MINISTRY OF
FOREIGN AFFAIRS AND TRADE

MANATŪ AORERE

HONG KONG AND NEW ZEALAND

INITIAL ANALYSIS OF THE BILATERAL TRADE AND ECONOMIC RELATIONSHIP AS BACKGROUND TO A POSSIBLE "CLOSER ECONOMIC PARTNERSHIP" AGREEMENT

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INTRODUCTION

This discussion paper provides an initial analysis of the bilateral trade and economic relationship between New Zealand and Hong Kong. It looks at the negotiating issues and likely impacts of a closer economic partnership agreement between the two economies. The analysis of the relationship is premised on the Coalition Government's stated goals of:

- developing active business development policies;
- increasing exports in goods and services;
- attracting investment for growth; and
- reducing compliance costs for business.

The paper also examines the status of Hong Kong's labour and environmental policies and laws in line with the importance the Coalition Government attaches to these issues.

A programme of domestic consultations will be held to obtain the views of interested parties on the possibility of New Zealand entering into a CEP Agreement with Hong Kong. In order for a CEP with Hong Kong to best serve the needs of New Zealanders, it is important that negotiators have detailed information on the needs and interests of those who are currently trading with Hong Kong. Requests for feedback are made throughout the discussion paper. Comments on specific issues relating to the proposed CEP Agreement would also be welcome. These should be sent **by 25 May 2001** to:

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Comments received will be taken into account and will form the basis of a report to Government on issues arising from the domestic consultations.

Copies of this report will also be available on the Ministry's website: www.mfat.govt.nz

The Hong Kong authorities have also provided additional background information on labour standards, customs procedures/rules of origin and border control. These papers can be made available to interested parties on request.

Further information will also be made available as appropriate in the course of domestic consultations to supplement this paper, or in response to specific requests.

All trade and economic statistics have been converted to New Zealand dollars, unless otherwise stated, using an MFAT trade database (in 2000, US$1 = NZ$ 2.20 and HK$1 = NZ$ 0.28). **Trade statistics are frequently inconsistent across sources and countries and due allowance must be made for this.** Data discrepancies are not usually significant, however, when the purpose is macro-economic analysis.

This discussion paper had been compiled with the assistance of a number of government departments whose input is gratefully acknowledged.

EXECUTIVE SUMMARY

Hong Kong and New Zealand have expressed interest in negotiating a bilateral closer economic partnership (CEP) agreement, and have agreed on an Understanding (see Annex 2) that sets out general principles, objectives and elements on which a CEP might be based. The Understanding does not prejudge negotiated outcomes. Based on the analysis set out in this discussion paper, a CEP with Hong Kong raises the following broad policy issues:

Why Hong Kong? Hong Kong is New Zealand's seventh largest export destination with exports worth $772 million in 2000, equivalent to 2.76 percent of our total exports. Imports from Hong Kong were $171 million in 2000, equivalent to 0.56 percent of total imports. A CEP with Hong Kong would have a key objective of increasing bilateral trade flows and generating new employment opportunities in New Zealand through export led growth in the economy. It would also aim to attract increased flows of productive new investment from Hong Kong to New Zealand industries to assist the Government's economic development priorities.

Regional and Global Advantages: By entering into a CEP with Hong Kong, New Zealand would be taking an important step to reinforce linkages to North Asia and to raise our profile as a business partner within the region. We would be signalling to Hong Kong and other trading partners in the region that we are an open economy that is easy to do business with, and which is keen to attract productive inwards investment. Like the CEP with Singapore, a CEP with Hong Kong would focus the attention of Hong Kong's commercial interests on New Zealand and would provide more open and secure access for New Zealand businesses wishing to operate in Hong Kong.

APEC Goals: Both economies have accepted the 1995 'Bogor' commitment to achieve free and open trade and investment in the Asia Pacific region for industrialised economies by 2010 and 2020 for developing economies. A CEP with Hong Kong ahead of the APEC timetable would have a valuable demonstration effect within APEC.

Issues with Goods Trade: As Hong Kong currently maintains zero tariffs on all imports, there are no immediate commercial gains from tariff elimination for New Zealand. A CEP would however provide New Zealand with a commitment that our exports will continue to face zero tariffs on a permanent basis. A CEP would have implications for New Zealand's protected industries, including the textiles, clothing, and footwear (TCF) sectors. The challenge arises mainly from the possibility that non-Hong Kong origin goods may claim tariff preferences on the basis of a CEP with Hong Kong. Concerns over circumvention would need to be countered by the design and application of a robust rules of origin regime.

Non-Tariff Barriers: Trade gains can be made not only through the removal of tariffs, but by the reduction of non-tariff barriers. A CEP would set in place a process to reduce compliance costs for business through the elimination or reduction of technical or sanitary/phytosanitary barriers to trade (it would not however affect our ability to maintain in place a robust biosecurity regime). It would also promote greater bilateral consultation and transparency in areas such as business law and competition policy. Incorporating such concepts into a CEP with Hong Kong would make it easier for New Zealanders to do business there.

Services: A CEP with Hong Kong would offer more open and secure access to the Hong Kong market for New Zealand services exporters, as Hong Kong's current WTO commitments on services are limited in scope. Hong Kong is a major service trader, with a large international trade surplus. Both of New Zealand's major services sectors, tourism and education, can be expected to gain from closer linkages. A CEP on services would also provide a framework for pursuing full bilateral liberalisation of all services sectors.

Investment: Hong Kong is an important source of direct investment into New Zealand. This has been historically linked to business migrants, who have declined in numbers in recent years. A CEP with Hong Kong would act as a stimulus to encourage Hong Kong and other Asian investors to increase flows of productive new investment into New Zealand.

Trade and Labour and Trade and Environment: An examination of Hong Kong's labour laws shows that these are not dissimilar to New Zealand's. Although it does not apply a statutory minimum wage, its per capita income remains significantly higher than that of New Zealand. Hong Kong has also recently embarked on an intensive effort to improve its levels of environmental protection.

Exceptions: A CEP agreement with Hong Kong would need to include a range of standard exceptions based on GATT Article XX eg to protect human, animal or plant life or health. As in the CEP with Singapore, a provision would also need to be included to enable the New Zealand Government to adopt measures deemed necessary to accord more favourable treatment to Maori including in fulfilment of its obligations under the Treaty of Waitangi.

Adjustment Costs: This will depend in large part on the final shape of the specific provisions on goods, services and investment to be negotiated in the CEP Agreement. Apart from the implications of tariff elimination for protected sectors, the adjustment costs involved for New Zealand, as with the NZ/Singapore CEP Agreement, would appear to be minimal. The programme of domestic consultations, initiated by the release of this discussion paper, will provide an opportunity for comment on these and related questions.

CHAPTER ONE: WHY NEW ZEALAND IS INTERESTED IN A CLOSER ECONOMIC PARTNERSHIP WITH HONG KONG

New Zealand is a small, export-oriented economy. The Government wants to promote international trade and open up markets for New Zealand. A closer economic partnership with Hong Kong can be expected to enhance the bilateral trade, economic and investment relationship between New Zealand and Hong Kong, and place it on a more open and secure footing. It would also encourage Hong Kong investors to look more favourably on New Zealand as a destination for productive inwards investment to support the Government's economic development objectives.

Hong Kong is not only an important market in its own right (our seventh largest), but is a key services and investment hub for the North Asia region. North Asia is an area of increasing focus and opportunity for New Zealand business. More secure and open access to the Hong Kong market will place New Zealand in an excellent strategic position to capitalise on, and exploit, new trade and investment opportunities in this region. Currently an estimated 10,100 jobs[1] in New Zealand are dependent on our ability to export to Hong Kong.

Although formally part of China, Hong Kong is designated as a Special Administrative Region (SAR) with a high degree of autonomy with regard to economic (and most other) policies under the "one country, two systems" framework established by the Basic Law. This framework involves a 50 year commitment from 1997 to allow the SAR to maintain its existing free and open market system which has long been the hallmark of Hong Kong's dynamic economy.

Currently Hong Kong does not have any preferential trading arrangements. Like New Zealand, it is an active member both of the World Trade Organisation and of APEC. In respect of APEC, it has accepted the 'Bogor'

1 Estimate provided by Infometrics with a margin of error of plus or minus 10 percent.

goal of free and open trade and investment in the APEC region by 2010 for developed economies and 2020 for developing economies.

