Reference: 20150473

18 December 2015

Thank you for your Official Information Act request, received on 6 November 2015. You requested the following:

> *"This request is to each of the Reserve Bank and Treasury, and requests copies of any analysis and position papers etc undertaken by those two agencies which provided the basis for their judgement that TPP was an "ambitious, comprehensive, and high-standard" agreement (as per the text below)*
>
> *We, the macroeconomic policy authorities for countries that are party to the Trans Pacific Partnership (TPP) (Authorities), welcome the ambitious, comprehensive, and high-standard agreement reached by our respective governments in Atlanta."*

Information Being Released

Please find enclosed the following document:

Item	Date	Document Description	Decision
1.	2 October 2015	Aide Memoire: TPP update - Atlanta negotiations	Release in part

I have decided to release the relevant parts of the above document, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- Details of New Zealand's negotiation positions (including modelling based on an earlier stage of negotiation and mandate for TPP, under section 6(a) – to protect the international relations of the Government of New Zealand,

- Information provided by other TPP members during negotiation, under section 6(b)(i) – to protect the entrusting of information to the Government of New Zealand on a basis of confidence by the Government of any other country or any agency of such a Government,

- Details of New Zealand's negotiation positions (including modelling based on an earlier stage of negotiation) and mandate for TPP, under section 6(e)(vi) – to avoid seriously damaging the economy of New Zealand by disclosing prematurely decisions to change or continue Government economic or financial policies relating to the entering into of overseas trade agreements, and

- Information soon to be made public, under section 18(d) – the information requested is or will soon be publicly available.

Please note that the official government assessment of the final TPP agreement is contained in the National Interest Analysis, which will be publicly released soon. The information that has been withheld under section 18(d) of the OIA will be publicly available when the National Interest Analysis is released.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website. We also expect to release other Treasury advice on the TPP on our website in the near future in response to other OIA requests.

This fully covers the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

Chris Nees
Team Leader, International

THE TREASURY
Kaitohutohu Kaupapa Rawa

Reference: T2015/2301 IM-3-0-5

Date: 2 October 2015

To: Minister of Finance
(Hon Bill English)

Deadline: None
(if any)

Aide Memoire: TPP update - Atlanta negotiations

This note provides you with information on outstanding issues in the TPP negotiations, in anticipation of a possible request for you to agree to mandate changes later this week.

Possible areas of TPP mandate change

End game TPP negotiations are underway in Atlanta. You may be contacted to seek mandate changes in order to secure a final deal. We understand you are most likely to be contacted late on Friday 2 October or Saturday 3 October.

[Withheld under s6(a) & s6(e)(vi)]

Summary of current position

[Withheld under s6(a)]

MFAT and Pharmac have now updated their modelling to better approximate the likely final negotiated position on the key quantifiable elements of the agreement. We have modified our summary assessment of the costs and benefits in line with the new model.

[1] Treasury Report, 12 June 2015, *Concluding the Trans-Pacific Partnership Agreement* (T2015/1225), Aide Memoire, 31 July 2015, *TPP Update* (produced to aid possible decisions required from Maui)

[Withheld under s6(a)]
[Withheld under s6(a)] Quantifiable benefits (i.e. tariff reductions) are now estimated to have a present value of around **$4,000m**, [Withheld under s6(a)]
[Withheld under s6(a)] Costs**, (not including biologics)**, have 1 present value of **$800m.** [Withheld under s6(a)]
[Withheld under s6(a)]

[Redaction no 1 Withheld under s6(a)]

We continue to note that genuine progress in trade facilitation, services gains, and reductions in non-tariff barriers has the potential to add significantly to the net benefits of the treaty. From the information we have available it is difficult to calculate an accurate figure but based on MFAT modelling we estimate that the net present value of these benefits could range up to **$9,300m**.[3] Again we stress the uncertainty around this number.

