsidized for use in community and public hospitals, must be protected.</p>	<p>In November 2011, then Trade Minister Tim Groser had already publicly assured that Pharmac would not be up for negotiation in the TPP negotiations.⁵¹</p>
<p>Corporations should not be able to sue the Government for regulating in the public interest.</p>	<p>The TPP negotiations concluded with governments still continuing to retain the general right to protect legitimate welfare objectives such as public health and environment.⁵²</p> <p>Exceptions to the TPP’s investor-state dispute settlement (ISDS)⁵³ mechanism were also carved out:</p> <ul style="list-style-type: none"> ➤ The New Zealand government is empowered to rule out challenges to tobacco control measures.⁵⁴ ➤ Australian investors (which account for 75% of TPP investments in New Zealand) cannot sue the New Zealand government for regulating in the public interest.⁵⁵ <p>Conversely, the ISDS would benefit New Zealand investors when they invest in other TPP member economies across various sectors, such as the agricultural and manufacturing industries.⁵⁶</p>

⁵¹Danya Levy, “No Pharmac in Trans-Pacific Partnership”, *Stuff Limited*, November 16, 2011, <https://perma.cc/KU3Q-WA88>.

⁵² “International treaty examination of the Trans-Pacific Partnership Agreement”, *Report of the Foreign Affairs, Defence and Trade Committee*, May 4, 2016, https://www.parliament.nz/resource/en-NZ/51DBSCH_SCR68965_1/017c7d1eedfaa46cda74da3faa83982cee1ab4d3.

⁵³ ISDS is a mechanism which grants foreign investors the right to sue a sovereign nation in a forum outside of that nation’s domestic courts in instances where the state’s actions affect foreign direct investments.

⁵⁴ “International treaty examination of the Trans-Pacific Partnership Agreement”, *Report of the Foreign Affairs, Defence and Trade Committee*, May 4, 2016, https://www.parliament.nz/resource/en-NZ/51DBSCH_SCR68965_1/017c7d1eedfaa46cda74da3faa83982cee1ab4d3.

⁵⁵ *Ibid.*

⁵⁶ “Trans-Pacific Partnership: National Interest Analysis”, *New Zealand Foreign Affairs & Trade*, January 25, 2016, <https://www.treasury.govt.nz/sites/default/files/2016-05/ris-mfat-tppnia-may16.pdf>.

Labour Party's non-negotiable bottom lines for the TPP	Government's responses and clarifications
The New Zealand government must maintain the right to restrict sales of farmland and housing to non-resident foreign buyers.	<p>Under the TPP, the quota for non-government investment from other TPP member nations in business assets will be increased two-fold.</p> <p>However, there were no changes to the way the New Zealand government approves foreign investment in sensitive land, which includes farmland of more than five hectares, or fishing quotas.⁵⁷</p>
The Treaty of Waitangi must be upheld.	Upon the official release of the TPP texts, it was revealed that a Treaty of Waitangi exception was indeed included in the annex of the TPP's intellectual property chapter.
Meaningful gains are to be made for farmers through tariff reductions and market access.	<p>The bulk of tariff savings will be derived from New Zealand's new FTA partners – the US, Japan, Canada, Mexico and Peru.⁵⁸</p> <p>In a National Interest Analysis prepared by MFAT, it was estimated that 87.9 per cent of New Zealand exports (including horticultural, forestry goods, dairy products, wine, fish and seafood) to these partners would already be duty-free on the day the TPP agreement enters into force, and 90.1 per cent by the 5th year after entry into force.⁵⁹</p> <p>In turn, such tariff liberalization would help farmers grow export volumes with these countries which New Zealand did not have previous FTA relationship with.</p>

Subsequently, in its submission to the international treaty examination of the Trans-Pacific Partnership Agreement in 2016, the Labour Party highlighted sovereignty concerns, poor process, and uncertain gains as some of their main reasons for not supporting the ratification of the TPP. On sovereignty, it claimed that the government's chief negotiator for the TPP had not been able to give assurances that future governments' right to ban the sale of residential housing to foreign speculators had been preserved under the TPP.⁶⁰ On poor