A closer economic partnership with Hong Kong provides an opportunity to set high quality benchmarks on trade rules and to promote trade liberalisation within the APEC region. There are continuing uncertainties about the framework and scope of the next round of multilateral negotiations. The failure of Seattle has seen an increasing focus on bilateral and regional trading initiatives as a means of encouraging accelerated trade liberalisation including in the APEC region. While progress in the WTO will remain New Zealand's key trade policy objective, it is important that every effort is made to advance and secure our trade and economic interests in key markets.

In summary, a closer economic partnership with Hong Kong would:

- provide New Zealand with an opportunity to strengthen and deepen the relationship with an important trading partner;
- help position New Zealand businesses to take advantage of new and emerging opportunities in North Asia; and
- provide an opportunity to promote quality trade rules at a time when progress on trade liberalisation in the WTO is uncertain.

CHAPTER TWO: OVERVIEW OF THE NEW ZEALAND AND HONG KONG ECONOMIES AND TRADE PROFILE

OVERVIEW OF ECONOMIES

Table 1 compares the economies of Hong Kong and New Zealand to place them in perspective. We are both small but active international traders and relatively wealthy.

TABLE 1: GENERAL ECONOMIC INDICATORS

	HONG KONG			NEW ZEALAND		
	1991	1995	1999	1991	1995	1999
GDP (NZ$ BILLIONS)	149,64	211,58	300,51	72.91	90.3	102.3
GDP GROWTH %	5.1	3.9	3.1	-1.7	4.0	3.4
GDP/PERCAP NZ$	25,752	34,124	44,849	21,123	24,659	26,762
INFLATION %	12.0	9.1	-4.0	0.9	2.9	0.5
POPULATION MILL	5.8	6.2	6.7	3.45	3.67	3.82
UNEMPLOYMENT %	1.8	3.2	6.3	10.6	6.3	6.3

Source: APEC "Economic Outlook", various editions.

HONG KONG'S ECONOMY

Under Article 116 of the Basic Law, the Hong Kong SAR remains a separate customs territory and is able to participate in relevant international organisations (eg WTO, WCO) and international trade agreements involving preferential trade arrangements (such as a CEP with New Zealand). Under Article 117, it is also permitted to issue its own certificates of origin for Hong Kong origin products.

Hong Kong's economy has bounced back strongly following the setback of the 1997 Asian financial crisis. The recovery was largely export-led. Driven by resurgence of demand in the East Asian markets and sustained import absorption in the USA and Europe, exports of services also showed growth of 14.3 percent in 2000. This was largely generated from inbound tourism and off-shore trading activities.

TABLE 2: HONG KONG: THE GENERAL TRADE PROFILE 1999

	(HK$ BILLIONS)	% CHANGE FROM 1998
MERCHANDISE EXPORTS		
TOTAL	1353.1	-0.3
DOMESTIC	173.6	-9.0
RE-EXPORTS	1179.4	1.2
MERCHANDISE IMPORTS		
TOTAL	1402.0	-3.0
RETAINED*	222.6	-21.0
SERVICE EXPORTS	270.4	3.6
SERVICE IMPORTS	189.7	-2.3

*Source: the WTO (Inc EU intra-trade). * Retained imports are those not re-exported.*

Consumer spending increased 5.4 percent in real terms and inflation remained on a downward trend during 2000. Labour market conditions continued to improve, unemployment falling from 6.3 percent in 1999 to 4.4 percent of the market force. Hong Kong's external balance of payments situation is positive with a current account surplus of $19.2 billion (5.4 percent of GDP). The prospects for the economy remain positive in the medium term, and are further enhanced by robust growth in China.

TRADE PROFILE—HONG KONG

Hong Kong is a major trading partner for New Zealand and is now our **seventh** largest export destination. This results in part from its special status as a duty-free *entrepot* serving as a commercial centre and an international gateway to China, but it is also an important destination in its own right. Table 2 examines the general trade profile of Hong Kong. Several points are apparent. First, Hong Kong is a major international trader with exports and imports in both merchandise goods and services significantly higher than might be expected for an economy with the population of only 6.8 million. Second, the amount of re-exports and trans-shipped imports (mostly to and from China) heavily influences that trade profile. Third, Hong Kong is one of the world's most service-oriented economies, and is a large net exporter of services.

Table 3 looks at the composition of Hong Kong's merchandise trade. The data is sourced from the Hong Kong Census and Statistics Department and differs from the more general data set out in Table 2 which is sourced from the WTO. Exports are dominated by clothing and textile exports, with about another 15 percent of total exports being manufactures in the general form of

TABLE 3: THE COMPOSITION OF HK'S TRADE (HK$ BILLIONS)

	1996	1999	2000
PART (A) DOMESTIC EXPORTS			
APPAREL & CLOTHING	69.4	74.3	77.4
ELECTRICAL EQUIP & MACHINERY	30.4	23.8	28.5
TEXTILE YARN & FABRIC	13.7	9.5	9.2
OFFICE MACHINERY	10.2	6.3	5.8
WATCHES AND CLOCKS	12.0	5.0	5.7
GRAND TOTAL	**212.2**	**170.6**	**181.0**
PART (B) IMPORTS			
CONSUMER GOODS	573.0	508.4	566.9
RAW MAT & SEMI-MANUFACTURES	540.9	471.9	580.2
CAPITAL GOODS	324.0	327.9	417.0
FOODSTUFFS	65.2	57.2	59.8
FUELS	32.5	27.4	34.0
GRAND TOTAL	**1,536**	**1,393**	**1572.7**

Source: Hong Kong Census and Statistics Department

electrical and light machinery goods. Consumer goods and raw materials and semi-manufactures for further processing make up two thirds of total imports.

Hong Kong's worldwide exports are dominated by clothing and textiles which at NZ$17 billion in 2000 (i.e HK$77.4 billion) made up just under 45 percent of its total exports. The next most significant sector was electrical and light machinery goods which accounted for about 15 percent of total exports. Consumer goods and raw materials and semi-manufactures for further processing make up two thirds of total imports.

In relation to tradeflows, China is Hong Kong's most significant trading partner, with Hong Kong exporting NZ$14.1 billion to China and importing NZ$170.6 billion in goods in 2000. In common with most Asian markets, the US remains a major final destination for exports.

TRADE PROFILE—NEW ZEALAND

New Zealand is a small island economy that relies heavily on trade with the outside world to maintain its standard of living, a standard of living that, for a variety of reasons, has been slipping relative to other developed and newly emerging nations over recent decades. One of the main reasons is that New Zealand's competitive advantage lies in the natural resource products of agriculture, horticulture, forestry, fishing and the marketing of this natural resource base for tourism. Most of these products face barriers in our markets. These barriers range from prohibitive tariff levels to quotas, and include competition from subsidised products in many agricultural markets. The problem of "tariff escalation" whereby tariffs increase as value is added to the primary resource also has a major negative impact on our ability to export.

While overall New Zealand's trade is only a small percentage of total world merchandise trade (0.23 percent of world exports and 0.24 percent of world imports), there are several important areas where New Zealand is a major player. These include dairy produce and sheepmeats as well as several smaller niche markets of specialist products. Recognising the importance of trade to New Zealand (merchandise exports are equivalent to 25.5 percent of our GDP) trade policy has focussed on obtaining better access to overseas markets for our traders. This is primarily through the multilateral WTO track, but regional tracks such as the CER agreement with Australia and the CEP with Singapore are also crucial to our obtaining more secure and open access to export markets. The composition of New Zealand's trade is detailed in Table 4.

Hong Kong and New Zealand have very different trade profiles. While New Zealand's major goods exports are primarily agriculture based, Hong Kong's are almost entirely based on manufactured products. Hong Kong and New Zealand therefore have largely complementary economies, with a CEP agreement giving each country an opportunity to increase trade in area where it holds a competitive advantage.

TABLE 4: THE COMPOSITION OF NEW ZEALAND'S TRADE (NZ$ BILLIONS, DECEMBER YEARS)

	1998	1999	2000
PART (A) EXPORTS			
DAIRY PRODUCE	3.95	3.78	4.67
MEAT AND EDIBLE OFFAL	2.89	2.98	3.69
FOREST PRODUCTS	1.36	1.73	2.17
FISH, MOLLUSCS AND CRUSTACEANS	1.17	1.21	1.28
ALUMINIUM	0.99	0.97	1.24
STARCH	0.90	0.86	1.22
GRAND TOTAL	**21.79**	**22.55**	**27.98**
PART (B) IMPORTS			
MACHINERY AND MECHANICAL APP.	3.47	3.64	4.07
VEHICLES	2.61	3.37	3.56
ELECTRICAL MACHINERY AND EQUIP.	2.36	2.76	3.37
MINERAL FUELS, OILS AND PRODUCTS	1.40	1.67	3.20
PLASTICS AND ARTICLES OF PLASTIC	0.99	1.10	1.28
GRAND TOTAL	**23.35**	**27.11**	**30.75**

Source: Economist Intelligence Unit

CHAPTER THREE: THE HONG KONG—NEW ZEALAND TRADING RELATIONSHIP

The historical pattern of trade with Hong Kong both as a source of imports for New Zealand and as an export destination is set out in Table 5.

