ADDRESS TO LATIN AMERICA NEW ZEALAND BUSINESS COUNCIL
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STEPHEN JACOBI
EXECUTIVE DIRECTOR
NEW ZEALAND INTERNATIONAL BUSINESS FORUM

UNDERSTANDING TPP AND ITS IMPORTANCE FOR NEW ZEALAND AND LATIN AMERICA

Thanks very much for the opportunity to be with you this evening.

For many years we lived in Napier and our house had a wonderful view across the great Pacific Ocean.

We used to wave occasionally to the neighbours – in Chile, some 9,000 km away!

This Business Council exists to bring Latin America and New Zealand closer together.

I congratulate you for the new energy that is evident in the Business Council, which can only be to the benefit of business on both sides of the Pacific.

The Trans Pacific Partnership (TPP), completed on 5 October, should serve to do much the same thing – extending the FTA we already have with Chile to Mexico and Peru, and hopefully one day to other economies in the hemisphere.

In sharing some thoughts with you today I'd like to focus on three aspects:

- Why a new instrument like TPP has become so necessary to link business on both sides of the Pacific
- How we might begin to evaluate the TPP outcome and its potential benefits
- Where TPP might take us in the future, and particularly in 2016 when Peru assumes the Chair of APEC.

I'm speaking to you today from the vantage point of the NZ International Business Forum which brings together some of the larger players in New Zealand's international trade and the peak business organisations – you can find out more about us by looking at our website www.tradeworks.org.nz.

Our website has a wealth of information about why and how trade and investment are important to New Zealanders – please also follow us on Twitter !

Why TPP?

Governments seek to negotiate trade agreements primarily to seek advantage – advantage for business, advantage for workers and consumers and advantage for their economies as a whole.

Today trade and investment are changing as economies become increasingly integrated and inter-connected.

The way we do business is also changing – old models based on import/export are giving way to increasingly complex value chains and networks.

This gives rise to an urgent, new agenda based on market integration rather than simply market access.

Tariffs are still a problem – especially in agriculture – but more than ever before there is a need to focus on behind the border issues more suited to the 21st century like investment, services, supply chain connectivity, regulatory alignment and innovation.

This is where TPP comes in.

It's worth remembering that TPP was essentially a New Zealand idea – a vision of a more seamless environment for trade and investment in the Asia Pacific region – which was born in the early 1990s towards the end of the Uruguay Round and pursued with resolve over the last 20 years.

Our good friend Chile has been a close ally from the beginning.

That's to be expected because, despite the cultural and geographical distance between us, we share many things – latitude, radiata pine, cows, enterprising people and a deep belief in the value of open markets.

New Zealand and Chile together have been advocates for 'open regionalism' – the widest possible membership of economies, the greatest possible coverage of issues, the highest quality of agreement.

When Peru decided to join TPP on the margins of the APEC meeting in Lima in 2008 we added a new FTA partner in Latin America and the vision of a region-wide instrument began to take shape.

When Mexico joined TPP on the margins of the Honolulu APEC meeting in 2011, along with Canada and later Japan, TPP was catapulted into the big league – significantly increasing the size of the potential deal but increasing at the same time the complexity of the issues under discussion.

The TPP members represent around 38% of the world's GDP.

TPP's Latin American members represent around 6% of the GDP of the TPP member economies, 10.9% of TPP goods exports and 9.5% of imports.

From the beginning TPP has been a complex and ambitious undertaking.

That's because TPP aims to set up a more contemporary framework of rules for trade and investment that will lower costs, reduce the time for doing business, provide greater certainty and security and ensure that over time there is a more consistent approach to setting regulations and standards across the region.

It is in the nature of trade negotiations that there are difficult issues and the most difficult issues are usually left to the last.

The final outcome needs also to reflect a balance of interests that inevitably leads to a degree of disappointment in its wake.

That is certainly the case for New Zealand with TPP, as I will explain, but I have no doubt that we are collectively better off for having completed this ground-breaking negotiation.