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ "International treaty examination of the Trans-Pacific Partnership Agreement", *Report of the Foreign Affairs, Defence and Trade Committee*, May 4, 2016, https://www.parliament.nz/resource/en-NZ/51DBSCH_SCR68965_1/017c7d1eedfaa46cda74da3faa83982cee1ab4d3.

process, the Labour Party complained that consultations were done on short notice. Submitters, which included opposition parties, had initially been given a few weeks (and later down to one week) to review and analyse the TPP documents as part of the treaty examination process.⁶¹ On uncertain gains, the Labour Party disagreed with the government's economic modelling and projected gains. They claimed that the existing model did not factor in exchange rate fluctuations and failed to incorporate measures to remove distortions, such as speculations in the property market.⁶²

Green Party

The Green Party also opposed the ratification of the TPP agreement. Unlike Labour and the National Party, the Green Party has generally been known to hold an anti-trade position.⁶³ It called on the government to hold a public referendum on the ratification of the TPP. As with other domestic actors, the Green Party criticised the government for conducting negotiations with excessive confidentiality. They further argued that once negotiations concluded, the government had been eager to commit to early ratification without sufficient regard for public interest.

The Party's opposition to the TPP centred around the notion that negative externalities arising from the agreement had been underestimated by the government. On the other hand, its benefits had been overestimated. In terms of substance, it disagreed with the government that the TPP was like any other FTA. It contended that only 6 out of 27 chapters were devoted to tariffs and investment rights were given more focus in the agreement.⁶⁵ The Green Party also argued that the TPP delved into issues of governance and national sovereignty, and therefore could not be seen as being merely motivated by free trade. Furthermore, the Green Party accused the government of not looking beyond economic growth and export income in negotiations. They highlighted that the provisions of the agreement did not adequately address issues on sustainability and fairness such as climate protection. Accordingly, the government's projection of the economic gains from the TPP might not have adequately factored in these potential long-term costs, which could also have an economic impact.

New Zealand First Party

The New Zealand First Party contended that the TPP would increase income inequality in New Zealand. It argued that the TPP would further strengthen multinational corporations at the expense of local small medium enterprises (SMEs) as evinced by existing foreign ownership in various sectors. It also contended that the ISDS would give multinational corporations an additional avenue for judicial recourse in New Zealand that local SMEs or individual citizens would not be able to enjoy since the latter group could only turn to the local courts.

⁶¹ Ibid

⁶² Ibid.

⁶³ Ibid.

⁶⁴ William Speagle, "A summary of the views, evaluations, cost-benefit analyses of FTAs in the Asia-Pacific", *Waseda University*, June 25, 2011, <https://www.waseda.jp/inst/oris/assets/uploads/2015/10/i3-3.pdf>.

⁶⁵ "International treaty examination of the Trans-Pacific Partnership Agreement", *Report of the Foreign Affairs, Defence and Trade Committee*, May 4, 2016, https://www.parliament.nz/resource/en-NZ/51DBSCH_SCR68965_1/017c7d1eedfaa46cda74da3faa83982cee1ab4d3.

The Party also argued that the ISDS would create a moral hazard as New Zealand taxpayers would serve as an insurer for multinational corporations inclined to undertake huge risks. Finally, it cautioned the government against ratifying the TPP given the varied domestic political situations in the US, Canada and Japan, which could eventually lead to a failure in signing the agreement.⁶⁶ In particular, it observed that even then-US President Obama was having difficulty convincing his party – the Democrats – of the merits of the TPP for the US.

⁶⁶ Ibid.

Eventual ratification of the TPP in New Zealand

Despite widespread opposition against the TPP agreement by various domestic groups, the New Zealand government still managed to ratify the agreement. Unlike other TPP member economies like Vietnam and Peru, the executive branch of the New Zealand government wields the authority to negotiate and ultimately decide whether the nation will join or withdraw from a treaty (notwithstanding the possibility of Parliament's refusal to endorse that treaty). Even before the conclusion of the TPP negotiations, the New Zealand Cabinet already agreed to include the TPP Agreement Bill in its 2015 legislative programme as a Category 5 bill. This was a strong indication that the Bill was set to proceed and not be put on hold.⁶⁷

Although there are no legal requirements for a parliamentary debate during the treaty examination stage, it has been a practice to allow Parliament a minimum period to examine the treaty before ratification in order to ascertain potential areas of conflict with domestic laws. Had the New Zealand government not introduced regulatory amendments in Parliament before ratification, it would have risked failing to fulfil its international obligations under the TPP.