There are also a range of unquantifiable costs and benefits. The ISDS and copyright provisions may have wider economic costs. On the positive side the agreement may also lead to greater investment flows in the region. We understand other trade models such as the Petersons model, have sought to quantify these benefits, but we agree with the approach taken in the MFAT model that these are too uncertain to calculate.

Critical decision points

The key judgement you will need to make is whether the benefits outweigh the costs in the final package. We judge the key outstanding matters that you need to test with Ministers if a deal is proposed are as follows:

[Withheld under s6(a) & s6(e)(vi)]

2 See caveats outlined in table 1 below

3 Using the latest MFAT model (see table 1) the NPV of benefits from NTBs is $14,537m. We understand MFAT have applied a 50% reduction in the benefits calculated reducing goods NTBs, in order to reflect the uncertainty of all the NTB benefits. The goods NTBs make up 70% of the total NTBs leading to a rounded figure of $9,300m

Based on the tariff reduction package as a whole and the potential for NTB benefits, it seems likely that the agreement will have a net positive effect, even if the dairy outcome is modest.

[Withheld under s6(a) & s6(e)(vi)]

Biologics

Biologics are medicines derived from living materials, and are a rapidly growing portion of pharmaceutical expenditure worldwide. In addition to patents, incentives for the development of new products are maintained through a period of protection for relevant data (such as clinical trial data) used to seek regulatory approval.

[Withheld under s6(b)(i)] Withheld under s6(a) & s6(b)(i)]
[Withheld under s6(a) & s6(b)(i)] This contrasts with the 5-year data protection period under New Zealand's domestic law.

The cost for New Zealand of a longer period of data protection would arise through an extension of monopoly pricing.

[Withheld under s6(a) & s6(e)(vi)]

[Withheld under s6(a) & s6(e)(vi)]

Table 1: Economic Welfare Withheld under s6(e)(vi)] TPP Cost Benefit Analysis (excluding NTBs and Services numbers)		
	Total TPP package within existing mandate[5]	Withheld under s6(e)(vi)]
Benefits[6] (tariff reduction)	~$4,062m	
Pharmac - Patent extensions	($14m)	
Pharmac - altered transparency	($34m)	
Pharmac – Biologics	-	
Copyright changes	($740m-$840m)	
Net Benefits/Costs (present value)	**~ $3,200m**	
NTB / services reduced[7]	Up to $9,300m	
Unquantifiable costs/benefits	Net costs include: Wider economic impacts of copyright, ISDS Net benefits include: Possible increase in investment flows	

See Annex 1 for a more detailed explanation of the Biologics issue, and a summary of the implications of TPP on Pharmac.

Fiscal Impacts of TPP

We expect a range of departments will face additional costs associated with servicing commitments agreed in TPP. For example, any technical cooperation or ongoing discussions that will be needed to implement the commitments. Pharmac has quantified these costs as being **$2.2m** in on-going annual administrative costs, plus **$4.5m** in one-off establishment costs. Other departments have not quantified these costs to date. In the first instance, we expect that all departments (including Pharmac) should treat these like any other cost pressure and assess how they can be met within baselines.

Changes to Pharmac are also estimated to result in lost savings s18 (d) This represents an average annual impact over the long-term (essentially, a

[5] Please see Treasury report *Concluding the Trans-Pacific Partnership Agreement* (T2015/1225) for a more detailed breakdown of the figures in this column

[6] Source: Scenario A1 in table 4 in a report dated 28 September, 2015 prepared for MFAT (as an additional supplement to earlier advice), called "A Dynamic Computable General Equilibrium (CGE) Analysis of the Trans-Pacific Partnership Agreement: Potential Impacts on the New Zealand Economy". Scenario A1 is the more conservative scenario, which assumes that the US, Japan and Canada claim 0.5% of their tariff lines as 'sensitive'. This currently seems the most likely scenario. The modelling result provided an estimate for the economic welfare impact in 2007 dollars for the year 2030 of $504m, which we assume to be representative of the average net annual benefit after year 16. We assume that the benefits taper up from zero over the years between now and 2030.