Evaluating the TPP outcome

At the TPP Leaders meeting held on the margins of APEC in Honolulu in 2011 it was agreed that the final agreement would be “high quality, ambitious and comprehensive”.

This wording reflected the original vision of the negotiating parties and the opportunity to create a new framework for trade and investment that would have a significant impact on sustainable growth and jobs.

Looking at the final outcome from a New Zealand perspective it is hard to escape the reality that the original vision has been somewhat diluted.

Let me be clear: what came out of Atlanta is undoubtedly a major step forward, but it is something not quite as ambitious as the architects of TPP had in mind and less than what was on offer in Honolulu four years ago.

It is disappointing from a New Zealand perspective that the final deal falls short of the goal of comprehensive tariff elimination – all duties on all products for all parties – even if no sector is completely off the table.

Dairy is a case in point.

While we understand the sensitivities about agriculture in a number of economies, the fact of the matter is that dairy products represent 25 percent of New Zealand’s exports.

It is disappointing that after years of effort, and contrary to what was agreed in Honolulu, we have a final agreement which contains different commitments on dairy for a number of economies – in a few specific areas like dairy TPP is more like ‘a pluri-lateral agreement with bilateral characteristics’ than a single agreement between all 12 parties.

We see this mixed outcome on dairy in TPP as it applies to the three Latin American members.

From 2017 we will enjoy tariff-free access in Chile, a result of the earlier P4 agreement.

In Mexico TPP will open up small but permanent, shared quotas for butter, milk powders and cheese.

The shared quota for milk powder is the largest, increasing to 40,000 tonnes by year 10.

There is also tariff elimination over time on many protein products.

In Peru however our exports will continue to be restricted by the application of the Andean Price Band System.

Through this mechanism Peru applies a variable tariff on dairy products depending on where international prices are relative to domestic prices.

Interestingly the United States was successful in exempting its exports from this system in the bilateral FTA it concluded in 2006 and which entered into force in 2009.

Disappointingly this is not the case for New Zealand under TPP and inexplicably therefore the United States enjoys better access to Peru than New Zealand.

Despite this disappointment there are on agricultural products some very positive gains for New Zealand from TPP in Mexico and Peru:

- Beef tariffs are eliminated in Mexico (25%) over 10 years and Peru (17%) over 11 years
- Sheepmeat tariffs are eliminated in Mexico (10%) over 8 years and Peru (9%) on entry into force
- Wine tariffs will be eliminated in Mexico over 3 years and Peru over 5 years
- Mussels tariffs will be eliminated in Mexico on entry into force and all seafood tariffs will be eliminated in 10 to 15 years (New Zealand's current fish trade already enters Peru duty free with other tariffs eliminated on entry into force)
- Wool, hides and skins and leather tariffs are eliminated in both markets.

Manufactured goods tariffs are also eliminated in Mexico and Peru over 15 years or less.

The use of cumulation in establishing rules of origin for goods originating from TPP economies has been cited as a major again for the Latin American members who are developing competitive value chains across the region.

But TPP was always meant to be about more than tariffs.

New disciplines and processes for addressing non tariff barriers will help contain and address new means of protectionism which are becoming even more problematic as tariffs come down.

To the list of gains for goods should be added liberalisation of rules applying to services trade in areas including education, financial and professional services, as well as greater certainty and security for inward and outward investment.

TPP members will benefit from the elimination of New Zealand's remaining tariffs and will benefit also from the raising of the investment screening threshold from $100 million to $200 million for areas other than sensitive agricultural land.

In the New Zealand market Mexico and Peru will join Chile in being accorded equivalent access to competitors like China, ASEAN, Korea and Taiwan, all of whom FTAs with New Zealand.

TPP has also added for the very first time in an FTA binding disciplines on the environment and labour, which should enhance outcomes in developing economies, although the three Latin American economies are likely already to have implemented most of these commitments.

