

Proactive Release

Date: 6 March 2024

The following Cabinet paper/s and related Cabinet minutes have been proactively released by the Minister for Trade:

Title	Reference
Report of the Cabinet Business Committee: Period Ended 19 January 2024	CAB-24-MIN-0004
European Union Free Trade Agreement Legislation Amendment Bill: Approval for Introduction	CBC-23-MIN-0002
European Union Free Trade Agreement Legislation Amendment Bill: Approval for Introduction	

The additional information relevant to this proactive release was published to the Ministry of Foreign Affairs and Trade's (The Ministry's) website and is available via the below links:

- Annex B: <https://www.legislation.govt.nz/bill/government/2024/0010/latest/whole.html>
- Annex C: <https://disclosure.legislation.govt.nz/bill/government/2024/10/>
- Annex D: <https://www.mfat.govt.nz/assets/Trade-agreements/EU-NZ-FTA/NZ-EU-FTA-National-Interest-Analysis.pdf>

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



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 19 January 2024

On 23 January 2024, Cabinet made the following decisions on the work of the Cabinet Business Committee for the period ended 19 January 2024:

CBC-24-MIN-0002

**European Union Free Trade Agreement
Legislation Amendment Bill: Approval for
Introduction**
Portfolio: Trade

CONFIRMED

Rachel Hayward
Secretary of the Cabinet



Cabinet Business Committee

Minute of Decision

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European Union Free Trade Agreement Legislation Amendment Bill: Approval for Introduction

Portfolio Trade

On 17 January 2024, the Cabinet Business Committee:

- 1 **noted** that there are significant strategic and commercial reasons to ratify the New Zealand – European Union Free Trade Agreement (NZ-EU FTA);
- 2 **noted** that there is a window of opportunity to bring the Free Trade Agreement (FTA) into force s6(a), s9(2)(g)(i)
- 3 **noted** that in June 2023, the previous Government approved the text of the FTA and invited the Minister for Trade and Export Growth to issue drafting instructions to Parliamentary Counsel Office to draft legislation to give effect to the FTA [DEV-23-MIN-0120];
- 4 **noted** that the European Union Free Trade Agreement Legislation Amendment Bill (the Bill) amends the Tariff Act 1988, the New Zealand Tariff, the Trade (Safeguard Measures) Act 2014, the Dairy Industry Restructuring Act 2001, the Customs and Excise Regulations 1996, the Overseas Investment Act 2005, the Overseas Investment Regulations 2005, the Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992, the Trade Marks Act 2002, and the Geographical Indications (Wine and Spirits) Registration Act 2006;
- 5 **approved** for introduction the European Union Free Trade Agreement Legislation Amendment Bill [PCO 25192/12.0], subject to the final approval of the Government caucuses and sufficient support in the House of Representatives;
- 6 **agreed** that the Bill be introduced as soon as possible following Cabinet consideration;
- 7 **agreed** that the Government propose that the Bill:
 - 7.1 be referred to the Foreign Affairs, Defence and Trade Committee for consideration;
 - 7.2 s9(2)(f)(iv)
- 8 **authorised** the Minister for Trade, in consultation with relevant portfolio Ministers where appropriate, to approve any changes to the text of the Bill which do not materially alter its content between now and its introduction to the House;

- 9 **authorised** the Parliamentary Counsel Office to make minor and technical changes to the Bill as necessary prior to the introduction of the Bill;
- 10 **noted** that, aside from the Bill, separate regulations under:
- 10.1 the Geographical Indications (Wine and Spirits) Registration Act 2006 are required to implement New Zealand's obligations under the NZ-EU FTA;
 - 10.2 the Overseas Investment Act 2005 are required to confer "most-favoured-nation" obligations to non-government investors from Parties to the Pacific Agreement on Closer Economic Relations Plus (PACER Plus);
- 11 **authorised** officials to bring the FTA into force (in accordance with Article 27.2.1 (Entry into Force) of the FTA), following the passing of implementing legislation.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Christopher Luxon (Chair)
Hon David Seymour
Hon Nicola Willis
Hon Chris Bishop
Hon Dr Shane Reti
Hon Brooke van Velden
Hon Shane Jones
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins
Hon Todd McClay

Officials present from:

Department of the Prime Minister and Cabinet

Office of the Minister for Trade

Chair, Legislation Committee

European Union Free Trade Agreement Legislation Amendment Bill: Approval for Introduction

Proposal

- 1 This paper proposes that the European Union Free Trade Agreement Legislation Amendment Bill (the Bill) be approved for introduction to the House of Representatives. This is required for New Zealand's ratification of the New Zealand - European Union Free Trade Agreement.