[7] Includes trade facilitation, services gains, and reductions in non-tariff barriers

quantification of risk), rather than a specific annual cost. We recommend that Ministers avoiding making any commitments to increase funding for pharmaceuticals to offset the impact of the TPP. See Annex 1 for an explanation of this point.

Outstanding Treasury specific issues

[Withheld under s6(a)]

[Withheld under s6(a) & s6(e)(vi)]

Thomas Parry, Senior Analyst, International, 04 890 7260
Chris Nees, Team Leader, International, 04 917 6019

Annex 1: Implications of TPP for Pharmac

This note summarises the implications of TPP for Pharmac. There are three issues:

- stronger transparency arrangements,
- patent-term extension for unreasonable regulatory delays, and
- a possible increase in the data protection period for biologics.

[Withheld under s6(a) & s6(e)(vi)]

Stronger transparency arrangements (PV estimated at 34.2 million)

There will be a requirement for Pharmac to make decisions (approve, decline) within a timeframe, but with scope for deadline extensions. There will be an internal review process – but Pharmac will not be required to reassess prioritisation decisions. These changes will involve certain operational costs for Pharmac. These are now estimated as one-off establishment costs of $4.5 million and on-going annual costs of $2.2 million.

[Withheld under s6(a) & s6(e)(vi)]

Patent-term extensions s18 (d)

The agreement will include provisions that allow for patent linkage and the extension of patent term if there is an unreasonable delay in the processing of patent or marketing applications for pharmaceuticals. This would impose costs through an extended period of monopoly pricing.

[Withheld under s6(a) & s6(e)(vi)]

[Withheld under s6(a)]

Biologics: data protection period

Biologics are medicines derived from living materials, and are a rapidly growing portion of pharmaceutical expenditure worldwide. In addition to patents, incentives for the development of new products are maintained through a period of protection for relevant data (such as clinical trial data) used to seek regulatory approval.

The cost for New Zealand of a longer period of data protection would arise through an extension of monopoly pricing. This would manifest as lost savings to Pharmac (savings which Pharmac would otherwise have been able to negotiate in the presence of competition from lower-cost generics). These lost savings would either require a higher level of pharmaceutical funding (direct fiscal cost) or a corresponding reduction in health outcomes compared to the counterfactual of no changes to the data protection rules (welfare cost).

[Withheld under s6(a) & s6(e)(vi)]

[Withheld under s6(a) & s6(e)(vi)]

Overall implications of TPP for Pharmac

Pharmac is confident, and we agree, that the TPP will not compromise its fundamental operating model. This is the line that Hon Groser has been taking. [Withheld under s6(e)(vi)]

[Withheld under s6(e)(vi)]

We recommend that Ministers avoiding making commitments to increase funding for pharmaceuticals to offset the impact of the TPP for the following reasons:

- First, the agreement will be only one factor affecting the cost of pharmaceuticals specifically, and the cost of health care overall. Any funding increases are properly a matter for future Budgets, when this issue can be considered alongside other priorities (including other health priorities).

- Second, it is fundamental to the Pharmac model that medicines are classified and funded according to whether they provide value at prices that can be negotiated with manufacturers. Increasing the pharmaceutical budget to offset the impact of TPP would not necessarily mean that affected products were funded, since they may not offer value for money with monopoly pricing.

- Third, the impact of the agreement on the cost of pharmaceuticals is uncertain and will only materialise over time. This makes it difficult for the current government to make credible commitments on funding. In particular:

- the costs associated with transparency provisions (if they eventuate) will be unpredictable and lumpy. The estimate provided (average annual cost over the long-term) is essentially a quantification of risk, rather than a precise costing that can be funded now, and

Withheld under s6(e)(vi)]