As Table 5 shows, New Zealand's exports to Hong Kong have grown significantly over the past 30 years. In 2000, New Zealand had a trade surplus of some $601.5 million. It will be an important objective of any CEP with Hong Kong to ensure that two way export growth continues.

Table 6 sets out the current trading relationship, although certain data for Hong Kong are not currently available.

THE HONG KONG PERSPECTIVE

In recent years, New Zealand's share of Hong Kong's exports has dropped significantly. In 1974, New Zealand was the destination for 1.07 percent of Hong Kong's exports. Since then, New Zealand's contribution has steadily declined through to the early 1990s, although the most recent data suggest

TABLE 5: NEW ZEALAND TRADE WITH HONG KONG (NZ$ MILLIONS)

	EXPORTS TO HK	IMPORTS FROM HK
JUNE YEARS		
1970	4.5	19.0
1975	16.8	36.5
1980	78.3	70.8
DECEMBER YEARS		
1985	180.0	158.8
1990	228.3	191.0
1995	624.5	227.7
1998	593.3	156.8
1999	595.0	178.8
2000	772.3	170.8

Source: Statistics New Zealand data

TABLE 6: HONG KONG—NEW ZEALAND TRADE (NZ$ MILLIONS, %)

(DECEMBER YEARS)	1998	1999	2000
EXPORTS TO HK	593.30	595.00	772.30
% OF NZ EXPORTS	2.72	2.64	2.76
% OF HK IMPORTS	0.22	N/A	N/A
IMPORTS FROM HK (CIF)	156.30	178.80	170.80
% OF NZ IMPORTS	0.67	0.66	0.56
% OF HK EXPORTS	0.17	N/A	N/A
SURPLUS	437.00	416.20	601.50

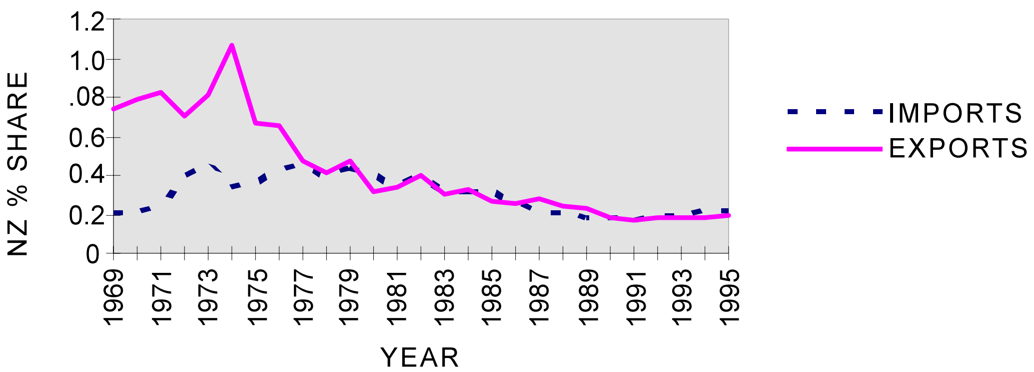
Source: Statistics New Zealand data and United Nations Statistical Handbook.

some reversal of that decline. New Zealand currently accounts for about 0.2 percent of Hong Kong's exports. From Hong Kong's perspective, this means that New Zealand is of similar significance as Nepal and Turkey are to New Zealand. However, this is a little misleading, as New Zealand ranked 21st as an import supplier to Hong Kong in 1995 (if the European Community is counted as a single market).

THE NEW ZEALAND PERSPECTIVE

Hong Kong remains one of New Zealand's most important export destinations, ranking from 6th to 8th over the last four years. As a source of imports, it is less important, with a global ranking of around 22nd. Consequently, New Zealand has shown a significant surplus on merchandise trade for the last three years (see Tables 5 and 6).

GRAPH 1: THE HONG KONG PERSPECTIVE OF NEW ZEALAND



New Zealand's Exports to Hong Kong

Table 7 shows the main exports from New Zealand to Hong Kong for the last three June years. Fisheries products continue to dominate New Zealand's export profile, with an 17 percent trade share by value. Dairy products have risen significantly in recent years and now rank just behind seafoods. Paper products have declined over the period shown, while most other items have been stable or increasing.

TABLE 7: NZ—EXPORTS TO HONG KONG AT HS 2 LEVEL (NZ$ MILLIONS)

HS	DESCRIPTION	DEC-98	DEC-99	DEC-00	% OF TOTAL EXPORTS
03	SEAFOOD	89.92	120.05	132.05	17.09%
04	DAIRY	45.29	95.78	125.10	16.1%
85	ELECTRICAL MACHINERY	67.83	35.32	73.77	9.5%
02	MEAT	56.08	49.56	56.06	7.2%
41	HIDES AND SKINS	26.05	32.50	54.91	7.1%
16	PREPARED MEAT	34.92	30.46	37.04	4.79%
44	WOOD	30.34	35.04	36.96	4.78%
05	OTHER ANIMAL PRODUCTS	17.88	18.71	35.09	4.54%
48	PAPER	52.36	37.97	33.97	4.39%
08	FRUIT	28.24	26.18	30.74	3.98%

Source: Statistics New Zealand data

New Zealand's Imports from Hong Kong

The major categories of imports from Hong Kong are detailed in Table 8, ranked by the monetary value for the December 2000 year. In contrast with Hong Kong's exports to the world as a whole, machinery and electrical equipment respectively are New Zealand's main imports, although apparel and knitted goods are still imported in significant amounts.

TABLE 8: NZ—IMPORTS FROM HONG KONG AT HS 2 LEVEL (NZ$ MILLIONS)

HS	DESCRIPTION	DEC-98	DEC-99	DEC-00	% OF TOTAL IMPORTS
85	ELECTRICAL MACHINERY	24.17	42.48	24.42	14.29%
84	MACHINERY	18.96	20.06	21.71	12.70%
49	BOOKS, ETC	17.13	20.48	17.20	10.00%
62	APPAREL	9.14	8.00	9.36	5.48%
90	MEDICAL GOODS	8.68	8.90	8.33	4.87%
61	KNITTED GOODS	6.58	6.05	6.47	3.78%
91	CLOCKS AND WATCHES	6.72	7.74	6.39	3.74%
95	TOYS	5.08	4.58	4.88	2.85%
39	PLASTICS	3.92	3.96	4.81	2.81%
42	LEATHER GOODS	2.70	2.40	3.49	2.04%

Source: Statistics New Zealand data

CHAPTER FOUR: ISSUES WITH GOODS TRADE

HONG KONG'S STATUS AS A REGIONAL ENTREPOT

Given Hong Kong's strategic significance as a regional hub, it is inevitable that a proportion of our exports to Hong Kong are re-exported and that a proportion of our imports from Hong Kong have originated from a third party. Aggregate data on re-exports from Hong Kong on a global basis was provided in Chapter 2 at Table 2. This section examines that data from a New Zealand perspective. It is important to note that this information is sourced from Hong Kong, and includes data on re-exports, which is why the figures differ from those provided in Table 6 in Chapter 3.

Approximately 37 percent of Hong Kong's total imports from New Zealand are **recorded as being** re-exported (up from 26.2 percent in 1997). Most (93 percent) go to China. In 1997 on-selling to Macau was large enough to make Macau rank about 30th in New Zealand's export destinations list, but more recent data show that only $11.0 million went to Macau, down from $45.3 million in 1997 over the same eight month period.

There may also be a significant but unknown quantity of imports from New Zealand which are re-exported to China but not recorded in the statistics. This suggests that there may be some over-reporting of New Zealand exports to

TABLE 9: HONG KONG'S TRADE WITH NEW ZEALAND (NZ$ MILLIONS)

	1997	1998	1999
TOTAL EXPORTS TO NZ	729.2	630.4	694.5
DOMESTIC	67.1	54.5	50.3
RE-EXPORTS	662.1	575.9	644.2
IMPORTS FROM NZ	1022.4	881.7	770.8
(OF WHICH RE-EXP)	268.1	326.7	286.4
TOTAL TRADE	1751.7	1512.1	1465.3
TRADE BALANCE	-293.2	-251.3	-76.2

Source: Hong Kong Trade Statistics

TABLE 10: RE-EXPORTS THROUGH HK TO NZ JAN-AUG 2000 NZ$ MILLIONS)

DESCRIPTION	TOTAL EXPORTS HK TO NZ	RE-EXPORTS
CLOTHING	132.4	128.9
TELECOM EQUIP	65.0	64.8
TOYS	35.7	35.7
FOOTWEAR	25.8	25.8
COMPUTER PARTS	18.1	11.7
LUGGAGE	15.2	15.2

Source: Hong Kong data

Hong Kong, and under-reporting of New Zealand exports to China, which is not captured in these statistics.