In New Zealand's case, while TPP may not have delivered all we wanted, this has been achieved without the likelihood of significant adjustment in areas of domestic policy.

On medicines TPP preserves the operations of Pharmac, albeit with some modifications to the way Pharmac interacts with industry.

On investment the screening threshold is raised from $100 million to $200 million but TPP retains the right to regulate in areas such as public health, the environment and provides an exemption for New Zealand's existing approach to regulating investment through the Overseas Investment Act.

The Treaty of Waitangi is clearly protected.

TPP also limits the scope of investor state dispute settlement to measures affecting tobacco – an extraordinary facing down of the powerful tobacco lobby in the United States – as well as to a range of regulatory approvals.

On intellectual property TPP upholds existing policy settings except in relation to the copyright term – where in New Zealand the term will rise from fifty to seventy years.

The period of data protection for biologic drugs stays at five years as presently with some as yet undefined additional administrative processes.

On state owned enterprises TPP's disciplines are close to what we already have here and should not call into question government ownership of entities in New Zealand.

The Government is on record as saying that the costs and any risks arising from these changes can be managed.

The overall economic impact of TPP on New Zealand will be determined by the depth of liberalisation in the agreement, the timing of entry into force and the timeframe for completing the liberalisation process.

FTAs deliver some immediate benefits from day one (and even from before day one as the market readies itself for implementation) but their effect tends to accelerate over time.

We have seen this already with the NZ China FTA, which gave rise to an extra-ordinary increase in two way trade, due as much to what are called the 'dynamic gains of trade' as to the progressive elimination of tariffs and other trade barriers.

Those 'dynamic gains of trade' have to do with the increased commercial attention that an FTA tends to focus on the relationship as well as the framework that an FTA provides to improve the relationship over time.

New Zealand experienced these same dynamic gains arising from the CER relationship with Australia over the last 25 years.

I fully expect to see these dynamic gains arising from TPP once it is signed, ratified and has entered into force.

For the time being the Government is pointing to economic gains of $2.7 billion by 2030, but I think we can safely assume that these studies will need to be revised once the agreement enters into force and business starts to take advantage of the new business environment that TPP will put in place.

Where to next?

Attention now turns to the signing of the TPP treaty – which we expect might take place, possibly in New Zealand in February next year – and, most importantly, the ratification process.

Treaties are normally signed once the substantive negotiations are completed, but they only enter into force once ratified.

In the case of TPP the Treaty makes clear that the Treaty may enter into force only if a threshold of 85% of the combined GDP of the original signatories is met.

That essentially means that both the United States and Japan need to ratify TPP.

Each 12 members have different legislative requirements and processes.

The process is most complicated in the United States where a considerable degree of uncertainty continues as to whether President Obama will be able to persuade Congress to ratify the deal under the expedited 'up or down' vote granted in the fast track legislation approved earlier this year.

In New Zealand the ratification process includes scrutiny of the text by the Parliamentary Select Committee together with a national interest analysis.

I hope the Business Council will take the opportunity along with others to make submissions to the Select Committee, which will make a report to Parliament.

In addition Parliament must under usual procedures pass implementing legislation without which the whole treaty cannot come into effect.

Only after this process is complete, does the Government complete the ratification process.

These processes will be closely observed by a number of partners like Korea, Thailand, Taiwan, the Philippines and Indonesia, all of whom, in different ways, have expressed interest in joining TPP and even by China which will need to react to the initiation of a new FTA between the United States and Japan.

In fact all economies not inside TPP will be re-evaluating their external economic strategies in the light of TPP.

None more so than the fourth amigo of the Pacific Alliance – Colombia – which is not a member of either TPP or APEC.

Colombia has some good credentials for joining TPP in the future and the deepening economic relationship with New Zealand could be very helpful in this regard.

This was always the strategy first espoused by New Zealand and Chile when we initiated the TPP project – build on each agreement incrementally to expand the vision of freer trade and investment across the whole region: in that sense TPP is not just about the 12 but about all 21 members of APEC, eventually including China and Indonesia, and even economies currently outside APEC.

