

## Summary of negotiating objectives

On 29 October 2015 New Zealand and European Union (EU) leaders announced the intention to start the process for negotiations to achieve swiftly a deep and comprehensive high-quality free trade agreement (FTA).

A formal preparatory process followed this announcement. A key component of this preparation, joint EU-New Zealand FTA scoping discussions, was completed in March 2017. A summary of these discussions was released by the Government and can be found [here](#).

An initial mandate to guide New Zealand's negotiators in the early phases of negotiations was informed by the joint scoping discussions.

The Council of the EU approved the EU's negotiating mandate on 22 May 2018. Note that this mandate falls within the exclusive competence of the EU and therefore does not provide for an investment protection agreement or any form of investor state dispute settlement.

New Zealand and the EU announced the launch of free trade agreement negotiations on 21 June 2018, and the first negotiating round is scheduled to take place in July 2018. This document summarises New Zealand's initial negotiating objectives.

These objectives are consistent with New Zealand's existing policy positions and our approach in recent free trade agreements. They are informed also by our understanding of the EU's likely approach and by preliminary engagement with interested domestic stakeholders. These objectives should be read in conjunction with the summary of the scoping discussions noted above.

## **Overview**

New Zealand's overall objective in the FTA negotiation with the EU is the establishment of a modern, high-quality, comprehensive, forward-looking, and commercially-meaningful agreement that facilitates the growth and development of our trade and investment relationship with the European Union.

The policy drivers for pursuing a free trade agreement with the EU include the importance of access to a diversified set of export markets, levelling the playing field with New Zealand's competitors in the EU by eliminating tariffs and substantially reducing the costs of non-tariff barriers, and creating a strong foundation for the growth of trade in goods and services, digital trade, investment, and commercial innovation partnerships with the EU.

The Government views an agreement with the EU as a key element of New Zealand's policy response in the context of increasing turbulence in the global trading environment:

- defending the rules based system, of which FTAs are part
- accelerating our efforts to embed New Zealand in the emerging regional architecture
- building like-minded coalitions to sustain and support global and regional public goods, and
- advancing 'open plurilateralism', which includes supporting open accession to plurilateral agreements like CPTPP as well as support for World Trade Organization (WTO) institutions.

The FTA should be consistent with the Government's *Trade for All* agenda which seeks to ensure that trade policy contributes to sustainable, progressive and inclusive economic development for the benefit of all New Zealanders. In particular, the EU-NZ FTA should include provisions that help to boost sustainable development by addressing climate change, gender equality, indigenous issues, SMEs, regional economic development and environment and labour standards.

As agreed with the EU in scoping discussions, the promotion of sustainable development will be a key feature of the outcomes that New Zealand will be seeking. This includes robust provisions on the issues of trade and environment and trade and labour. It also includes provisions in key areas of cooperation such as climate change, and a greater contribution of trade and investment to sustainable development in areas such as trade in climate-friendly products and technologies, and corporate social responsibility.

## **Trade in goods**

As in every FTA negotiation, New Zealand will seek comprehensive elimination of tariffs on all goods that we trade with the EU within commercially meaningful timeframes.

## **Rules of origin**

New Zealand will seek a liberal change of tariff classification approach to rules of origin that is consistent with the best of our recently concluded free trade agreements. This will be supported, where necessary, by the flexibility to negotiate alternative regional value content and process rules.

New Zealand will also seek to ensure that rules of origin are neutral, meaning that they do not favour the producers of inputs over the producers of final goods, or favour one industry sector over another. In the process, New Zealand's negotiators will use the principles of simplicity, transparency, cost minimisation, and trade facilitation. Rules of origin in the agreement with the EU should support the types of production models that exporters have adopted to operate successfully in a global environment – ones that are pro-competitive and forward looking, ensuring that businesses have the flexibility to grow and innovate. Self-declaration of origin should be the basis for evidencing origin in the first instance under the FTA.

### **Customs procedures**

New Zealand will seek an outcome on customs procedures that provides a predictable, consistent, and transparent environment for the conduct of trade. Our view is that FTA provisions should enhance the transparency of import, export, transit, and transshipment related procedures, including through the adoption of automated systems to the maximum extent practicable.