Re-exports through Hong Kong to New Zealand

This section considers the flow of (mostly) Chinese exports which are routed through Hong Kong. These imports are significant in the sectors where New Zealand retains import protection. As a result of the car tariff removal in 1998, only carpets, apparel, some textiles and footwear attract high duties.

The aggregate data is shown in Table 9. Based on Hong Kong data, this records re-exports as being some 92 percent of the total exports from Hong Kong to New Zealand. Table 10 details Hong Kong's principal re-exports to New Zealand. Almost all of the clothing is recorded by Hong Kong as coming from China originally.

On the import side, therefore, goods trans-shipped from China through Hong Kong are principally clothing, telecommunications equipment and toys.

TARIFF IMPLICATIONS OF A CEP

New Zealand's tariffs are frozen at existing levels until July 2005. The overall policy is that tariffs would be only removed before then on a reciprocal basis. For example, from 1 January 2001, New Zealand and Singapore eliminated all tariffs on goods traded bilaterally between them, pursuant to the provisions of the CEP Agreement which provided for reciprocal removal of tariffs.

One of the outcomes of a CEP would be to remove tariffs on goods traded between New Zealand and Hong Kong, and to provide a reciprocal legal undertaking that all goods traded bilaterally will enjoy duty free status on a permanent basis. The Understanding at Annex 2 notes that:

> Hong Kong and New Zealand would seek to agree on the modalities for early elimination of tariffs on all goods of Hong Kong and New Zealand origin by an agreed date.

This section looks at the practical ramifications of removing duties on goods traded between New Zealand and Hong Kong. Before doing so, however, it is useful to set out a summary of the current tariff profiles of Hong Kong and New Zealand.

Under Article 114 of the Basic Law, Hong Kong enjoys the status of a free port. Tariffs will not be imposed on imports ‘unless otherwise prescribed by law’. Hong Kong already grants duty free access to New Zealand exports of merchandise goods. Through its WTO commitments on tariffs, Hong Kong has “bound” tariffs on all agricultural items (830 tariff lines) at zero but has “bound” only 32 percent of industrial tariff items. While it currently grants de facto open access to its market for New Zealand exports, there is no legal obligation on it to maintain completely open access for “unbound” items on a permanent basis. In the tariffs area, therefore, such a commitment would be one tangible outcome of a CEP agreement. Preserving and enhancing access to the Hong Kong market for our exports also directly impacts on employment growth in the New Zealand economy.

In New Zealand’s case, 95 percent of global imports enter duty free, either because the goods are not made in New Zealand or because of preferential tariff arrangements. “Normal” tariff rates on protected sectors in New Zealand are typically in the region of 5-7 percent. However, certain sectors receive higher protection. For example, clothing and certain footwear items are protected by a 19 percent tariff (or more when “alternative specific” tariffs, expressed in dollars per garment, are applied to low cost clothing).

New Zealand applies “normal” tariff rates to countries which are not party to preferential tariff arrangements. A system of rules of origin ensures that only goods which “originate” in the preference-receiving country benefit from these provisions. Given Hong Kong’s geographical setting, robust rules of origin will need to be set in place to ensure that the real benefits of any CEP tariff preferences are confined to Hong Kong. Rules of origin are discussed below.

Duties paid by Hong Kong

According to data provided by the New Zealand Customs Service, during the period 1 July 1999 to 31 June 2000, New Zealand imported goods of Hong Kong origin to the value of $161.2 million. Duties were assessed on goods to the value of $35.7 million, with $4.3 million paid in duty at an average rate of 2.68 percent. Some 78 percent of imports from Hong Kong entered duty-free. The amount of duty paid on goods of Hong Kong origin has steadily decreased over the past three years.

Table 11 provides further details of duties paid by Hong Kong on its top five **dutiable** exports to New Zealand by HS chapter heading (ie this table does not cover Hong Kong’s exports to New Zealand which enter duty free). For example, in the calendar year to June 2000 New Zealand imported

TABLE 11: DUTIES PAID ON IMPORTS FROM HONG KONG, (JUNE 2000 YEAR, NZ$000 VALUE FOR DUTY AND %)

CHAPT	DESCRIPTION	TOTAL IMPORTS $	DUTIABLE IMPORTS %	DUTY PAID	TOTAL DUTY %	AVERAGE DUTY %
62	CLOTHING	8,077.9	90	1,462.6	18.11	20.23
61	CLOTHING	6,764.8	89	1,219.5	18.03	20.19
22	BEVERAGES	3,273.6	99	174.3	5.33	5.38
42	LEATHER GOODS	3,052.0	74	159.0	5.21	7.08
39	PLASTICS	4,467.4	47	158.8	3.56	7.55

Source: New Zealand Customs Service

$8.078 million of Hong Kong-origin clothing classified under HS chapter 62. 90 percent of these imports attracted duty, and were levied total duties of $1.463 million. The average duty paid on all Hong Kong-origin HS 62 items was 18.11 percent, or an average duty of 20.23 percent on those items actually attracting duty.

44 percent of imports by value from Hong Kong during the June 2000 year were concentrated in the three sectors of electrical equipment, general machinery and printed matter. These imports have close to duty free access now. They attracted an average duty of 0.24 percent at the New Zealand border (down from 0.59 percent in 1995 and 0.57percent in 1997), or some 4.1 percent of the total duties assessed on all imports from Hong Kong in the year to June 2000.

Rules of Origin

Rules of origin are the key to administration of any system of tariff preferences. As exporters from third countries have an clear incentive to channel goods through a preference-receiving country, such controls are essential.

New Zealand and Hong Kong have contrasting systems of rules of origin. In part this reflects the different perspectives of, on the one hand, a country which does not apply tariffs to imports and, on the other hand, a country which maintains protective tariffs on products which compete directly with local production.

Hong Kong does not have a reciprocal preferential arrangement with any other country (although it does receive “developing country” tariff preferences from some countries). Hong Kong operates a set of general purpose origin rules based on the requirement that specific production processes are undertaken in Hong Kong. Such rules of origin do not relate to any trading arrangement, but are administered primarily to facilitate Hong Kong’s exports to foreign markets. Exports of goods claiming Hong Kong origin status must conform to Hong Kong’s origin rules for the relevant products. This is particularly important for Hong Kong’s textiles and clothing exports which are subject to quota arrangements for the restrained markets of the USA, European Union and Canada.

It will be of crucial importance for New Zealand and Hong Kong to agree on a form of robust rules of origin. Only imports which satisfy the New Zealand Customs Service that they meet the agreed rules of origin tests to define product as genuinely of Hong Kong (and/or New Zealand) origin will be permitted to benefit from New Zealand's tariff preference.

Rules of Origin Systems

There are a number of alternative means of assessing origin :

- A rule linked to local/area content as a percentage of a particular cost/price level (In New Zealand this is determined by a formula which calculates the ex-factory cost). This is the formula used in CER with Australia and in our CEP with Singapore.
- A change-of-classification rule which provides that an input classified in one part of the internationally-accepted "Harmonised System" has been "substantially transformed" when it is processed into a final good classified elsewhere.
- A "specified process" rule along the lines of Hong Kong's general origin rules.

It is common for a given national system to include elements of each of the above options, or indeed to apply different systems for different purposes (eg the USA).

Certification Procedures

Rules of origin negotiated under a closer economic partnership with Hong Kong will need to be robust, transparent and easy to administer by the New Zealand Customs Service. The rules will need to be complemented by an appropriate enforcement regime to ensure they are complied with, and are capable of being enforced effectively by New Zealand Customs.

Certification arrangements already established for Hong Kong's exports may provide New Zealand with some assurance against preference abuse.

Hong Kong's textiles and clothing exports are regulated under its textiles export control system. It is a statute based system, comprising an origin certification system, a licensing system, a quota system for export to restrained markets and a stringent enforcement system to uphold its integrity.

The Hong Kong Trade and Industry Department oversees the implementation of the textile export control system, while policing of the control system is the responsibility of the Hong Kong Customs and Excise Department.