Policy

- 2 The New Zealand – European Union FTA (NZ-EU FTA or FTA) was signed in Brussels on 9 July 2023. This was the culmination of a lengthy period of active engagement and effort by successive New Zealand Governments to secure the EU's agreement to launch a negotiation, followed by several years of formal negotiations.
- 3 Before the agreement can enter into force, both New Zealand and the European Union must complete domestic ratification processes. For New Zealand, this requires the passage of the attached implementing legislation and associated regulations.
- 4 There are strong commercial and strategic reasons for New Zealand to ratify the NZ-EU FTA. New Zealand has longstanding historical, cultural, political and economic ties to Europe and the EU is a close and like-minded partner for New Zealand. The EU shares New Zealand's interest in upholding the rules based international order upon which we depend for our security and prosperity. Conclusion of an NZ-EU FTA has established the basis for an even stronger trade and economic relationship, adding a vital piece of the architecture in the close relationship between the EU and New Zealand. It reinforces our connections to Europe, and provides additional opportunities to access innovation and technology from some of the world's most advanced economies.
- 5 The NZ-EU FTA will energise trade and investment links with our fourth largest trading partner. Two-way trade with the EU was worth NZ\$20.2 billion in 2022, around 10.3% of our total goods and services trade. The agreement will provide New Zealand with preferential access to 450 million consumers in the high-value European Union (EU) market for the first time. Modelling suggests that the NZ-EU FTA has the potential to grow New Zealand's real GDP by up to \$1.4 billion per year, and New Zealand exports to the EU by up to \$1.8 billion per year, by 2035. It is estimated that New Zealand exporters will save \$100 million a year from day one (the largest tariff cut by value of any of our FTAs), growing to \$110 million after seven years. Timely passage of the implementing legislation will ensure exporters can secure the benefits of these tariff cuts as soon as possible.
- 6 The FTA significantly levels the playing field for New Zealand exporters, allowing them to better compete in the EU market, where many of our key competitors already enjoy preferential access. As at December 2021, the EU had 42 FTAs in force with 74 countries. Once the agreement enters into force, New Zealand exporters will have

preferential access to the EU market ^{s6(a), s6(b)(i)}

- 7 The economic value of the FTA will benefit a broad range of New Zealanders, including by reducing the price of imports to improve the cost of living. This will assist with New Zealand's post-pandemic trade recovery, and support efforts to build resilience, promote trade diversification and respond to economic shocks, such as the impact of Cyclone Gabrielle. The FTA includes outcomes that will provide new opportunities for small and medium sized enterprises (SMEs), women, Māori, and our regional communities.
- 8 The FTA successfully passed the parliamentary treaty examination process on 28 August, before the House rose for elections.

Key outcomes

- 9 Under the FTA, New Zealand's conditions of access will be significantly improved, with 91% of New Zealand's current goods trade to the EU able to enter duty-free from day one. This will rise to 97% after seven years, with estimated tariff savings exceeding \$100 million from day one (the highest immediate tariff savings of any New Zealand FTA), growing to \$110 million after seven years. Key products to benefit from tariff elimination at entry into force include kiwifruit, onions, wine, mānuka honey, apples, fish and seafood. Other products (e.g. butter, cheese, beef) will continue to be subject to quotas, but with volumes and in-quota conditions that will enable a sizeable increase in trade, and the export of some products for the first time in years.
- 10 Some stakeholders have expressed disappointment that the outcomes secured on beef and dairy access were not more comprehensive. These sectors represented the most difficult parts of the negotiation for New Zealand, given these sectors are of the highest sensitivity for certain EU Member States, and EU agriculture lobby groups hold considerable sway. Despite this, the beef and dairy outcomes represent an important improvement on the status quo for New Zealand exporters into the EU. For example, if dairy quota volumes were fully utilised: New Zealand could increase its share of EU butter imports from less than 15% currently to up to 60% once the FTA is fully implemented; for cheese from 0.5% to 15%; and for milk powders from 2% to 20%. For beef, New Zealand secured an eight-fold increase on our current WTO beef quota access and New Zealand's sheepmeat access equates to 95% of EU sheepmeat imports (see table in Annex E). This opens up the opportunity for over \$600m in additional export revenue to the EU per year once fully implemented. ^{s6(a), s9(2)(g)(i)}