TPP is thus seen as a stepping stone, or a pathway, to a future Free Trade Area of the Asia Pacific, a concept which has been on the APEC agenda for some time but which has consistently failed to take shape.

FTAAP will hopefully take us beyond the current ‘noodle bowl’ of overlapping and sometimes conflicting free trade agreements to more seamless environment for business in the Asia Pacific region.

The Pacific Alliance has a role to play here as well – like TPP another pathway to FTAAP, with 200 million people, collectively representing the world’s 8th largest economy, making some impressive strides towards integration and reaching out to a large number of observer economies.

A meeting at APEC in Manila last month between APEC and Pacific Alliance leaders including Colombian President Juan Manuel Santos helped consolidate links between the two bodies.

In 2016 our friends in Peru will have particular responsibilities for shepherding this broader vision as they take up the chair of APEC.

We in New Zealand can look forward to Peru’s leadership as we are generally allied in the quest for more open markets (though we think their dairy policies could continue to evolve!)

Peru has adopted the theme “quality growth and human development” to guide their approach in 2016.

The same theme will also be followed by the APEC Business Advisory Council (ABAC) in which New Zealand is very active through our members Tony Nowell and Katherine Rich.

ABAC New Zealand enjoys a close relationship with incoming ABAC Chair Juan Raffo and his team and we look forward to working with them next year.

We can be sure that Peru, from its vantage point within both TPP and the Pacific Alliance, will focus attention on making progress with the FTAAP concept – a draft ‘collective strategic study’ which aims to set some parameters for the initiative is currently underway and will need to be completed next year.

ABAC has already completed a major study of FTAAP authored by Professor Peter Petri, the foremost academic expert on TPP, which will be released shortly.

Peru has indicated it wishes to include a focus on the operation of APEC’s food market – always music to New Zealand ears and we will be actively assisting that effort.

This will build on work we have undertaken in APEC, led by Tony Nowell, to promote the idea that trade and open markets have a role to play in achieving the region’s food security by 2020.

Lastly Peru has developed an interest in recent years in fostering the rule of law throughout the APEC economies – this is mix of policies related to structural economic reform as well as more transparent and effective judicial processes.

In the several presentations I have heard on this topic Peru frequently refers to New Zealand as a model economy in this respect.

As is the usual custom Peru will host the annual series of APEC Leaders’ and Ministerial meetings in November in Lima.

An APEC CEO Summit forms an important part of these meetings and I hope we can work with the Business Council to promote this opportunity to interested companies and take a strong delegation to Lima 15-17 November 2016.

Conclusion

In concluding let me make three main points.

First, even if TPP is not as good as it could have been, it remains a singular achievement and one which will have profound impacts on the global economy as market and investment flows react to the increasing economic integration TPP promotes.

New Zealand stands to benefit from some useful new market access in Mexico and Peru and elsewhere and from the dynamic gains of trade even if our main export, dairy, is not fully captured by the scope of TPP's liberalisation.

Extending TPP to Colombia and potentially other Latin American members would be another major step forward towards a Free Trade Area of the Asia Pacific.

Both TPP and the Pacific Alliance are pathways towards this wider vision.

Second, the way forward from signing and ratification to entry into force remains subject to political and legislative processes in the TPP economies, none more complex than which are those in the United States.

Even in New Zealand there will be a political battle to be fought over TPP as opposing ideologies and competing visions of the future of our economy position themselves on either side.

Third, TPP needs ongoing strong support from business leaders, like those gathered in this Business Council, both to help the public understand the benefits of economic integration and to encourage ratification of TPP at home and abroad.

The Business Council will doubtless continue to develop its analysis on the implications for our relationship of TPP and to spread the word about the benefits for business between Latin America and New Zealand.

I would go so far as to say that TPP will not just proceed to enter into force by governments doing all the work themselves.

Now more than ever before we need business support to push this new framework for trade and investment over the line and make it an economic and commercial success.