

Lumley House  
3-11 Hunter Street  
PO Box 1925  
Wellington 6140  
New Zealand

DDI: 04 496 6560  
Tel: 04 496-6555  
Fax: 04 496-6550  
Mob: 027 463 3212  
cbeard@businessnz.org.nz  
www.businessnz.org.nz

22 February 2016

## **Business NZ and Export NZ Submission to MFAT on the proposed NZ-EU FTA Negotiation**

Business NZ and Export NZ welcome this opportunity to submit on the possibility of a FTA with the EU.

Both entities support the launch of this negotiation.

This submission should be seen as a supplement to the discussion paper prepared by the New Zealand International Business Forum (NZIBF) in July 2015. Business New Zealand and Export New Zealand are members of the NZIBF and had input into this paper.

We see this negotiation as important at a number of levels.

### **Direct Benefits**

The EU continues to have heavy levels of protection in product areas where New Zealand has competitive advantage over some EU members. The EU (the UK component of it anyway) was by far New Zealand's largest market up until UK entry into the EU. New Zealand essentially lost most of this market because EU border barriers made it impossible for trade to continue. Should these barriers be removed, there is enormous scope for New Zealand to grow these exports.

The EU therefore appears to be an attractive diversification market should economic conditions deteriorate or other problems emerge to disrupt trade in the Asia Pacific region.

The EU is a major market already for New Zealand services exports. A high quality FTA with the EU should create new market opportunities for our services exporters.

The EU is also the second largest source of foreign investment to New Zealand and an increasingly interesting destination for New Zealand investment. Again, a high quality FTA should stimulate increased bilateral investment flows.

We note that the EU has FTA linkages with our major trade competitors. This FTA offers the opportunity – as a minimum – to level the playing field into the EU market. Hopefully it will give New Zealand exporters new opportunities that our competitors do not enjoy. We note that a number of EU FTA outcomes are dubious when it comes to comprehensiveness and the quality of agricultural and fisheries coverage.

## **Strategic opportunity**

We see some strategic opportunities presenting themselves should this negotiation be launched.

We support the Trans Pacific Partnership (TPP) and felt well consulted on this negotiation. However, it is clear that other parts of the business community and society do not share this view. While the opposition to TPP has been cleverly orchestrated by some who are ideologically opposed to globalization (and probably the United States) and the current economic model and although nearly all the criticisms of TPP have been based on inaccurate interpretations or falsehoods, the fact that the opponents have achieved so much media exposure and had such impact on some in the Labour Party suggests that we need to rethink the way these negotiations are conducted in the future.

We believe that we have the potential to use this negotiation as a means by which a new, even more consultative and more transparent FTA negotiation model can be developed. By the time the negotiations conclude we would like there to be no surprises and no scope for the controversy and factual disagreement that we have seen around TPP. Business New Zealand and Export New Zealand would be more than willing to engage with our European counterparts and officials to help develop this new model.

Business New Zealand and Export New Zealand have been frankly underwhelmed by the recent outcomes of FTAs on services and investment. We have been pleased by those using negative lists, but in terms of what is on these lists, we see far too many restrictions. They usefully codify the status quo, but these agreements are achieving only marginal liberalization. We also feel that the services sector is far less consulted about these negotiations than the goods sector. As an example our small to medium size companies in the ICT sector are concerned that in any negotiation we do not end up with Intellectual Property constraints on a fast moving digital sector that is used to protect the status quo and is used to constrain innovation and competition.

The one FTA that has achieved deep liberalization of services is CER with Australia. We see the Trans Tasman Mutual Recognition Arrangement (TTMRA) as enormously beneficial to our services exporters.

We have discussed this problem over the standard FTA WTO/GATS influenced model with business groups from other jurisdictions – most recently at the October Global Services summit. They share our concern about the lack of traction being achieved under this model in TPP and other recent FTA outcomes. The consensus view is more effort needs to be put into developing relationships between regulators in the jurisdictions negotiating. Better outcomes appear achievable if regulators have high confidence in each other. In this confidence we note that New Zealand and EU regulators (in general) know each other well and have high levels of confidence in each other. We therefore suggest that a TTMRA type outcome might be achievable with the EU.

## **Agriculture**

Agriculture is probably the reason why it has taken so long to get to the negotiating table with the EU. Yet, in reality, we wonder whether agricultural trade will be as difficult an issue

with the EU as it might be thought to be. In the most sensitive areas we already have quota arrangements in place, and in recent years anyway, these quotas have not been fully utilized. Our preferred position for New Zealand would be to negotiate to achieve full free trade in all goods areas within reasonable time frames. This has not been achieved in TPP or with regard to the FTA with Korea. We would hope that we could do better with the EU, given that both the EU and New Zealand will be looking for an agreement that meets the highest possible quality benchmarks in goods as well as other areas.

## **Investment**

We have no real concerns over the Investor State Dispute Settlement model adopted in TPP as we believe that this is a big improvement on the NAFTA model and because this will ultimately benefit New Zealand investors. We understand that this model is as controversial with EU civil society as it is in New Zealand and that the EU is keen to explore a different model. We would welcome the use of our negotiation to try and develop an even better model.