11 As a high quality and comprehensive trade agreement, the EU FTA includes a range of other commitments to encourage increased trade in services, facilitate investment flows, increase access to government procurement contracts across EU Member States, reduce barriers to trade, enhance cooperation between regulatory agencies, support trade and sustainability and trade and labour objectives, and smooth the movement of goods and professionals across borders, including:

- new services commitments in areas of export interest to New Zealand (e.g. education services), including the establishment of more predictable and liberal rules. Modelling suggests that this would reduce the costs faced by New Zealand service exporters to the EU by 10-20%;
- modern investment protection rules will provide certainty and stability for investors. Increasing the value of the Overseas Investment Act screening threshold to from \$100m to \$200m for EU investors will facilitate greater flows of investment from the EU to New Zealand;
- the EU has committed to extend to New Zealand any services and investment market opening agreed in its future FTAs through a 'most-favoured-nation' clause;
- commitments to facilitate the movement of business people, including around timely processes for visas, reasonable fees, and with an expanded range of categories of business people who can benefit;
- provisions to support digital trade and promote paperless trading, the use of e-contracts, e-invoicing and e-authentication, prohibit the imposition of customs duties on electronic transmissions, and facilitate the free flow of data (while maintaining some important protections);
- the Public Procurement chapter provides enhanced access for New Zealand businesses looking to contract in the EU's €2 trillion market across the EU's 27 Member States;
- commitments regarding trade and sustainable development, including on climate change, and trade and gender. The EU also agreed to commitments on fisheries subsidies and fossil fuel subsidy reform that go beyond past EU FTAs;
- a dedicated chapter on Māori Trade and Economic Cooperation will operate as a platform to facilitate Māori engagement into the EU across a range of possible areas including trade and investment, and research and innovation;
- provisions to ensure efficient customs clearance for traders, including through efforts to minimise the documentation required for release of goods, enable electronic submission and processing of documents prior to arrival of goods and a commitment to prompt release of goods;
- a chapter on animal welfare which recognises both Parties' commitment to high standards of animal welfare and acknowledges that each Parties' existing animal welfare standards provide comparable outcomes;
- a chapter to provide for cooperation on sustainable food systems;

- a Wine and Spirits Annex which will help to reduce regulatory burden and costs for New Zealand producers exporting to the EU, including on labelling requirements for wine, winemaking practices and certification, as well as certain labelling provisions related to spirits.
- 12 The protection of geographical indications (GIs) (i.e. Prosecco and Gruyère) was a key 'red-line' offensive interest of the EU in the FTA and GIs feature in all EU FTAs. Accordingly, under the agreement New Zealand will provide an agreed level of protection for 1,975 EU GIs², allow for the protection of up to 30 additional GIs every three years, and meet certain border and administrative enforcement requirements. The overwhelming bulk of these GIs are of no commercial relevance to New Zealand.
 - 13 New Zealand successfully resisted EU pressure to extend the term of patent and data protection for pharmaceuticals and of patent protection for agricultural chemical and veterinary medicines, as this would have increased the cost of these products significantly for New Zealand by delaying the entry of generic medicines and products to the market.
 - 14 The trade and climate change outcomes of the FTA were a key factor in securing the EU's support for the agreement. The agreement requires both parties to "effectively implement" the Paris Agreement, with a related legal obligation for both Parties to "refrain from actions or omissions which materially defeat the object and purpose of the Paris Agreement." These legal obligations are subject to dispute settlement provisions in the EU FTA, however recourse to trade sanctions as a last resort is only available for the latter obligation regarding the object and purpose of the Paris Agreement. The FTA does not change the nature of the Paris Agreement commitments themselves, including the emissions reduction targets set under Nationally Determined Contributions (NDCs) – which are non-binding political commitments. The Paris Agreement also does not determine how a Party must meet its NDC. These trade and climate change outcomes in the FTA will not result in new obligations for New Zealand businesses.
 - 15 The agreement also provides a number of important protections to ensure policy space is maintained on issues of significance to New Zealand, including:
 - 15.1 the Treaty of Waitangi exception, which ensures that the FTA will not prevent the Crown from meeting its obligations to Māori;
 - 15.2 to preserve the Government's right to regulate in relation to the policy priorities of interest to New Zealand, including to provide for public health care, public education, protect the environment and so on;
 - 15.3 to preserve policy space for Government procurement policies to achieve social, labour and environmental outcomes;
 - 15.4 to preserve the current Pharmac model;
 - 15.5 to exclude Investor-State Dispute Settlement (ISDS); and
 - 15.6 to protect labour and environmental standards by ensuring these will not be lowered for a competitive advantage, or used as a barrier to access.