Other aims include a single point of submission for electronic documentation and the use of electronic, risk based, and business friendly customs procedures, and firm timeframes for customs procedures related to the release of goods and advance rulings.

### **Sanitary and phytosanitary measures**

New Zealand will seek an outcome on sanitary and phytosanitary issues that allows us to take the measures necessary to protect the life or health of our people, animals, and plants, provided such measures are not inconsistent with the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures.

Our objective is that the FTA should include processes and mechanisms to improve communications and consultation and to facilitate trade by seeking to resolve trade access issues in an objective and scientific manner. This should build off, but not undermine, the provisions and efficient functioning of the very successful European Union-New Zealand Veterinary Agreement, which applies to trade in live animals and animal products.

Negotiators should also aim to build parallel rules and disciplines, along the lines of the Veterinary Agreement, for biosecurity and food safety measures that provide certainty and security for New Zealand's plant and plant product exports and that meet New Zealand's unique biosecurity needs.

### **Animal welfare**

New Zealand has a very strong and supportive relationship with the EU in cooperating on and advancing international standards in animal welfare. In the FTA, New Zealand will seek an outcome on animal welfare that would provide recognition of our animal welfare standards, which consistently rank amongst the world's best, and for ongoing dialogue and cooperation on animal welfare.

### **Technical barriers to trade**

FTA outcomes on technical barriers to trade should further the implementation of, and build on, the WTO Technical Barriers to Trade Agreement. Our objective is that provisions will reduce impediments and costs to trade in key areas of interest to New Zealand.

Another objective is that FTA provisions should aim to facilitate the acceptance of conformity assessment results on both sides, promote self-certification, and support unilateral recognition where appropriate.

The provisions should encourage the European Union to recognise New Zealand's regulatory approaches, standards and conformity assessment infrastructure by seeking greater compatibility of technical regulations and the application and recognition of international standards. Possible acceptance of each other's technical regulations as equivalent will be explored.

Overall, New Zealand's aim is for an FTA that helps both sides to manage risks associated with imported products more effectively and efficiently, promote cooperation and collaboration to build strong institutional relationships to resolve specific trade concerns, and increase the acceptance of each other's accreditation and conformity assessment systems.

### **Trade remedies**

New Zealand will seek an outcome on trade remedies that minimises our producers' exposure to trade remedy actions, while protecting the ability of New Zealand producers to seek trade remedy actions against imports. This can be achieved through retaining New Zealand's ability to use trade remedies in accordance with WTO rules on anti-dumping, subsidies, countervailing measures, and safeguards and through exploring the scope for enhanced transparency in the way in which trade remedy actions are administered and in addressing potentially trade distorting subsidies.

### **Services and investment**

A fundamental principle for New Zealand is that any outcome on services and investment must safeguard the right of our government to regulate for legitimate public policy purposes.

New Zealand's objective across services and investment is an outcome that provides commercially meaningful commitments in sectors of interest to New Zealand exporters, such as private education, ICT services, professional services and transport services, and provides increased certainty and transparency for New Zealand services suppliers and investors.

New Zealand will also seek inclusion of a wide range of aviation services, including ground handling services, specialty air services, and airport operation services.

New Zealand will seek an outcome that promotes non-discrimination and progressive liberalisation over time and that follows a two-annex negative list approach for expressing services and investment commitments.<sup>1</sup>

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<sup>1</sup> Under a 'negative list' approach, Parties commit to provide market access except in areas where restrictions are listed in individual Parties' services and investment schedules. Each country's 'negative list' has two parts. Annex I sets out existing measures (laws, regulations, decisions, practices and procedures) that Parties retain the right to maintain in their present form, subject to a ratchet provision, and Annex II lists reservations for sectors and activities where Parties reserve the right to maintain existing discriminatory measures and/or adopt new or more discriminatory measures in the future.

### **Movement of business people**

Consistent with our policy settings, New Zealand will seek provisions to facilitate bilateral access for New Zealand and EU business people that will support the development of our trade and economic relationship and the outcomes of the FTA.

### **Digital trade/electronic commerce**

New Zealand will seek outcomes across the agreement on digital economy issues that support the growth and development of digital trade and its contribution to economic growth.

