

Proactive Release

Date: 11 August 2022

The following Cabinet papers and related Cabinet minutes have been proactively released by the Minister of Foreign Affairs

Title	Reference
United Kingdom Free Trade Agreement Legislation Bill: Approval for Introduction Minute of Decision	CBC-22-MIN-0032 CAB-22-MIN-0232

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government;
- 6(b)(i): to protect the passing of information from another government on a confidential basis;
- 9(2)(f)(iv): to protect the confidentiality of advice tendered by Ministers of the Crown and officials; and
- 9(2)(g)(i): to protect the free and frank expression of opinions by departments.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Business Committee: Period Ended 17 June 2022

On 20 June 2022, Cabinet made the following decisions on the work of the Cabinet Business Committee for the period ended 17 June 2022:

s9(2)(f)(iv)

CBC-22-MIN-0032

United Kingdom Free Trade Agreement Legislation
Bill: Approval for Introduction
Portfolio: Trade and Export Growth

CONFIRMED

s9(2)(f)(iv)

Michael Webster
Secretary of the Cabinet



Cabinet Business Committee

Minute of Decision

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United Kingdom Free Trade Agreement Legislation Bill: Approval for Introduction

Portfolio Trade and Export Growth

On 13 June 2022, the Cabinet Business Committee:

- 1 **noted** that the United Kingdom Free Trade Agreement Legislation Bill (the Bill) holds a category two priority on the 2022 Legislation Programme (must be passed in 2022);
- 2 **noted** that in February 2022, Cabinet authorised agencies to make all necessary changes to implement the United Kingdom Free Trade Agreement (the FTA) [CAB-22-MIN-0045.01];
- 3 **noted** that:
 - 3.1 the Bill amends the Tariff Act 1988, the Tariff, the Customs and Excise Regulations 1996, the Dairy Industry Restructuring Act 2001, the Overseas Investment Act 2005, the Overseas Investment Regulations 2005, and the Copyright Act 1994;
 - 3.2 Part 5 of the Bill also creates a new regime required to administer a transitional apple export quota, and the intention is that Part 5 will be split out as a separate Bill at the Committee of the Whole House stage;

s9(2)(g)(i)

- 5 **approved** the Bill [PCO 24503/8.0] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 6 **agreed** that the Bill be introduced the week of 20 June 2022 for first reading the week of 27 June 2022;

7 **agreed** that the government propose that the Bill:

7.1 be referred to the FADTC for a consideration period of four months;

7.2 enter into force by 31 December 2022.

Jenny Vickers
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Stuart Nash
Hon Dr Ayesha Verrall

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet

Proactively released
by the Minister for Trade and Export Growth

Office of the Minister for Trade and Export Growth

Chair, Cabinet Business Committee

United Kingdom Free Trade Agreement Legislation Bill: Approval for Introduction

Proposal

- 1 This paper proposes that the United Kingdom Free Trade Agreement Legislation Bill (the Bill) be approved for introduction to the House of Representatives.

Policy

- 2 The Bill implements the previous Cabinet decision inviting the Minister for Trade and Export Growth to issue drafting instructions to the Parliamentary Counsel Office to draft the necessary legislative and regulatory amendments to give effect to the New Zealand-United Kingdom Free Trade Agreement (the FTA) (CAB-22-MIN-0045.01). The FTA was signed in London by the Minister for Trade and Export Growth and the UK's Secretary of State for International Trade on 28 February 2022 (1 March New Zealand time).
- 3 There are strong commercial and strategic reasons for New Zealand to ratify the FTA. The UK was New Zealand's 6th largest trading partner pre COVID-19, and our two countries have a uniquely close bond, including the deep connection between Māori and the UK given the role of the British Crown as one of the original signatories of te Tiriti o Waitangi/ the Treaty of Waitangi.
- 4 The FTA will assist the development of stronger trade, economic, cultural, and people-to-people links between our two countries. The expansion of New Zealand's FTA network will contribute to New Zealand's diversified trade portfolio and assist New Zealand's recovery from the economic impacts of COVID-19. The FTA is also important at a time when the UK is actively engaging with other trade partners to liberalise trade relations, some of whose exporters compete with New Zealand exporters. At a time of considerable international trade policy turbulence, this FTA also supports and contributes to the rules-based international trade system.