² The EU has agreed to protect 23 of New Zealand's wine and spirits GIs, such as 'Marlborough' and 'Central Otago'.

- 16 Detailed analysis of the costs and benefits of the agreement are available in the National Interest Analysis³ tabled in Parliament, the ImpactECON economic modelling report⁴ and the Cabinet Paper seeking approval to sign the FTA⁵.

Timing of entry into force

- 17 s6(b)(i), s9(2)(f)(iv)

- 18 By prioritising the passage of this Bill through the House, New Zealand exporters will be able to benefit at the earliest opportunity from the \$100m in annual tariff savings that the agreement will provide.

- 19 The EU ratification process has progressed swiftly, with the FTA successfully passing an important approval vote by the European Parliament on 22 November and receiving final approval by member states (via the Council of the EU) on 27 November.
s6(b)(i), s9(2)(f)(iv)

- 20 s6(a), s9(2)(g)(i)

- 21 s6(a), s9(2)(f)(iv)

The Bill

- 22 The Bill implements the previous Cabinet's decision inviting the former 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 – European Union Free Trade Agreement (NZ-EU FTA or FTA) [DEV-23-MIN-0120].

³ <https://www.mfat.govt.nz/assets/Trade-agreements/EU-NZ-FTA/NZ-EU-FTA-National-Interest-Analysis.pdf>

⁴ <https://www.mfat.govt.nz/assets/Trade-agreements/EU-NZ-FTA/NZ-EU-FTA-Final-Report-Economic-Modelling.pdf>

⁵ <https://www.mfat.govt.nz/en/media-and-resources/pr-2023-0258-new-zealand-european-union-free-trade-agreement-approval-of-final-outcome-and-authority-to-sign/>

- 23 There are a range of legislative and regulatory amendments that are required to align New Zealand's domestic law with certain obligations in the FTA.
- 24 This Bill will enable New Zealand to implement its obligations under the FTA. The Bill will amend:
- 24.1 The New Zealand Tariff to enable the application of the preferential tariff rates agreed in the NZ-EU FTA, and to implement obligations relating to the tariff treatment of goods returned after repair or alteration;
 - 24.2 the Tariff Act 1988 to provide for the NZ-EU FTA's bilateral safeguard mechanism under the Trade Remedies chapter;
 - 24.3 the Trade (Safeguard Measures) Act 2014, as an amendment consequential on amendments to the Tariff Act 1988;
 - 24.4 the Dairy Industry Restructuring Act 2001 to bring additional and revised dairy quotas under the existing quota management system;
 - 24.5 the Customs and Excise Regulations 1996 to implement the agreed rules of origin and product specific rules of origin for goods imported from the EU;
 - 24.6 the Overseas Investment Act 2005 (Overseas Investment Act) and the Overseas Investment Regulations 2005 to increase from NZ\$100 million to \$200 million the monetary threshold above which consent is required for investments by EU non-government investors in "significant business assets" in New Zealand;
 - 24.7 the Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992, to allow goods from a Member State of the European Union to be labelled as "Made in the EU" or, alternatively, as made in that Member State;
 - 24.8 the Geographical Indications (Wine and Spirits) Registration Act 2006 (GIs Act), to protect the EU GIs in New Zealand, including enforcement measures, to meet commitments set out in the FTA;
 - 24.9 the Trade Marks Act 2002 to clarify that consideration of GI rights under the Trade Marks Act includes consideration of the EU GIs registered in the GIs Register and to cover the ongoing costs that the Registrar may incur in exercising their functions, powers and duties under the Act.
- 25 Further details about the content of the Bill are set out in Annex A.
- 26 There are two new copyright related obligations in the FTA that New Zealand has a transition period to implement within four years of entry into force of the agreement. New Zealand has agreed to –
- 26.1 Extend the term of protection of copyright and related rights by 20 years; and
 - 26.2 Provide additional protections against the unauthorised circumvention of technological protection measures (TPMs) (i.e digital locks), including extending protection to access control TPMs.