All textiles and garments exports from Hong Kong and imports into Hong Kong are required by law to be covered by valid licences or where appropriate textiles notifications. Misrepresentations, including those relating to country of origin, are liable to prosecution and administrative actions.

Under Hong Kong's origin certification, a factory is required to be registered before it is eligible for the issuing of a certificate of origin. Before registration, a factory has to satisfy the Hong Kong Customs and Excise Department that it has the capability to produce the relevant product for which the certificate of origin will be issued (eg suitable factory premises, workers with relevant skills and machinery for production). Periodic factory re-inspections are carried out to ensure that the factory is actively engaged in the manufacture of the product concerned.

A registered factory is required by law to keep detailed books and records for at least two years which enables the Hong Kong Customs and Excise Department to conduct regular and surprise checks on the production process. Selective consignment and factory inspections are also carried out from time to time by the Hong Kong Customs and Excise Department on a random or targeted basis against export licence or other applications, including certificate of origin to verify the authenticity of declared particulars and also to ascertain whether the goods concerned are indeed manufactured in Hong Kong.

There is already a close relationship between the New Zealand Customs Service and the Hong Kong Customs and Excise Department. The existing co-operative arrangement between the Customs agencies provides for assisting each other in the prevention, investigation and prosecution of offences in their respective jurisdictions and to assist in the assessment of Customs duties and other taxes. This relationship arrangement could be extended to capture specific elements relating to compliance with rules of origin established under a closer economic partnership agreement with Hong Kong.

Given the extent of re-exports of traded items via Hong Kong, a central issue to be addressed in a CEP negotiation would be the rules of origin to be applied and enforced against non-parties, to ensure that non-parties to the CEP Agreement did not derive an unintended benefit from tariff elimination. To effectively administer these rules of origin, the New Zealand and Hong Kong Customs authorities would need to develop improved networks, building on the already close relationship that exists through their current co-operative arrangement, in accordance with the laws applicable to both administations.

We are interested in receiving comments from importers, exporters and local manufacturers on rules of origin issues in relation to bilateral trade. We are also interested in receiving information on any difficulties relating to the above that you may have experienced in importing from or exporting to Hong Kong.

NON-TARIFF MEASURES

Removing Technical Barriers to Trade

As the CEP with Singapore has demonstrated, a CEP does not simply remove tariffs and restrictions on services. Gains can be made in a number of less obvious areas, particularly by providing ways to reduce compliance costs for New Zealand businesses exporting to Hong Kong associated with the need to meet different technical, sanitary and phytosanitary regulatory requirements. New Zealand exporters of manufactured products and food frequently report technical and bureaucratic measures which impede their entry into Asian markets. Accordingly any provisions in the CEP Agreement that seek to address or eliminate such measures, would be beneficial for New Zealand businesses. It would not, however, affect our ability to maintain in place a robust biosecurity regime.

Safeguards and Anti-dumping

In the last 10 years, New Zealand has not initiated any safeguard measures, or imposed anti-dumping duties against goods of Hong Kong origin. Two anti-dumping complaints were investigated by the then Ministry of Commerce, but both were terminated before duties were imposed.

In relation to the first product complained about, men's footwear, the investigation was terminated because the goods complained about were actually of Chinese origin. Anti-dumping duties were imposed against Chinese product (and product from a number of other Asian countries) as a result of the complaint.

The investigation on the second product, men's business shirts, was terminated by the New Zealand applicant company.

Intellectual Property

Both New Zealand and Hong Kong are party to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), a WTO agreement which applies to copyright and related rights as well as trademarks, industrial designs, patents, layout design of integrated circuits and protection of trade secrets. The TRIPS Agreement also requires parties to adopt border enforcement measures against counterfeit trademark goods and pirated copyright merchandise.

As a signatory to the TRIPS Agreement, Hong Kong has, over recent years, implemented robust control measures to stem the production and sale of counterfeit and pirated goods within the territory, and to this end has been noticeably successful to the extent of attracting favourable comment from both the USA and the EU on its control measures and domestic success in cracking down on illegal activities.

Nevertheless, the New Zealand Customs Service continues to intercept merchandise, sometimes in significant quantities, which breaches the provision of the TRIPS Agreement. A high percentage of this merchandise, manufactured in China, is invoiced out of, or transshipped through, Hong Kong.

There is currently little difference between the tariffs applied to goods ex-Hong Kong and to goods ex-China. Even if goods are falsely labelled, tariff revenue is unaffected. However, in the event that a CEP was concluded and tariffs eliminated on goods of Hong Kong origin, an issue to be addressed is whether measures of enforcement additional to those currently in place would be required.

We are interested in receiving information from importers and exporters on specific technical or sanitary/phytosanitary measures affecting or impeding trade with Hong Kong, particularly in relation to standards and conformance issues and information on any intellectual property issue of concern to New Zealand businesses.

CHAPTER FIVE: SERVICES TRADE

Services trade flows are difficult to quantify, because there is no agreement on the statistical definition of traded services, and because of the difficulty of identification. There is, however, agreement that available data significantly underestimates these flows. Table 12 places the official services flows of Hong Kong in perspective and shows that Hong Kong has a large surplus on its services trade. Globally, it was the 10th largest exporter and 15th largest importer of services in 1999.

Services trade between New Zealand and Hong Kong is governed by the WTO General Agreement on Trade in Services (GATS). On the basis of Hong Kong's 1994 GATS schedule which sets out the specifics of Hong Kong's intentional obligations on services, there is significant scope for New Zealand to seek additional services commitments from Hong Kong via a Closer Economic Partnership Agreement.

CURRENT NEW ZEALAND SERVICES EXPORTS TO HONG KONG

Data on the value of services exports from New Zealand to Hong Kong are incomplete, as detailed services data are hard to obtain, and confidentiality concerns preclude Statistics New Zealand from releasing data where individual providers could be identified. Nevertheless, recent aggregate data show services exports to Hong Kong, excluding travel, education, transportation and

TABLE 12: SERVICES TRADE 1999 DATA FOR HONG KONG AND NEW ZEALAND

	EXPORTS		IMPORTS		BALANCE
EXPORTER	VALUE (NZ$ BN)	SHARE % WORLD	VALUE (NZ$ BN)	SHARE % WORLD	(NZ$ BN)
NEW ZEALAND	8.02	0.31	8.50	0.33	-0.48
HONG KONG	65.8	2.60	46.22	1.80	19.58

Source: WTO International Trade Trends and Statistics government services, of $14.7 million. The only available breakdown of these exports indicates that it includes:

- computer and information services of $2.2 million;
- legal, accounting and management consulting etc of $4.9 million; and
- architectural, engineering and technical services of $1 million.

It must be stressed that data inadequacies mean these figures significantly understate the true picture on current services trade.

POSSIBLE GAINS FOR NEW ZEALAND

Hong Kong has not made commitments in the WTO on a number of services sectors in which New Zealand has a significant trade interest (architecture, engineering, legal, postal, education, environment and air transport services). A further priority for New Zealand would be construction services, where Hong Kong's commitments have limited scope because they cover only building completion and project management. New Zealand would therefore want to explore the possibility of greater coverage of these key professional and infrastructural sectors. Presence of natural persons is another area New Zealand would want to examine, as Hong Kong's current commitments do not guarantee access for services sellers as business visitors.

In those sectors which are included in its WTO schedule, Hong Kong has limited its commitments on national treatment for foreign services suppliers. In other words, Hong Kong has not committed to provide the same treatment to services suppliers from other WTO Members that it gives to domestic services suppliers. Hong Kong's GATS commitments generally relate to the commercial presence of services suppliers, but not the cross border supply of services. This could likewise be addressed in the context of any CEP negotiation.

SPECIFIC SECTORAL INTERESTS

Education

Education is a key services export sector for New Zealand. It is our fourth largest services export sector, with an estimated $415 million in foreign exchange earnings during the 1999 December year from students studying in New Zealand. As yet, revenue earned by New Zealand institutions from distance learning or commercial presence abroad has not been calculated.

Over 1,100 Hong Kong students studying in New Zealand in 1999 were estimated to have provided some $19.6 million or 4.7 percent of the total figure. A detailed breakdown of these students' numbers shows there were 398 in New Zealand high schools, 365 in tertiary institutions and 335 studying

English as a second language during 1999 (based on full-time equivalent numbers). Trade New Zealand and Education New Zealand Trust have identified Hong Kong as a potential growth market across all education sectors, providing New Zealand can remedy its current low market profile.