The Bill

- 5 There are a limited number of legislative and regulatory amendments that are required to align New Zealand's domestic law with certain obligations in the FTA.
- 6 This Bill will enable New Zealand to implement its obligations under the FTA and the legislation is necessary to bring the FTA into force. The Bill amends the Tariff Act 1988, the Tariff, the Customs and Excise Regulations 1996, the Dairy Industry Restructuring Act 2001, the Overseas Investment Act 2005, the Overseas Investment Regulations 2005, and the Copyright Act 1994. Part 5 of

the Bill also creates new regime required to administer a transitional apple export quota. The intention is that Part 5 will be split out as a separate Bill at the Committee of the Whole House stage.

7 This Bill will enable:

- 7.1 The application of preferential tariff rates under the FTA;
- 7.2 Provisional transitional safeguard measures to be applied if necessary under the FTA;
- 7.3 The implementation of transitional quotas on dairy products exported to the United Kingdom that originate from New Zealand;
- 7.4 The division of New Zealand's country-specific World Trade Organization dairy quotas between the UK and EU that is required post-Brexit;
- 7.5 The extension of the scope of a performer's property rights in sound recordings of their performances under the Copyright Act 1994 to include the 'playing' in public of those sound recordings;
- 7.6 The increase in investment screening threshold from NZ\$100 million to \$200 million for non-government investors from the UK;
- 7.7 The implementation of New Zealand's commitments to administer a 3-year transitional quota for apple exports;

8 The Bill also includes amendments to the following regulations:

- 8.1 the Customs and Excise Regulations 1996 to give effect to the rules of origin applicable to imports into New Zealand that originate from the UK; and
- 8.2 the Overseas Investment Regulations 2005, to confer to investors from the UK the preferential monetary threshold of \$200 million for screening significant business assets.

9 Cabinet has given agencies the mandate to make all necessary changes to implement the Bill (CAB-22-MIN-0045.01). I note that changes to the Tariff and the Overseas Investment Regulations were omitted from the list of proposed regulatory amendments in the Cabinet paper. These changes have been included in the Bill, in order to give effect to the FTA.

10 Cabinet has also given the policy approvals for the administration of the UK apple transitional export quota (DEV-22-MIN-0072/CAB-22-MIN-0117 refers). Since this approval in April 2022, additional changes have been identified by officials and have been approved by Ministerial delegation.

11 There are two obligations in the FTA that New Zealand has a transition period to implement. Legislation for these two commitments will be made at a later date. New Zealand has agreed to –

- 11.1 Introduce a new artist resale right scheme within two years of the FTA entering into force; and
- 11.2 Extend the term of protection of copyright and related rights within 15 years of entry into force of the FTA. This will require an amendment to the Copyright Act 1994.

12 It is not anticipated that the contents of this Bill will be contentious.

s9(2)(g)(i)

Impact analysis

- 14 In accordance with the Cabinet Manual and Standing Orders 405 to 408, all multilateral treaties or “major bilateral treaties of particular significance” concluded by New Zealand require the preparation of a National Interest Analysis (NIA). A NIA was prepared in accordance with the necessary requirements, and was submitted to Cabinet at the time that approval to sign the FTA was sought (CAB-22-MIN-0045.01).
- 15 There are no outstanding policy issues.

Compliance

- 16 The Bill complies with the following:
 - 16.1 the principles of the Treaty of Waitangi;
 - 16.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 (no inconsistencies have been identified);
 - 16.3 the disclosure statement requirements with a copy **attached** to this paper;
 - 16.4 the principles and guidelines set out in the Privacy Act 2020;
 - 16.5 relevant international standards and obligations; and
 - 16.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