- 27 Amendments to the Copyright Act 1994 will be required to implement these new obligations. Cabinet previously agreed that these amendments would be implemented as part of a review of the Copyright Act, with the scope and timing of the review to be determined by the Minister of Commerce and Consumer Affairs in early 2024.
- 28 The majority of the legislative amendments required to implement the NZ-EU FTA are fairly standard amendments to implement a free trade agreement. However the GIs commitments in the EU FTA were novel, and have therefore required further new policy and legislative development to align with the existing protections for domestic and foreign GIs. Given the GIs commitments were one of the more contentious outcomes from the FTA, this element of the bill is likely to be of significant public interest, especially for impacted stakeholders, such as wine, spirits and cheese producers.

Impact analysis

- 29 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 [DEV-23-MIN-0120]. The NIA was considered by the Foreign Affairs, Defence and Trade Committee (FADTC) as part of the Parliamentary Treaty Examination Process and is attached as Annex D.
- 30 There are no outstanding policy issues.

Compliance

- 31 The Bill complies with the following:
- 31.1 the principles of the Treaty of Waitangi;
 - 31.2 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);
 - 31.3 the disclosure statement requirements with a copy **attached** to this paper;
 - 31.4 the principles and guidelines set out in the Privacy Act 2020;
 - 31.5 relevant international standards and obligations; and
 - 31.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

- 32 The Bill has been drafted by the Parliamentary Counsel Office (PCO), 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. The Ministry of Justice and Land Information New Zealand were consulted on a draft version of the Bill.

- 33 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, business and industry groups and other key stakeholders on negotiating objectives and FTA impacts as follows:
- 33.1 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).
 - 33.2 Negotiators consulted extensively with a range of business and exporters as the FTA progressed, including horticulture, seafood, wine, dairy, red meat, seafood and manufacturing representatives, across a wide range of different issues such as rules of origin and goods market access. Stakeholders, including the New Zealand Council of Trade Unions (CTU) and Business New Zealand, received bespoke, detailed, regular and confidential trade policy briefings.
 - 33.3 Engagement with Māori as Treaty partners included regular hui (in-person or virtually) with representatives groups from Te Taumata, Ngā Toki Whakarururanga, Iwi Chairs Forum, and the Federation of Māori Authorities. Negotiators also looked to build improvements into the NZ-EU FTA process to increase transparency and enable more useful engagement with Treaty partners and stakeholders on the FTA. For the first time, and with the EU's agreement and under cover of confidentiality agreements, live negotiation text was shared with Te Taumata and Ngā Toki Whakarururanga. This was of particular relevance for evolving discussions on goods market access, digital trade, services and investment and the Māori Trade and Economic Cooperation chapter.
 - 33.4 Public stakeholder sessions on the NZ-EU FTA were held regularly over the course of negotiations. Public summaries of each negotiation round were also made available on the MFAT website (including in Te Reo for the final year of discussions over 2021/22). Video-blogs of the New Zealand Chief Negotiator were made available and MFAT's NZ-EU FTA webpage provided other information related to the FTA. A stand-alone email address (eu-fta@mfat.govt.nz) was set-up and monitored.
 - 33.5 MBIE also released a public discussion paper in November 2022 on possible changes to the GIs Act to implement the FTA, including on the design of a new civil and administrative enforcement regime for registered GIs.
 - 33.6 The Foreign Affairs, Defence and Trade Committee (FADTC) sought submissions for the Parliamentary Treaty Examination of the FTA over the course of 8 days from 20 July 2023 to 28 July 2023 and issued a report to the House.⁶

⁶ <https://selectcommittees.parliament.nz/view/SelectCommitteeReport/1cf52a5d-e94a-451b-f0f2-08dba75226f7>

Binding on the Crown

- 34 The European Union Free Trade Agreement Legislation Amendment Bill will be binding on the Crown.