Hong Kong has no commitments on education in its WTO schedule. A CEP would present an opportunity to seek full commitments on market access and national treatment for New Zealand education providers, particularly in relation to short term, secondary and tertiary students. Hong Kong's education sector is open and deregulated, and there appear to be few practical impediments to entry for New Zealand suppliers. It is worth noting that the UK and Australia are at present the dominant providers of education services to Hong Kong students, through commercial presence and distance learning, as well as study abroad. Market access and national treatment commitments would provide certainty for New Zealand education providers seeking to expand their presence in the Hong Kong market.

The opportunity to enter into discussion with Hong Kong over the expansion of commitments on education services comes at a fortuitous time for New Zealand. Hong Kong is currently in the process of reviewing and expanding its education sector, with a particular focus on the tertiary sector. Hong Kong's education authorities have indicated an intention to double the number of students undertaking some form of tertiary study. It is proposed that Hong Kong's own capacity to provide tertiary education be bolstered through the provision of education services by foreign suppliers - either through study abroad by Hong Kong students, distance learning or the establishment of courses in Hong Kong by foreign institutions (or a combination of the three). Hong Kong has indicated a strong interest in expanding links with New Zealand education agencies and institutions as part of this process.

It is also worth noting that Hong Kong parents are currently sending secondary level students abroad in increasing numbers, in order to improve their English language skills. This may further present opportunities for New Zealand secondary schools.

Tourism

New Zealand tourism data feature a dramatic growth in arrival numbers and individual spending levels from the newly industrialised Asian economies of Korea, Taiwan, and the South East Asian countries. From just over 100,000 in the June 1992 year, arrival numbers from Asia increased to 311,000 by June 1997 before declining as a result of the Asian financial crisis. This growth was fuelled by a rise in disposable income in those economies, general economic liberalisation, the advent of direct air services from most of the Asian capitals and, as well, selected visa waiver agreements.

A CEP agreement could be expected to encourage visitors from Hong Kong by raising New Zealand's profile in the Hong Kong market. In contrast with the other newly industrialised Asian economies, tourist numbers from Hong Kong have actually been static at around the 30,000 mark for the past 5 years (actual tourist numbers in 2000 were 29,942). Hong Kong has no market access limitations in its WTO schedule on the consumption abroad mode of services delivery (where consumers travel to another country to consume services) for tourism and travel services, meaning that for New Zealand's purposes, the ability of Hong Kong citizens to consume travel and tourism services abroad is already assured. Hong Kong has full commitments for hotel, restaurant, travel agency and tourism operator services, permitting the commercial presence of New Zealand firms in Hong Kong. Broader sectoral definitions (particularly in relation to travel agency and tourism operator services) and improved commitments in market access and national treatment in cross border supply, could be expected to expand market access opportunities for New Zealand tourism companies seeking to deliver services cross-border to Hong Kong consumers. New Zealand also stands to make substantive gains in the tourism sector through expanded air services commitments from Hong Kong.

For New Zealanders travelling overseas, the data show that some 21,630 and 20,950 tourists declared Hong Kong to be their main destination for short-term departures over the two most recent September years. This was 1.8 and 1.7 percent of the totals for 1999 and 2000 respectively.

Environmental Services

On environmental services, it is important to note the comments made by Mrs Anson Chan, Hong Kong's Chief Secretary for Administration, during her recent visit to New Zealand in November 2000. In an address to the Hong Kong/New Zealand Business Association, Mrs Chan said that:

> New Zealand companies have a wide range of expertise in areas such as clean transport, solid waste management and recycling. Local authorities also have expertise and experience they may wish to share. We would like to welcome partnership in any of these areas.

Air Transport

On air transport services, the CEP would provide an opportunity to seek commitments not only on the three "soft" rights explicitly covered by the GATS (eg aircraft maintenance and repair, selling and marketing, and computer reservation services), but also to attempt to secure commitments on a range of other rights (eg catering, ground handling, airport management, air traffic control and general aviation services).

Professional Qualifications

The recognition by Hong Kong of New Zealand professional, secondary and tertiary qualifications is another element which would assist New Zealand in marketing its education services to Hong Kong. A CEP with Hong Kong could explore scope for incorporation of a mechanism to facilitate the conclusion of agreements between regulatory agencies, professional groups and educational institutions to recognise qualifications and professional registration.

Air Services

Air services between Hong Kong and New Zealand (which are different from the air transport services discussed above) are covered by a bilateral Air Services Agreement (ASA). Currently there are eleven direct flights a week between Hong Kong and New Zealand; four by Air New Zealand with 767s and daily flights by Cathay Pacific with A340s. It will be important to ensure that air services arrangements between New Zealand and Hong Kong, negotiated pursuant to the bilateral ASA, are sufficiently liberal to support and further the enhanced trade and economic relationship that a CEP would put in place, involving increased movement of goods and people between the two economies.

IMPACT OF A CEP ON THE NEW ZEALAND SERVICES MARKET

New Zealand's services market is already open and largely deregulated. Under the WTO our commitments on market access and national treatment are more extensive than Hong Kong's. The exact implications of a CEP with Hong Kong for the New Zealand services sector will become clearer once formal negotiations commence and would be discussed with the industries and/or exporters concerned.

We are interested to learn of any difficulties New Zealand services suppliers have experienced in accessing the Hong Kong services market, particularly in relation to laws and/or administrative practices that may make it difficult for New Zealanders to do business in Hong Kong.

CHAPTER SIX: INVESTMENT ISSUES

Hong Kong is a regional financial centre and is an important source of investment funds for New Zealand. Table 13 shows that New Zealand investment in Hong Kong has been negative due to New Zealand companies accessing capital in this market while Hong Kong investment into New Zealand has been positive. Table 11 also illustrates that there is variation in the annual investment flows. For the year ended March 2000, Hong Kong was New Zealand's sixth largest source of international direct investment, after Australia, the United States, the United Kingdom, Netherlands and Japan.

New Zealand and Hong Kong concluded an Investment Protection and Promotion Agreement (IPPA) in 1995, signed prior to Hong Kong's reversion to Chinese sovereignty. A CEP Agreement could afford the opportunity to establish mechanisms aimed at encouraging greater two way flows of productive new investment, which in New Zealand's case, would complement the Government's economic and regional development priorities.

TABLE 13: NEW ZEALAND—HONG KONG DIRECT INVESTMENT (NZ$ MILLIONS)

YEAR ENDED MARCH	NEW ZEALAND DIRECT INVESTMENT IN HONG KONG	HONG KONG DIRECT INVESTMENT IN NEW ZEALAND
1996	-112	1439
1997	-678	1355
1998	-1086	1117
1999	-1632	875
2000	-583	1067

Source: Statistics New Zealand

We are interested in receiving information from businesses or investors on possible barriers to two way investment flows between New Zealand and Hong Kong.

CHAPTER SEVEN: OTHER ISSUES WITH A CEP

COMPETITION POLICY

An area where New Zealand could benefit from a CEP with Hong Kong would be by including provisions in any agreement that focussed on improving the competitive environment for New Zealand and Hong Kong exporters in each other's markets.

There is no single regulatory system or comprehensive competition law in Hong Kong. The absence of anti-trust laws may have led to the domination of some service sectors by major local companies in the form of monopolies. These entities do not necessarily discriminate against the goods or services of any particular foreign players, but they may be able to use their market position to block effective competition. They do not, however, appear to operate in areas in which New Zealand has a direct interest. They are also the focus of a government competition policy that is gradually dismantling some of the monopolies and cartels that have dominated the economy.

Like the Singapore CEP, an agreement with Hong Kong could seek to promote transparency and discipline to the distortions in competition that exist in some of Hong Kong's services sectors, and also provide some clarity into the system of franchises and other restrictions imposed by the Hong Kong Government.

DOUBLE TAXATION

Currently there is no Double Taxation Agreement (DTA) between New Zealand and Hong Kong. Hong Kong does not have any DTAs, apart from one with China. Hong Kong and New Zealand have in the past discussed a possible DTA. However, both sides had felt that given the tax structure in Hong Kong, the fact that Hong Kong taxes only at source, and that New Zealand business had never sought tax relief via a DTA, there was little incentive on either side to negotiate one. The Inland Revenue Department has advised that no New Zealand businesses have identified tax problems in respect of Hong Kong in recent years. This does not mean, however, that problems with taxation might not arise in the future between New Zealand and Hong

Kong, in particular if a bilateral CEP establishes an enhanced bilateral trade and economic relationship.

EXCEPTIONS

It is standard practice in international, regional or bilateral trade agreements to include provisions to safeguard the ability of each party to the agreement to adopt measures (exceptions) for a limited number of specified purposes without infringing the letter or spirit of the agreement. These for the most part are based on GATT Article XX and include for example measures necessary to protect human, animal or plant life or health; to protect public morals; or relating to the conservation of exhaustible natural resources. Such measures must not constitute arbitrary or unjustifiable discrimination or be a disguised restriction on trade and investment and the measures must be no more restrictive than necessary to achieve the intended policy objective.