MFAT officials tabled a National Interest Analysis (NIA) in January 2016 to assist Parliament in examining the TPP text. This was presented to the House of Representatives. The NIA explained the advantages and disadvantages of joining the TPP. It also set out several legislative and regulatory amendments required for New Zealand to align its domestic legal regime with obligations created under the TPP in order to enable its ratification.⁶⁸ Some of these included significant amendments to existing legislation such as the Overseas Investment Act concerning the threshold amounts for non-government investments, the Copyright Act where the duration of copyright in various works was to be extended, and its Tariff Act in order to implement the preferential rates stipulated under the TPP agreement.⁶⁹

By February 2016, merely less than a month after the NIA was released, the final text of the TPP agreement was signed among the member economies. Five days after the signing,⁷⁰ the final text was quickly referred to the New Zealand Parliament's Foreign Affairs, Defence and Trade Committee. After considering the final text, the NIA and submissions from political parties, the Committee released their report on 4 May 2016.⁷¹ Unsurprisingly, committee members from the government recommended the completion of domestic processes for ratification, while committee members from Labour, Green Party and New Zealand First did not support this.⁷²

⁶⁷ "Trans-Pacific Partnership: National Interest Analysis", *New Zealand Foreign Affairs & Trade*, January 25, 2016, <https://www.treasury.govt.nz/sites/default/files/2016-05/ris-mfat-tppnia-may16.pdf>.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ The TPP agreement was referred to the Committee on 9 February 2016.

⁷¹ "Trans-Pacific Partnership: parliamentary steps to ratification", *New Zealand Parliament*, October, 2017, <https://www.parliament.nz/mi/pb/research-papers/document/00PLLawRP2017031/trans-pacific-partnership-parliamentary-steps-to-ratification>.

⁷² Ibid.

Notwithstanding the mixed sentiments within the Committee, the TPP Agreement Amendment Bill was introduced on 9 May 2016. Its First Reading took place three days later. During the First Reading, an intense debate between National and Labour Party representatives ensued. In particular, then Minister of Trade Todd McClay attempted to rally for bipartisanship support for the TPP:

“Successive New Zealand Governments have pursued free-trade agreements to support New Zealand’s global connections and maximise opportunities for exporters. The TPP agreement is the latest in this legacy. I want to acknowledge the previous Labour Government and the foresight of Helen Clark and Phil Goff for kick-starting the negotiations that led to this very good agreement.”⁷³

However, this was met with a defensive response from then Labour Party’s spokesman, Dr David Clark, who stated that the *“National government had destroyed a bipartisan approach to trade that has existed for decades”*. He opined that this was *“...because the agreement that [had] been put before [the] House for consideration, the legislation that it is based on... [was] not as good as it could be. It [was] not in New Zealanders’ interests in the way that it might have been had the approach that previous Governments had invoked been taken, where they included unions, businesses, and academics in the shaping of the negotiating documents.”⁷⁴*

In the weeks leading up to the Second and Third Readings in November 2016, a parallel development also took place. The heated Presidential Election on the other side of the Pacific which witnessed Donald Trump’s victory fuelled speculations that the US would soon withdraw as a signatory to the TPP. During his election campaign, Trump stated on several occasions that he would withdraw from the TPP ‘from day one’.⁷⁵ This was damning. In order for the TPP to come into force, the threshold of at least six signatory members with a combined share of 85 per cent of the original TPP’s total GDP ratifying the agreement needed to be met.⁷⁶ The US’ potential withdrawal from the TPP would mean that the threshold could not be reached and the TPP could not come into force.

In the face of the US’ potential withdrawal from the TPP, several opposition members of parliament questioned the relevance of the TPP Agreement Amendment Bill. For example, Green Party MP Barry Coates

⁷³“Volume 713, Week 46 – Thursday, 12 May 2016”, *New Zealand Parliament*, May 16, 2016, https://www.parliament.nz/en/pb/hansard-debates/rhr/document/51HansD_20160512/volume-713-week-46-thursday-12-may-2016.