- 17 The Bill has been drafted by the Parliamentary Counsel Office, and coordinated by the Ministry of Foreign Affairs and Trade, the Ministry of Business, Innovation and Employment, the Ministry for Primary Industries, the New Zealand Treasury and the New Zealand Customs Service.
- 18 New Zealand Apples and Pears Inc (NZAPI) have reviewed a consultation draft of Part 5 of the Bill as NZAPI will administer the transitional quota for apples.
- 19 As part of the FTA negotiation process, the Ministry of Foreign Affairs and Trade organised and conducted a wide-ranging and extensive public outreach and consultation programme, including with relevant government agencies, Māori in their capacity as Treaty partners and key stakeholders on negotiating objectives and FTA impacts as follows:
 - 19.1 Key government agencies were involved throughout the negotiation of the FTA as part of an inter-agency team or as part of the group regularly consulted (including the Ministry of Business, Innovation and Employment, the New Zealand Customs Service, The Ministry for Primary Industries, Te Puni Kōkiri, Treasury and the Department of Prime Minister and Cabinet).
 - 19.2 New Zealand's FTA negotiating team held regular briefings with a wide range of interested stakeholders, including civil society, businesses and industry groups, to update them on progress. These briefings included stakeholder engagement sessions held as part of the FTA negotiating rounds. Outreach to civil society included meetings with leaders from the New Zealand Council of Trade Unions.
 - 19.3 Engagement with Māori as Treaty partners benefitted from regular engagement with Te Taumata, Ngā Toki Whakarururanga, Iwi Chairs Forum, and the Federation of Māori Authorities. This engagement identified a range of Māori interests and enhanced consideration of the FTA's potential impact on such interests. Negotiators regularly discussed issues and outcomes arising from the UK negotiations with these Treaty partners.
 - 19.4 The FTA was also discussed at public engagement sessions throughout 2020-21. At these events, officials provided updates on the progress of the negotiations, and answered questions from participants sharing their views with government officials.
 - 19.5 Submissions were sought for the parliamentary examination of the FTA over the course of 10 days in March 2022.
 - 19.6 The Government caucus and other parties represented in Parliament were consulted as part of the relevant Cabinet and Foreign Affairs, Defence and Trade Committee (FADTC) processes and hearings.

Binding on the Crown

- 20 The United Kingdom Free Trade Agreement Legislation Bill will be binding on the Crown.

Allocation of decision making powers

- 21 The Bill's commencement date will be set by the Governor-General by Order in Council.
- 22 Under the Transitional Apple Export Quota, New Zealand Apples and Pears Inc (NZAPI) will have the power to establish and administer the quota system, including the power to issue quota and export certificates and take compliance action such as canceling export certificates for exporter non-compliance. NZAPI decisions are subject to the right of review.

Associated regulations

- 23 There are no associated regulations. All changes, including changes to regulations, are included in the Bill.

Commencement of legislation

- 24 There is no set entry into force date for the FTA on which to base the commencement date for this Bill. Consequently, the Bill provides for a commencement date to be appointed by an Order in Council. This form of commencement is necessary in order to coordinate the Bill's commencement with the entry into force of the FTA.

25 s6(a), s6(b)(i)

- 26 Entry into force by December 2022 will allow New Zealand exporters to quickly benefit from a second tariff cut or increase in quota volumes on 1 Jan 2023. If New Zealand ratification is delayed until 2023 there will be tangible impacts on New Zealand exporters, creating a delay in access to duty free, quota free trade with the UK. This delay would be particularly significant if the Australia-UK FTA enters into force in 2022, while the NZ-UK FTA enters into force in 2023.

Parliamentary stages

- 27 The Bill should be introduced in late June 2022 and passed by December 2022. This is necessary in order for the FTA to enter into force in December 2022.
- 28 It is proposed that the Bill be referred to FADTC.

Proactive Release

- 29 This paper should be proactively released within 30 business days of final decision being taken by this Cabinet Committee, with redactions where necessary.

Recommendations

The Minister for Trade and Export Growth recommends that the Committee:

- 1 **note** that the United Kingdom Free Trade Agreement Legislation Bill holds a category 2 (must be passed in 2022) priority on the 2022 Legislation Programme;
- 2 **note** that Cabinet has given agencies the mandate to make all necessary changes to implement the FTA (CAB-22-MIN-0045.01).
- 3 **note** that the Bill amends the Tariff Act 1988, the Tariff, the Customs and Excise Regulations 1996, the Dairy Industry Restructuring Act 2001, the Overseas Investment Act 2005, the Overseas Investment Regulations 2005, and the Copyright Act 1994. Part 5 of the Bill also creates a new regime required to administer a transitional apple export quota. The intention is that Part 5 will be split out as a separate Bill at the Committee of the Whole House stage;

s9(2)(g)(i)

- 5 **approve** the United Kingdom Free Trade Agreement Legislation Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 6 **agree** that the Bill be introduced the week of 20 June 2022 for first reading the week of 27 June 2022;
- 7 **agree** that the government propose that the Bill:
 - 7.1 be referred to the Foreign Affairs, Defence and Trade Committee (FADTC) for a consideration period of four months;
 - 7.2 enter into force by 31 December 2022.

Authorised for lodgement

Hon Damien O'Connor

RESTRICTED

Minister for Trade and Export Growth

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by the Minister for Trade and Export Growth

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