TREATY OF WAITANGI

As with the CEP Agreement with Singapore (Article 74) New Zealand would wish to include a provision in any CEP with Hong Kong safeguarding the Government's ability, now and in the future, to adopt measures necessary to accord more favourable treatment to Maori in respect of matters covered by the CEP Agreement including in fulfillment of its obligations under the Treaty of Waitangi.

We are interested in receiving comments on the above, in particular information on any taxation issues or competition policy issues that New Zealand exporters, importers or businesses consider might impact negatively on a CEP relationship with Hong Kong.

CHAPTER EIGHT: LABOUR STANDARDS AND ENVIRONMENTAL STANDARDS

The Government has indicated that it would like to see labour and environmental standards better integrated with trade agreements without allowing developed countries to use this as a pretext to keep out developing country exports. Until recently, few bilateral or regional trade agreements included detailed provisions on either trade and labour or trade and the environment. The agreements with the most direct incorporation of such provisions involve the US (eg the US/Jordan Free Trade Agreement).

Membership of the ILO and the environmental agreements listed below are limited to states. Hong Kong is not a member as such, yet it participates in these activities in a capacity commensurate with its consititutional status, and the relevant ILO conventions and environmental agreements are applied by the Hong Kong SAR.

LABOUR STANDARDS

Hong Kong applies many of the same labour conventions as New Zealand (right to organise and bargain collectively, prohibition against forced labour, employment of children etc). There is currently no statutory minimum wage. According to a Hong Kong government publication (Quarterly Report of Wage and Payroll Statistics September 2000), the overall wage rate for employees in the manufacturing sectors is HK$118,164 (NZ$33,761). For employees working in the TCF sector, the lowest wage rate was in the garment industry sector where employees earned an average HK$94,668 (NZ$27,048) per annum.

With a labour force of 3.4 million and some 300,000 employers operating enterprises of varying sizes, Hong Kong authorities advise that the Hong Kong Labour Department last year conducted more than 160,000 inspections to ensure compliance of provisions relating to employees' rights and benefits, and another 150,000 inspections on compliance of safety and health standards. Arising from these investigations, Hong Kong took nearly 8,000 prosecutions, and secured about the same number of convictions.

The eight core ILO conventions are listed below with New Zealand and Hong Kong application in brackets:

- Forced Labour (1930)—(NZ and Hong Kong)
- Freedom of Association and Protection of the Right to Organize (1948)—(Hong Kong)
- Right to Organize and Collective Bargaining (1949)—(Hong Kong)
- Equal Remuneration (1951)—(NZ)
- Abolition of Forced Labour (1957)—(NZ and Hong Kong)
- Discrimination (Employment and Occupation) (1958)—(NZ)
- Minimum Age Convention (1973)—(Hong Kong)
- Elimination of the Worst Forms of Child Labour (1999)—(neither)

Of 183 ILO conventions, currently adopted by the ILO, Australia applies 50, New Zealand 48 and Hong Kong 40. This compares with Japan (37), Singapore (20), Korea (11), China (17) and India (37).

The Hong Kong authorities have provided the Ministry of Foreign Affairs and Trade with further information on its labour laws which can be made available to interested parties on request.

ENVIRONMENTAL STANDARDS

From an environmental perspective, Hong Kong applies many of the key global agreements including:

- Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol to the Convention
- Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships
- United Nations Convention on the Law of the Sea (UNCLOS)
- The Antarctic Treaty
- International Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Convention on the Conservation of Migratory Species of Wild Animals
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

In addition, in the past two years Hong Kong has placed a greater emphasis on improving the quality of its environment, and has implemented a number of measures aimed at encouraging sustainable development and preventing and reducing environmental pollution. It has indicated, as reflected in the agreed Understanding, that it is be willing to identify issues of mutual concern for dialogue and co-operation in a bilateral CEP with New Zealand.

ANNEX ONE: GLOSSARY OF TERMS AND ACRONYMS USED IN THE DISCUSSION PAPER

Anti-dumping measures: Special import duties known as anti-dumping duties are imposed on an imported product when an investigation reveals that a firm has sold a product in an importing market at a price below the price it charges for the same product in its own market, and this action has a demonstrable effect on trade volumes in the local market. Anti-dumping measures are duties over and above any normal tariff duties which may apply.

APEC: the Asia Pacific Economic Co-operation forum. APEC's goal (the 'Bogor" goal) is to achieve free and open trade and investment in the APEC region by 2020. Developed country members have undertaken to do so by 2010.

The Basic Law: effectively Hong Kong's Constitution, it sets out the principles governing the relationship between Hong Kong and China.

Bound tariffs: these are tariff levels for products which WTO members have agreed not to raise above a specified rate (the "bound" rate) agreed in GATT negotiations and incorporated in a country's WTO schedule of concessions. These are enforceable through the WTO.

CIF: a formula for the purpose of valuing goods which includes the cost of manufacture, plus international insurance and freight charges.

GATS: General Agreement on Trade in Services. An agreement which forms part of all WTO members' multilateral trade commitments. It covers all trade in services except bilateral aviation rights and services purchased or supplied in the exercise of governmental authority. A member's specific commitments in services are set out in a national schedule, similar to that for its commitments of tariff concessions in goods trade.

GATT: General Agreement on Tariffs and Trade. The GATT entered into force in 1948 as a provisional agreement, and remained so until its provisions became part of the WTO framework on 1 January 1995. It established multilateral rights and obligations for trade in goods.

HS: Harmonised System, also known as the *Harmonised Commodity Description and Coding System* which is managed by the World Customs Organisation. This is a system for classifying goods traded internationally. HS 61 and 62 referred to in the discussion paper are the headings for the two main chapters covering TCF products.

ILO: The International Labour Organisation, headquarters in Geneva.

IPPA: Investment Protection and Promotion Agreement: Bilateral investment agreements aimed at promoting the flow of capital for economic activity and development.

MFN: Most favoured nation treatment: this is a fundamental WTO obligation in both the GATT and GATS agreements. It requires a member country to extend any favourable treatment in relation to a good or service that it gives to one country to all other WTO members. There are very few exceptions to this equality of treatment concept, the most significant being for members of WTO consistent free trade areas (such as our CER agreement with Australia, or our CEP with Singapore) or customs unions, (such as the European Union). In such cases members belonging to free trade areas or customs unions are not obliged to extend the same preferential treatment to countries which are not members.

Non-Tariff Measures: Government measures other than tariffs that restrict trade flows, eg import licensing, or overly stringent technical standards.

Rules of Origin: These are laws, regulations and administrative rulings applied by governments to determine the country of origin of goods.

Safeguard Measures: An urgent temporary measure (usually a temporary tariff increase or surcharge) designed to remedy serious injury to an industry resulting from sudden surges or increases in competing imports. Safeguard measures deal with goods that are being "fairly traded". In contrast, anti-dumping measures deal with goods which are being traded "unfairly" ie dumped.

Sanitary and Phytosanitary Measures: Border control measures necessary to protect human health, animal or plant life or health, eg biosecurity measures to prevent the spread of foot and mouth disease, or to establish permissible residue levels in food and drink imports.

Tariff: a duty or tax levied at the border on goods going from one customs territory to another.

TCF: shorthand for textiles, clothing and footwear.

Technical Barriers to Trade: Impediments to trade resulting from the existence of standards and conformity assessment systems. (See non-tariff measures). These may become a problem in international trade where the standards are designed primarily as a restriction to trade rather than to address legitimate consumer issues: eg electrical safety standards.

WCO: World Customs Organization.

WTO: The World Trade Organization. Established on 1 January 1995 as the successor to the GATT. The GATT is now one of the Agreements administered by it. The WTO is an organisation for the discussion, negotiation and resolution of trade issues covering goods, services and intellectual property.

ANNEX TWO: THE UNDERSTANDING AGREED BETWEEN NEW ZEALAND AND HONG KONG ON PARAMETERS FOR A CEP NEGOTIATION

Record of Initial Exploratory Discussions between Hong Kong, China and New Zealand on a Possible Closer Economic Partnership Agreement

Wellington, 16-17 November 2000 &
Hong Kong, 22-23 February 2001

Hong Kong, China (hereinafter referred to as "Hong Kong") and New Zealand officials met in Wellington on 16 and 17 November 2000 and in Hong Kong on 22 and 23 February 2001 for informal, exploratory discussions on the possibility of negotiating a Closer Economic Partnership Agreement (the Agreement).