Associated regulations

- 35 In addition to the Bill, separate regulations under the GIs Act and the Overseas Investment Act are required to implement New Zealand's obligations under the NZ-EU FTA and PACER Plus respectively. PCO will draft regulations under the GIs Act that will provide for examination and opposition procedures and provide some details related to the proposed infringement offence regime.
- 36 PCO and officials have drafted regulations under section 61A of the Overseas Investment Act that will confer to investors from Parties to the Pacific Agreement on Closer Economic Relations Plus (PACER Plus) the same increase to monetary thresholds afforded to investors from the European Union, below which consent from the Overseas Investment Office is not required (PACER Plus Regulations).
- 37 The PACER Plus Regulations are required because PACER Plus contains a "most-favoured-nation" (MFN) obligation, which requires New Zealand to confer to PACER Plus Parties the same investment treatment that is provided under an FTA that entered into force after PACER Plus entered into force for New Zealand on 13 December 2020. The investment treatment increases the monetary thresholds above which consent must be obtained by non-government investors to invest in "significant business assets" in New Zealand.
- 38 s9(2)(h)

Other implementation measures

- 39 Aside from the legislative changes necessary to ratify the NZ-EU FTA, in order to comply with NZ-EU FTA obligations and fully implement the Agreement, New Zealand must also:
- 39.1 provide new visa access for contractual service suppliers from the EU (as was done for the NZ-UK FTA); and
- 39.2 in due course look to ratify three International Labour Organization Conventions.
- 40 Officials will provide separate advice to Ministers on what is required to implement the measures referred to above.

Parliamentary stages

- 41 I propose that the Bill is introduced as soon as possible ^{s9(2)(f)(iv)} I also propose that the Bill is referred to the Foreign Affairs, Defence and Trade Select Committee.
- 42 Given the limited timeframe for passing the Bill (as outlined above), the period for select committee consideration of the Bill will need to be reduced. If the Bill is referred for less than four months, which will be necessary for this Bill, then there must be a time-unlimited debate on that in the House unless the Bill is accorded urgency or the Business Committee agree to alternative arrangements. As the geographical indications elements of the Bill are new and complex, it will be important to allow as much time for select committee consideration as is possible, ^{s9(2)(f)(iv)}

Commencement Orders

- 43 Commencement orders will be required for the Bill and the associated regulations under the GIs Act and the Overseas Investment Act. 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 align the Bill's commencement with the entry into force of the FTA (the date for which will be agreed by both Parties once ratification is complete).

Proactive Release

- 44 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 recommends that the Committee:

- 1 **note** that there are significant strategic and commercial reasons to ratify the NZ-EU FTA;
- 2 **note** that there is a window of opportunity to bring the FTA into force ^{s6(a)}
- 3 **note** that on 21 June 2023, the previous Cabinet approved the text of the FTA and invited the former Minister for Trade and Export Growth to issue drafting instructions to Parliamentary Counsel Office to draft legislation to give effect to the FTA ([DEV-23-MIN-0120] refers);
- 4 **note** that Cabinet has given agencies the mandate to make all necessary changes to implement the FTA [DEV-23-MIN-0120];
- 5 **note** that the European Union Free Trade Agreement Legislation Amendment Bill amends the Tariff Act 1988, the New Zealand Tariff, the Trade (Safeguard Measures) Act 2014, the Dairy Industry Restructuring Act 2001, the Customs and Excise Regulations 1996, the Overseas Investment Act 2005, the Overseas Investment Regulations 2005, the Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992, the Trade Marks Act 2002, and the Geographical Indications (Wine and Spirits) Registration Act 2006;
- 6 **approve** the European Union Free Trade Agreement Legislation Amendment Bill for introduction, subject to the final approval of the Government caucus and sufficient support in the House of Representatives;
- 7 **agree** that the Bill be introduced as soon as possible following Cabinet consideration;
- 8 **agree** that the Government propose that the Bill:
 - 8.1 be referred to the Foreign Affairs, Defence and Trade Committee (FADTC) for consideration; and
 - 8.2 ^{s9(2)(f)(iv)}
- 9 **authorise** the Minister for Trade, in consultation with relevant portfolio Ministers where appropriate, to approve any changes to the text of the Bill which do not materially alter its content between now and its introduction to the House;
- 10 **authorise** PCO to make minor and technical changes to the Bill as necessary until introduction of the Bill;
- 11 **note** that, aside from the Bill, separate regulations under:
 - 11.1 the Geographical Indications (Wine and Spirits) Registration Act 2006 are required to implement New Zealand's obligations under the NZ-EU FTA;

- 11.2 the Overseas Investment Act 2005 are required to confer “most-favoured-nation” obligations to non-government investors from Parties to the Pacific Agreement on Closer Economic Relations Plus (PACER Plus); and
- 12 **authorise** officials to bring the FTA into force (in accordance with Article 27.2.1 (Entry into Force) of the FTA), following the passing of implementing legislation.