⁷⁴ Ibid.

⁷⁵“Trump vows to withdraw from Trans-Pacific Partnership ‘on day one’”, *South China Morning Post*, November, 22, 2016, <https://www.scmp.com/news/world/united-states-canada/article/2048138/trump-says-he-will-move-withdraw-trans-pacific>.

⁷⁶ Stephen Martin, “Information Paper: TPP Agreement Explained”, *Committee for Economic Development of Australia*, August, 2016, <https://cedakenticomedia.blob.core.windows.net/cedamediacontainer/kentico/media/attachments/pdf/31548-cedainformationpaper94tppaugust2016final.pdf>.

was quoted as saying: *“It’s been a waste of time and money, including this parliamentary session where we are apparently doing third reading of a bill for a treaty that will never come into force.”*⁷⁷

Others like Labour Party MP Rino Trikatena, called for the National-led government to come to terms with the likelihood of the US’ withdrawal from the TPP: *“I do not know where the National Government has been for the past 24 hours but there has been an election in the US and there is a new President-Elect, Trump, and he has outlined that in his first 100 days he is withdrawing the US from the Trans-Pacific Partnership Agreement (TPPA)—a complete withdrawal. I do not know why we are here in some sort of deluded sense that by passing this legislation, the Trans-Pacific Partnership (TPP) is miraculously going to come into force, because it will not. It is dead—over. Finito. Turn off the lights and go home. It is not coming into force. So why are we wasting the House’s time here? This is a dead rubber—this is a dead rubber.”*⁷⁸

However, at the Third (and final) Reading, then Minister of Trade Todd McClay remained hopeful that the US would still consider its trade agenda carefully, while convincing members of Parliament that passing the TPP Amendment Bill would be significant for New Zealand. He said:

*“I want to congratulate President-Elect Trump. It is important that we give the new President a chance to put his team in place and consider his trade agenda. I think this will, obviously, take some time. But we will be able to work with America on trade. The passage of this Bill will put New Zealand, as a TPP depository and the first to have passed implementing legislation, in a stronger position. Now more than ever we need to be championing the cause of openness and inclusiveness. This remains the only way to secure prosperity for our economy and for generations to come.”*⁷⁹

The TPP Agreement Amendment Bill eventually passed with 61 votes to 57 and was predominantly supported by the National-led coalition government (National 59; ACT New Zealand 1; United Future 1), against the Labour Party (31), Green Party (12), New Zealand First (12) and the Māori Party (2) who voted against the Bill.⁸⁰ With a majority support, the government proceeded to ratify the TPP in May 2017.

⁷⁷ Benedict Collins, “Trade Minister ‘patron saint of lost causes’ on TPP”, *RNZ*, November 11, 2016, <https://www.rnz.co.nz/news/political/317837/trade-minister-%27patron-saint-of-lost-causes%27-on-tpp>.

⁷⁸ “Trans-Pacific Partnership Agreement Amendment Bill – Third Reading”, *New Zealand Parliament*, November 10, 2016, https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20161110_20161110_40.

⁷⁹ *Ibid.*

⁸⁰ “Trans-Pacific Partnership Agreement Amendment Bill – Third Reading”, *New Zealand Parliament*, November 15, 2016, https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20161110_20161110_40.

After the TPP

At end of January 2017, between the Third Reading and New Zealand's full ratification of the TPP in May 2017, the US officially withdrew from the TPP.⁸¹ In response, then National Party Prime Minister Bill English expressed interest *"in preserving the option [continuing with an 11-member TPP] or finding other ways of encouraging the engagement of the U.S. in the Asia Pacific."* He expressed that the initiative was still worth pursuing for New Zealand.⁸²

By May 2017, at an APEC meeting in Hanoi, then Minister of Trade Todd McClay, who had been involved in spearheading efforts to revive the agreement, announced that given the TPP's accession clause, the remaining 11 members of the TPP were open to others joining the agreement (without the US).⁸³ This marked the beginning of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

In the months leading up to the conclusion of the CPTPP negotiations, MFAT released its strategic intentions for 2017-2021. It placed the TPP-11 (or CPTPP) as one of New Zealand's top-level priorities for the coming years. While the process of ratifying the original TPP witnessed deviation from the traditionally strong bipartisan support for free trade (and by extension, free trade agreements), the CPTPP was backed by the incoming Labour government led by Prime Minister Jacinda Ardern.⁸⁴ With the National Party's status quo support, Labour's and New Zealand First's support, legislation for the CPTPP passed in Parliament with 111 votes against 8 votes.⁸⁵ The "against" votes stemmed mostly from the Green Party which remained consistently critical of both the TPP and CPTPP.