The two delegations would recommend to their respective Governments that the negotiations be based on the preambular principles, objectives and elements for negotiations set out in Annex A.

They would recommend to their respective Governments that negotiations commence as soon as practicable, once their Governments have taken decisions on appropriate negotiating mandates.

Subject to each economy's laws on the protection of confidentiality of information, both sides would exchange information on the issues that pertain to the elements agreed for the negotiations, as a means of increasing understanding and knowledge of their respective trade and investment regimes.

Other issues raised or discussed at the exploratory discussions which would not form elements of the negotiations, should they commence, are set out in Annex B.

For the delegation of Hong Kong, China	For the delegation of New Zealand
Cherry K C Ling	Peter Hamilton

<u>Annex A</u>

Preambular Principles

The following would be the preambular principles of the Agreement :

Conscious of their longstanding friendship and growing trade and investment relationship;

Conscious that open, transparent and competitive markets are the key drivers of economic efficiency, innovation, wealth creation and consumer welfare;

Conscious that e-commerce, information technologies and knowledge-based industries are supporting the rapid integration of global economic activity and development and expansion of their economies;

Recognising the importance of ongoing liberalisation of trade in goods and services at the multilateral level;

Aware of the growing importance of trade and investment for the economies of the Asia-Pacific region;

Confirming their rights, obligations and undertakings under the Marrakesh Agreement Establishing the WTO, and other multilateral, regional and bilateral agreements and arrangements;

Confirming their commitment to achieving the APEC goal of free and open trade and investment;

Recognising their commitment to securing trade liberalisation and an outward looking approach to trade and investment;

Confirming their shared commitment to trade facilitation through removing or reducing technical, sanitary and phytosanitary barriers to the movement of goods between Hong Kong and New Zealand;

Desiring to encourage greater international alignment of standards and regulations;

Mindful that liberalised trade in goods and services will assist the expansion of trade and investment flows, raise the standard of living and create new employment opportunities and improved conditions in their respective economies;

Recognising their right to regulate, and to introduce new regulations on the supply of services and investment in order to meet government policy objectives of the two economies;

Conscious that a clearly established and pro-liberalisation framework of rules for trade in goods, services and for investment will provide confidence to their businesses to take investment and planning decisions, lead to a more effective use of resources and increase capacity to contribute to economic development and prosperity through international exchanges and the promotion of closer links with other economies, especially in the APEC region;

Recognising the importance of promoting the objective of sustainable development; and

Recognising the need for good corporate governance and a predictable, transparent and consistent environment, so that businesses can conduct transactions freely, use resources efficiently and obtain rewards for innovation.

Objectives

The objectives of Hong Kong and New Zealand in negotiating this Agreement are:

(a) to strengthen their bilateral relationship through the establishment of a mutually beneficial closer economic partnership;

(b) to liberalise, facilitate and expand bilateral trade in goods and services;

(c) to ensure a liberal, open bilateral environment to expand investment building on existing frameworks;

(d) to improve the efficiency and competitiveness of their goods and services sectors;

(e) to ensure measures affecting trade and investment between the two economies are transparent, fair and equitable;

(f) to support the wider liberalisation process in APEC and in particular the efforts of all APEC economies to meet the Bogor goal of free and open trade and investment by 2010 at the latest for industrialised economies and 2020 at the latest for developing economies; and

(g) to support the World Trade Organisation (WTO) in its efforts to create a predictable, freer and more open global trading environment.

<u>Elements for Negotiations</u>

Competition

The objective would be to agree on a framework under which the two economies can work actively to develop and promote an improved competitive environment through the implementation of the APEC Principles to Enhance Competition and Regulatory Reform.

Tariffs

Hong Kong and New Zealand would seek to agree on the modalities for early elimination of tariffs on all goods of Hong Kong and New Zealand origin by an agreed date.

Rules of Origin

Negotiations would seek to agree on a set of modern, forward looking rules of origin, designed to encourage bilateral trade in goods between Hong Kong and New Zealand, while at the same time ensuring that only goods of Hong Kong or New Zealand origin benefit from the removal of tariffs.

Non-tariff Barriers

The objective of negotiations would be to develop rigorous disciplines to ensure that non-tariff barriers are not used or developed to impede trade between the two economies. Quantitative import and export restrictions and prohibitions would be a particular focus.

Subsidies

Negotiations would seek to agree on a framework of rules prohibiting the use of export subsidies on all goods, including agricultural products. Negotiations would consider agreeing on a framework by which additional disciplines on subsidies might be considered, while recognising the right of both governments to pursue their social development objectives and promote economic development in a manner which does not distort trade between the two economies.

Customs Procedures

Negotiations would seek to identify ways to simplify customs procedures for bilateral trade, in particular, through the use of electronic means and building on the APEC goals of paperless trading. Both sides would also seek to agree on a framework to promote bilateral customs cooperation, building on the existing cooperative arrangement between the Hong Kong Customs and Excise Department and the New Zealand Customs Service concluded in 1991.

Emergency Action

Negotiations would seek to agree on a framework which would address the full range of options relating to the liberalisation of safeguard measures in their bilateral trade.

Anti Dumping

Negotiations would study policy in this area, including the scope for liberalising anti-dumping policy with regard to bilateral trade.

E-commerce/New Economy

Negotiations would aim to agree on a framework to consider ways to improve the regulatory environment in both economies that better enables business to take full advantage of the new opportunities opening up in this area.

Trade in Services

Negotiations would seek to agree on a framework for liberalisation of trade in services between the two economies, consistent with the APEC goal of free and open trade and investment by 2010. As part of this process, the two economies would progressively liberalise their trade in services, building on their GATS commitments and agree to consider a framework under which the competent bodies of Hong Kong and New Zealand can consider issues relating to the recognition of qualifications and accreditation.

Investment

Negotiations would aim to enhance the liberalisation and promotion of investment between the two economies, building on existing multilateral, regional and bilateral frameworks.

Standards and Conformance

The aim would be to reduce, for their respective businesses, transaction and compliance costs associated with technical, sanitary and phytosanitary barriers to trade, including through the reduction of such barriers. An initial focus would be on establishing a framework for reaching agreements on mutual recognition of equivalence of mandatory requirements, conformity assessment, and equivalence of standards.

Government Procurement

The objective would be to achieve liberalisation through the establishment of a framework of rules in the government procurement process of both economies based on APEC's Non-binding Principles on Government Procurement and the WTO Agreement on Government Procurement.

Intellectual Property

The two economies would seek to ensure appropriate protection of intellectual property in accordance with WTO TRIPS obligations.

Trade and Environment

The two economies would discuss recent developments on trade and environment with a view to identifying issues of mutual concern for further dialogue and cooperation.

Dispute Settlement

The two economies would seek to agree on a simple mechanism for timely settlement of disputes between them concerning their rights and obligations under the Agreement.

Transparency

The two economies would seek to enhance transparency and understanding of each other's measures pertaining to or affecting bilateral trade and investment, including the exchange of information on business laws.

Review

The two economies would seek to include in the Agreement a mechanism for periodic reviews.

Participation by other economies

The Agreement would be open to accession by economies or economic groupings that share its underlying objectives. The two economies would have special regard to the individual circumstances of such economies or economic groupings when considering their requests for accession.

Exceptions

Both economies would retain the right to adopt measures for a limited number of purposes to be agreed, provided that the measures would not constitute means of arbitrary or unjustifiable discrimination, or a disguised restriction on trade or investment, and that the measures would be no more restrictive than necessary to achieve the agreed purposes.

Annex B

Taxation

Noting that Hong Kong and New Zealand had not yet concluded a Double Taxation Agreement, the two delegations would propose for consideration by their respective taxation authorities the merits of the two economies entering into discussions on matters relating to avoidance of double taxation.

Air Services

Both sides recognised the importance of promoting a liberal bilateral aviation relationship. To this end, they would invite their respective aviation authorities to consider this issue separately within the framework of their bilateral Air Services Agreement.

Trade and Labour

New Zealand officials explained the policy of the New Zealand Government that legitimate issues of labour standards should be better integrated with trade agreements, but these concerns should not be used as devices to protect against fair competition from developing countries.

Hong Kong officials explained the long standing and principled position of the Hong Kong Government that it was inappropriate to link such issues to any trade negotiations and agreements or to discuss such issues in any economic and trade fora. The ILO provides a mechanism to address labour standards issues on an international level.

Both sides found the exchange useful in enhancing understanding of each other's positions, and would be prepared to continue the exchange on a need basis and in the appropriate context.