Outcomes should build on existing e-commerce settings to enable New Zealand to realise the opportunities presented by e-commerce while managing the risks that arise, in particular by retaining necessary public policy safeguards to address issues such as consumer protection and the protection of personal information in the digital environment.

New Zealand has a good starting point for these negotiations. It already has data adequacy equivalence recognised by the EU, one of only four non-European countries with full recognition of the protection of personal information available under our privacy regime.

### **Intellectual property (IP)**

New Zealand has a modern and highly regarded IP system that allows IP owners to efficiently and effectively protect and enforce their IP. We consistently rank amongst the top countries for IP protection.

New Zealand will seek outcomes on intellectual property that sit within current domestic policies and legislative settings, taking into account the need to retain appropriate flexibility to ensure these settings are, and over time remain, appropriately calibrated for a small net importer of intellectual property seeking to incentivise innovation and creativity. New Zealand will also look for opportunities to support transparency and due process in the protection and enforcement of intellectual property so as to minimise compliance costs for business and exporters.

New Zealand will explore the EU's request for a broader framework for protecting geographical indications (GIs), noting that any agreement on GIs is subject to a satisfactory outcome in the overall FTA negotiation.

### **Government procurement**

New Zealand will seek an outcome that builds on the WTO's Government Procurement Agreement in line with New Zealand's existing policy positions and that provides increased opportunities to compete for contracts in the EU market on a non-discriminatory basis.

### **Trade and competition**

The FTA should incorporate a principles-based approach to substantive provisions on the maintenance and enforcement of competition law, transparency and due process. It should also include provisions on competition policy cooperation and consultation/notification, particularly where anti-competitive behaviour may have affected trade and investment between the parties. The competition chapter should be excluded from the free trade agreement's dispute settlement mechanism.

New Zealand will seek incorporation of suitable provisions in the Agreement to support effective consumer protection, including in a digital environment.

New Zealand will seek to incorporate rules to restrict and discipline certain categories of subsidies of particular concern, including those that damage our export markets and environmentally harmful subsidies such as for fossil fuels and unsustainable fishing practices.

### **Trade and sustainable development (including environment and labour)**

New Zealand will seek provisions that give effect to the key principles set out in the 2001 Framework for Integrating Environment Objectives in Trade Agreements, including commitments that labour and environment laws, policies, regulations and practices will not be used for trade protectionist purposes, or be weakened to encourage trade or investment.

Our objective is that the agreement should establish opportunities for cooperation on trade related labour and environment issues of mutual interest and a robust consultation and disputes mechanism to resolve issues or disputes arising between the Parties.

The FTA outcome should advance New Zealand's international trade and sustainability interests, including in relation to environmental goods and services, biodiversity, agriculture, forestry, fisheries, and freshwater, marine and atmosphere domains (including robust provisions covering our global climate change commitments).

### **Good regulatory practice and regulatory cooperation**

New Zealand will seek the inclusion of provisions focused on good regulatory practice and the use of regulatory cooperation mechanisms to help reduce barriers and promote trade and investment, while continuing to meet legitimate domestic policy objectives.

### **Treaty of Waitangi**

New Zealand will secure a provision enabling the New Zealand government to adopt domestic policies according more favourable treatment to Māori, including in fulfilment of obligations under the Treaty of Waitangi, consistent with what has been included in all of New Zealand's recent free trade agreements. The EU agreed in scoping discussions that the Agreement should include such a provision.

### **Legal and institutional issues**

The agreement should include state-to-state dispute settlement mechanisms that are simple, effective, and flexible in line with the principles and guidelines of the WTO Dispute Settlement Understanding and with international best practice. New Zealand will also seek the inclusion of appropriate general provisions, institutional provisions, review mechanisms, and general exceptions including the Treaty of Waitangi (mentioned above) and creative arts exceptions, in line with previous free trade agreements.

### **Trade for All elements**

New Zealand will also pursue outcomes on trade and gender, indigenous peoples, small and medium-sized enterprises, and domestic regional economic development consistent with *Trade for All* and will seek to incorporate in the FTA relevant outcomes from public consultation on that agenda.