



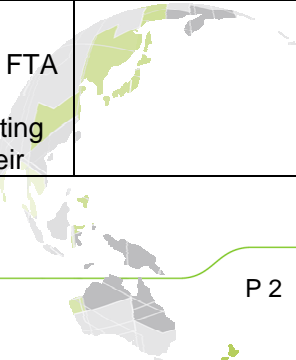
JUNE 09

NZ LAW UPDATE

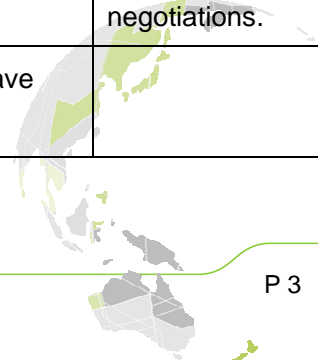
NZ FREE TRADE AGREEMENTS

Having trade agreements between two or more countries makes international trade easier and more efficient. A summary of the agreements in force and those under negotiation is set out below:

Agreements in Force	Progress to date	Date Signed
Asean -Australia/NZ Free Trade Area	Agreement is signed but not yet in effect	27 February 2009
New Zealand – China Free Trade Agreement (NZ- China FTA)	Came into effect on 1 October 2008	7 April 2008
Trans-Pacific Strategic Economic Partnership (Trans-Pacific SEP) – Parties to agreement are Brunei/Chile/New Zealand/Singapore		2005
New Zealand and Thailand Closer Economic Partnership (NZTCEP)		2005
New Zealand and Singapore Closer Economic Partnership (NZSCEP)		2001
Australia and New Zealand Closer Economic Partnership (CER)		1983
Agreements under Negotiation	Progress to date	Parties to Agreements
Anti-Counterfeiting Trade Agreement (“ACTA”) - a pluralateral agreement for intellectual property rights	The Ministry of Economic Development is seeking further submissions closing on 29 June 2009 on a range of ACTA related issues that may be raised in the next negotiating	New Zealand, Australia, Canada, the European Union, Japan,

<p>("IPR's") enforcement to counter the increase in global trade of counterfeit goods and pirated copyright protected works.</p>	<p>rounds. The issues relate to:</p> <p><i>Border Protection Measures</i></p> <ul style="list-style-type: none"> • Extending existing measures concerning copyright and trade marks infringement to other types of IPR's, such as patents and industrial design • Customs detaining shipments of goods suspected of infringing of IPR's without having received notification from a right holder. • Customs targeting shipments being exported from New Zealand for goods infringing IPR's <p><i>Civil Enforcement</i></p> <ul style="list-style-type: none"> • Incorporating a system for statutory damages and remedies to right holders for infringement of IPR's • Incorporating a statutory formula to calculate damages and loss of profits from infringement of IPR's • Courts given authority to order delivery and disposal of material and implements used in creation or manufacture of infringing goods <p><i>Criminal Enforcement</i></p> <ul style="list-style-type: none"> • Ability to seize proceeds of crime • Criminal measures applied to IPR infringement 	<p>Korea, Mexico, Singapore, Switzerland and the United States</p>
<p>New Zealand-Gulf Cooperation Council Free Trade Agreement</p>	<p>The Fourth Round of the FTA Negotiations took place in Wellington from 17-20 February 2009. Both countries are committed to concluding the negotiations as soon as possible.</p> <p>No date was set for the Fifth Round, although the period of May/June 2009 was discussed as a possibility.</p>	<p>New Zealand and the six Member States of the Gulf Cooperation Council</p>
<p>New Zealand and Malaysia Free Trade Agreement</p>	<p>On 31 March 2005, New Zealand and Malaysia commenced negotiations for an FTA to cover goods, services and investment. Since then there have been eight negotiating rounds. Negotiations are now entering their</p>	