Authorised for lodgement

Hon Todd McClay
Minister for Trade

Proactively Released by the Minister for Trade

Annex A: Amendments introduced by the European Union Free Trade Agreement Legislation Amendment Bill

(provided as separate document)

Annex B: European Union Free Trade Agreement Legislation Amendment Bill (draft)

Please refer to cover sheet for link

Annex C: Departmental Disclosure Statement (draft)

Please refer to cover sheet for link

Annex D: New Zealand European Union Free Trade Agreement National Interest Analysis

Please refer to cover sheet for link

Annex E: Dairy and Red Meat: New Zealand Access to EU Market

(provided as separate document)

ANNEX A: Amendments introduced by the European Union Free Trade Agreement Legislation Amendment Bill

Legislation	Amendment
<i>Goods</i>	
Tariff Act 1988	These amendments provide for the bilateral safeguard mechanism under the EU FTA Trade Remedies Chapter.
The New Zealand Tariff	These amendments provide for preferential tariff rates for entry of select goods from the EU and its associated principalities and territories.
The Trade (Safeguard Measures) Act 2014	This amendment is consequential on amendments to the Tariff Act 1988.
Dairy Industry Restructuring Act 2001	These amendments bring additional and revised dairy quotas under the existing quota management system, and possible changes to the way in which dairy export quotas are allocated which may be desirable to maximise the new quotas from the FTA.
Customs and Excise Regulations 1996	These amendments implement the agreed rules of origin and product-specific rules of origin for goods imported from the EU.
Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992	The amendments allow goods from a Member State of the European Union to be labelled as "Made in the EU" or, alternatively, as made in that Member State.
<i>Investment</i>	
Overseas Investment Act 2005	The amendments to s 61A provide for the power to make regulations to implement higher investment screening thresholds for overseas investments in significant business assets, in order to comply with the Trade in Services and Investment Chapter of the NZ-EU FTA, as well as "most-favoured-nation" obligations

	<p>located in Chapter 9, Article 7 of the Pacific Agreement on Closer Economic Relations Plus (PACER Plus). The amendments add the NZ-EU FTA and PACER Plus to s 61A(1).</p> <p>As a result of Brunei Darussalam ("Brunei") ratifying and becoming a party to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership ("CPTPP") on 12 July 2023, all references to the P4 Agreement in the OI Act and OI Regulations are now obsolete. The amendments remove reference to the P4 Agreement from s 61A(1).</p>
Overseas Investment Regulations 2005	<p>The regulations that will need to be amended to implement New Zealand's EU FTA obligations are in subparts 1 and 2 of Part 5 of the OI Regulations. The amendments will need to confer to non-government investors from the European Union a monetary threshold of \$200 million for investment in significant business assets, below which consent is not required.</p> <p>The amendments also remove the obsolete references to the P4 Agreement.</p>
<i>Intellectual Property</i>	
Geographical Indications (Wine and Spirits) Registration Act 2006	<p>These amendments protect the EU GIs in New Zealand to the standard and in line with the enforcement measures set out in the NZ-EU FTA.</p>
Trade Marks Act 2002	<p>These amendments clarify that consideration of GI rights under the Trade Marks Act includes consideration of the EU GIs registered in the GIs Register and to cover the of administering the expanded GIs register.</p>

Annex E: Dairy and Red Meat: New Zealand Access to EU Market

Product	EU imports (2017-2021 avg)	NZ current trade (2017-2021 avg)	NZ post-FTA access (WTO + FTA)
	Metric Tonnes	% of EU imports	% of EU imports
Dairy			
Butter	58,816	13.8%	61.2%
Cheese	203,812	0.5%	15.2%
Milk Powders: All	76,530	2.2%	19.6%
Milk Powders: Whole Milk Powder only	22,860	7.2%	65.6%
High Protein Whey	15,505	11.5%	22.6%
Red Meat			
Sheepmeat	137,356	40.4%	95.4%
Beef ¹	262,490	1.7%	3.3%

¹ The FTA outcome represents an eight-fold increase in our current WTO beef quota access (11,466 tonnes vs 1,466 tonnes, carcass weight equivalent).