

March 7, 2016

Coordinator
EU-NZ FTA
Ministry of Foreign Affairs and Trade
Private Bag 18-901
Wellington

Proposed NZ-EU Free Trade Agreement

1. Thank you for your invitation to participate in this process, and your recognition of the value of NGOs. We apologise for the late submission of our comments.
2. The Public Health Association of New Zealand (PHA) is a national association, with members from the public, private and voluntary sectors, which provides a forum for information and debate about public health in Aotearoa New Zealand. Public health action aims to improve, promote and protect the health of the whole population through the organised efforts of society. Our organisation's vision is 'Good health for all - health equity in Aotearoa', or 'Hauora mō te katoa – oranga mō te Ao', and we work to increase health equity.

Health and trade agreements

3. The Public Health Association has interests in the proposed agreement. We are aware of the importance of trade, investment and other links for New Zealand, the EU, and the states that make up the EU; and also of the relationship between trade, investment and other aspects of business, and health.
4. We define 'health' as encompassing all the conditions that help people to lead healthy lives, with social, economic, and environmental factors and determinants at the forefront. For this reason, it is our view that international business agreements (covering issues not only related to 'trade' in its traditional sense of commodities, but also intellectual property, investment, and economic integration) must take health into account.
5. We have attached a copy of our 2015 trade and health policy, which includes a joint statement of principles from the Australian and New Zealand Public Health Associations. The principles are:

- A fair regime of regulating trade, investment and intellectual property ('trade and investment agreements') should prioritise health and social and ecological sustainability as well as economic development.
 - Trade and investment agreements, and their dispute settlement mechanisms, should be consistent with international law with regard to health, human rights, the environment, and worker protection.
 - Trade and investment agreements must:
 - prioritise equity within and between countries for global population health improvement
 - not limit or override a country's ability to foster and maintain systems and infrastructure that contribute to the health and well-being of its citizens, nor penalise a government for doing so
 - preserve policy space for governments to regulate to protect public health.
 - be negotiated in a transparent fashion, with opportunities for public and parliamentary scrutiny before commitments are made
 - be subject to health and environmental impact assessments that are carried out by parties independent of corporate interests.
6. We wish to contribute to developing a NZ-EU agreement that would be consistent with these principles, particularly to ensure that the agreement promotes these goals as well as specifically 'business' objectives.

Process

7. Important lessons can be gained from the experience of negotiating the Trans-Pacific Partnership agreement, which could guide both the process and the content of a future FTA.
8. New Zealand has the opportunity at the start of developing any EU-NZ FTA (likely to take several years) to ensure that discussions are transparent – for instance, that draft proposals, and draft texts, are made available to the public. We also call for full and informed consultation throughout the development of the agreement with (among others) Treaty of Waitangi partners, environmental groups, health professionals, civil society representatives, academics, economists, and trade unions. We also suggest that it would be helpful if all people and organisations who have submitted on previous FTAs (such as the recent New Zealand-Korea FTA) be invited to participate in the consultation on this agreement.
9. We also ask that the negotiation processes be open to all interested parties, and that all stakeholders have equal access to negotiating texts and to information about the progress of negotiations.
10. Finally, we urge the government to provide full and informed opportunities for consideration by Parliament before any FTA is signed.

Content

11. We urge that an EU-NZ FTA give equal value to a range of economic, social, environmental and equity objectives, and that it is clear in the agreement that governments are not bound by obligations which may impede their capacity to govern for the general common good.

12. We recommend that content provisions include:

Purposes of the FTA

13. We would like to see the purposes identifying and confirming the importance of a range of goals (in addition to economic development) including environmental sustainability, progress on social and health outcomes and equity, and advancement of human rights, including social, economic and cultural rights.

Exceptions

14. We urge that environmental sustainability, progress on social and health outcomes and equity, and advancement of human rights including social, economic and cultural rights, not be viewed as 'exceptions' (as seen both in traditional WTO agreements and the TPP), but as central objectives without which economic development is meaningless, and that the existing 'burden of proof' be reversed.

Dispute resolution

15. We urge that instead of the TPP's investor-state dispute resolution strategies, this FTA instead take the new approach on investment in trade agreement adopted in the EU-Canada Comprehensive Economic and Trade Agreement (CETA). We believe that this would not only be health-promoting, but would also increase public confidence the fairness and transparency of an agreement.

Government measures for the public good

16. In line with New Zealand's commitment to the Framework Convention on tobacco control, tobacco should be excluded from the scope of the agreement.

17. Similarly, we urge that the FTA make it clear that parties to the agreement have the duty to take measures (whether by regulation, taxation, health promotion or other) to:

- Improve food security and nutritional status (for example, recognising tariffs on non-nutritional food such as sugar-sweetened beverages, non-nutritional food advertising bans or restrictions, or specific strategies for children)
- Contribute towards healthier cities and urban environments
- Reduce alcohol-related harm (for example, acknowledging that alcohol taxation, and advertising bans or restrictions, are legitimate health promoting strategies)
- Ensuring fair, affordable and equitable access to medicines
- Safeguarding and improving healthy and sustainable physical environments, including acting on climate change.

Government function in service provision

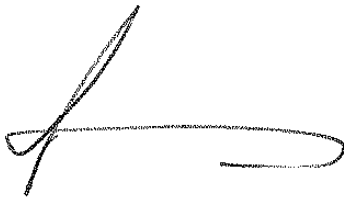
18. We urge government to ensure that nothing in an FTA would promote privatisation of public good services such as healthcare or education.

Relationship with other agreements in international law

19. We urge government to ensure that an FTA require compliance with climate change law (for example, the 2015 Paris Agreement), so that that signatories who are in breach of climate change and other environmental agreements would be excluded from taking advantage of the FTA's benefits. Similarly, we trust that the FTA would require compliance with human rights agreements.

We look forward to further opportunities for participation, and to being kept up to date with developments.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'L' shape with a horizontal line extending to the right and a small loop at the end.

Warren Lindberg
Chief Executive Officer