	closing phase.	
New Zealand and Hong Kong Closer Economic Partnership	<p>New Zealand commenced a 'Closer Economic Partnership' (CEP) negotiation with Hong Kong in 2001. Talks were suspended in late 2002 after five rounds of negotiation. Following informal discussions, both parties have agreed to resume negotiations towards a CEP.</p> <p>From 2-3 March 2009 six New Zealand officials attended preparatory talks for the resumed CEP negotiations with Hong Kong.</p> <p>The first round of resumed negotiations between New Zealand and Hong Kong will take place in Wellington during the first week of May 2009.</p>	
Expansion of the Trans-Pacific Strategic Economic Partnership (TransPac)	<p>The United States has yet to decide whether it will continue with talks. The first round of negotiations was scheduled to take place in March 2009, but has been postponed to allow the new US Administration time to conduct a general review of US trade policy.</p>	<p>Brunei, Chile, New Zealand and Singapore are parties to TransPac.</p> <p>The Trans-Pac Agreement was signed by New Zealand, Chile and Singapore on 18 July 2005 and by Brunei on 2 August 2005.</p> <p>On 22 September 2008, negotiations for the United States to join the Trans-Pacific Agreement were announced. Australia, Peru and Viet Nam also intend to participate in negotiations.</p>
New Zealand-Korea Free Trade Agreement	<p>A first round of negotiations is was to have taken place in June 2009.</p>	



NEW ZEALAND'S DOUBLE TAXATION TREATIES

New Zealand has double tax treaties with the following countries in the Asia-Pacific area.

Australia	Indonesia	Singapore
Chile	Japan	Taiwan
China	Korea	Thailand
Fiji	Malaysia	
India	Philippines	

REVISIONS OF EXISTING TREATIES

NEW ZEALAND AND THE UNITED STATES

New Zealand and the United States have revised the NZ/US DTA. The main feature will be lower withholding taxes on dividend, interest and royalty payments.

The withholding tax on dividends is currently capped at 15% under the NZ/US DTA. Under the revised DTA a 5% withholding rate will apply to dividends paid to companies that have 10% or more of the voting power of the company paying the dividend. No withholding tax will be required where a company (directly or indirectly) holds 80% of the voting power in the company paying the dividend in the 12 months leading up to the date on which the entitlement to the dividend is determined and the company satisfies other criteria, which generally require the recipient of the dividends be listed, or owned by 50% or more by residents of the same contracting state in which it is resident, or has obtained a specific determination that it is entitled to benefit under the tax treaty.

NEW ZEALAND AND AUSTRALIA

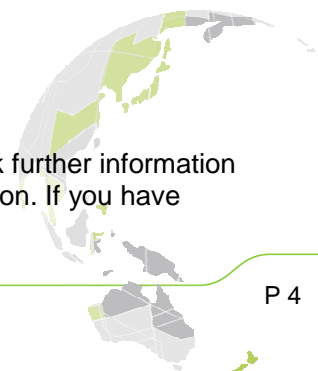
New Zealand and Australia have also revised the 1995 double tax agreement. The agreement will come into force when both countries give legal effect to it. The new DTA is said to help reduce barriers to trade and investment and improve certainty for trans Tasman businesses.

There will be lower withholding taxes on dividend and royalty payments for an investing company that has at least a 10% shareholding in the company paying the dividend. The rate reduces to 0% if the investing company holds 80% or more of the shares in the other company and meets other criteria.

The new DTA also resolves the problem of pensions that are tax-free in one country but are taxable in the other. Pensions that were exempt in the home country will be exempt in the other. Lump sum pension benefits will only be taxed in the country where the pension is sourced, not in the country to which the pensioner has retired.

DISCLAIMER

This publication is necessarily brief and general in nature. You should seek further information before taking any action in relation to the matters dealt with in this publication. If you have



any questions on the matters discussed in this update please contact the New Zealand Mackrell Partner, Brian Joyce at Clendons North Shore by email to brian.joyce@clendons-ns.co.nz or phone 64 9 377 8419