Although the Labour Party had been against the original TPP, the Minister for Trade and Export Growth, David Parker, explained why the Labour government had revised its position within the context of the CPTPP:

"This Government is committed to ensuring that trade delivers sustainable and inclusive economic growth for all New Zealanders, no matter who they are or where they are in the country. We've already shown that we're open to finding better ways to do things, including through the changes that were made to the previous Trans-Pacific Partnership agreement (TPP) under difficult circumstances in our first weeks in office. As a result of these changes, we were able to conclude the CPTPP. For me, the most significant change was finding a route through on controlling overseas foreign buyers of existing New Zealand homes. We support CPTPP. It will

⁸¹ Letter informing TPP Depository (New Zealand) that the United States does not intend to become a party to the Trans-Pacific Partnership Agreement. See <https://ustr.gov/sites/default/files/files/Press/Releases/1-30-17%20USTR%20Letter%20to%20TPP%20Depository.pdf>.

⁸² Kristen Gelineau, "Push to save Pacific Rim trade deal after US exits TPP pact", *AP News*, January 24, 2017, <https://apnews.com/article/608ce430c120420e9891f7a38622fe6e>.

⁸³ "Pacific ministers commit to move ahead with pact without US", *AP News*, May 21, 2017 <https://apnews.com/article/5dc083b8f22c4948b980110c905038a0>.

⁸⁴ Taran Molloy, "In Government, New Zealand Labor Party Softens Stance on Trade", *The Diplomat*, December 5, 2017, <https://thediplomat.com/2017/12/in-government-new-zealand-labor-party-softens-stance-on-trade/>.

⁸⁵ "Trans-Pacific Partnership Agreement (CPTPP) Amendment Bill – Third Reading", *New Zealand Parliament*, October, 24, 2018, https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20181024_20181024_16.

bring commercial, sustainable, and strategic benefits to New Zealand as the national interest analysis—which was released some weeks prior to signature—highlights.”⁸⁶

By November of that same year, the Ministers from all 11 members of the TPP issued a joint statement, announcing that they had agreed on several core elements of the CPTPP, which retained most of the provisions in the original TPP save for a suspended set of provisions. Most of these suspended provisions were those that had been advocated primarily by the US before its withdrawal.

A few months later in January 2018, the CPTPP negotiations concluded in Tokyo. The CPTPP was officially ratified by New Zealand on 25 October 2018.⁸⁷ Five other members – Australia, Canada, Singapore, Japan, and Mexico – also ratified the agreement and the CPTPP agreement subsequently entered into force in December of that year.

Discussion questions

1. Using Putnam’s two-level game and other relevant frameworks, to what extent do you think the New Zealand government’s secrecy about the TPP negotiations contributed to easing its ratification domestically?
2. To what extent do you agree that the New Zealand government’s level of engagement on the TPP at the international level had an inverse relationship with its level of engagement at the domestic level?
3. In reviewing New Zealand’s trade history up till the TPP negotiations, discuss whether New Zealand’s foreign policy has been well insulated from its domestic actors (including political actors). To what extent did the TPP negotiations have an impact (or otherwise) on the insulation of New Zealand’s foreign policy?

⁸⁶ “Trans-Pacific Partnership Agreement (CPTPP) Amendment Bill – Second Reading”, *New Zealand Parliament*, October 18, 2018, https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20181018_059850000/parker-david-williams-poto.

⁸⁷ “New Zealand ratifies CPTPP during trade minister’s trip to Ottawa and Washington”, *Beehive.govt.nz*, October 25, 2018, <https://www.beehive.govt.nz/release/new-zealand-ratifies-cptpp-during-trade-minister%E2%80%99s-trip-ottawa-and-washington>.