## **Other issues**

This negotiation would provide an opportunity for another meaningful high quality outcome on trade and labour and trade and the environment. This used to be a high priority for the Labour Party and CTU. We note that the achievement of these outcomes, pretty much as requested by CTU, has not been welcomed in the TPP context, which is disappointing. That said, even if Unions do not value a level playing field in the treatment of labour, employers do.

Likewise we have been surprised at the lukewarm to negative reaction of Maori to TPP given significant benefits will flow to Maori agri-businesses as a result of tariff reductions. More effort needs to be made to explain the benefits to Maori that are less directly connected to Maori agri-businesses by both Government and by Maori business leaders.

We favour a change in tariff heading approach to rules of origin, with few, if any, product specific variations. We would hope that there could be TPP type outcomes on intellectual property (we have some concerns about the usual EU approach to Geographic Indications), customs facilitation, electronic commerce, cross border data flows, SOEs, SMEs and regulatory coherence. Cooperation in education and science and technology would be welcome.

While this will no doubt form part of the Mode 4 negotiation in services we would welcome a close look at people flows and immigration settings as part of this negotiation. We note that New Zealand business people often face significant delays when seeking to enter the EU "Schengen area" and "non-Schengen" jurisdictions. An agreement as facilitative as the APEC Business Travel Card would be welcomed by our members as an outcome from this negotiation. In addition better alignment of recognition of professional qualifications where they are of similar standards would be welcome.

We believe that FTAs should include aviation services. We already have a relatively liberal air services regime with the EU, but there are some issues that need to be fixed.

While the aviation sector finds the FTA's good to a point, there are ongoing challenges for the heavily regulated aviation sector.

Along with FTAs, there are bilateral air services agreements (BASAs) which govern our relationships with trading partners. BASAs traditionally deal with airline rights although some agreements such as the one with China, create a platform for aviation company engagement and are reinforced by project specific agreements or understandings between the aviation regulators.

We also now have two aviation MoUs – with India and Vietnam, between our Ministry of Transport and their Ministry of Civil Aviation which provide a framework for closer commercial activity.

With the EU, we are in the strange position of the Pacific Aerospace P-750 XSTOL aircraft having been type rated in the EU (approved for use) but we cannot send parts should those aircraft need them! We also manufacture Robin aircraft which were originally designed and manufactured in France (they are now only manufactured in New Zealand) but we cannot supply parts either to them! So, EU operators of these aircraft can either break the EU law and install non-approved parts, or break the EU law and install parts made in New Zealand.

We need the FTA to legitimise this business with parts manufactured in New Zealand.

Related to this, The European Aviation Safety Authority (EASA) Aviation Rules are being increasingly adopted in Asia. Our CAA is moving the same way – an EASA aligned Pt 147 engineering Rule was implemented on 1 February this year and an integrated professional pilot training licence, an EASA aligned Pt 141, will be implemented later this year. Closer rapport between EASA and CAA will further improve the ability of NZ aviation companies to do aviation business, not only in the EU but also in Asia.

The regulator relationships are one layer down from the typical achievements of a FTA. But we really need to incorporate this relationship in a FTA with the EU, or it also will fail to deliver to those parts of the aviation sector covered by regulation.

## **Conclusion**

We are excited about the prospect of this negotiation with the EU. The only negative is that it has taken so long coming. The negotiation has our full support. We expect regular consultation as the process develops and would be more than happy to assist Government in developing some of the new models for services negotiation and negotiating transparency.

We appreciate the opportunity to make input into this process.

## **Background Information on BusinessNZ**

Encompassing four regional business organisations Employers' & Manufacturers' Association, Wellington Employers' Chamber of Commerce, Canterbury Employers' Chamber of Commerce, and the Otago-Southland Employers' Association, its 80 plus member Major Companies Group comprising New Zealand's largest businesses, and its 76-

member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, BusinessNZ is New Zealand's largest business advocacy body.

BusinessNZ is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy. In addition to advocacy on behalf of enterprise, BusinessNZ contributes to Governmental and tripartite working parties and international bodies including the ILO, the International Organisation of Employers and the Business and Industry Advisory Council to the OECD.

BusinessNZ's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD (a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services). It is widely acknowledged that consistent, sustainable GDP growth well in excess of 4% per year would be required to achieve this goal in the medium term.

### **Background Information On ExportNZ**

ExportNZ is a division of BusinessNZ. It operates a nationwide network through which it provides the knowledge, information, contacts, training, support and services to help grow export businesses.

ExportNZ's key objectives are to:

- Provide effective advocacy and lobbying on behalf of exporters
- Inspire New Zealand firms to engage in exporting to expand their business horizons and grow internationally
- Provide practical support programmes and networking events to help firms achieve these goals.

For further information please contact:

Catherine Beard

Executive Director, ExportNZ and ManufacturingNZ

[cbeard@businessnz.or.nz](mailto:cbeard@businessnz.or.nz)

0274 633 212

We request to be heard at any Select Committee Hearings.