



Potential Impact of Protecting the European Union Geographical Indications List: Preliminary Analysis

FINAL REPORT

**Report to Ministry of Business,
Innovation and Employment**

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Acronyms, Abbreviations and Defined Terms

CETA	Comprehensive Economic and Trade Agreement
Commission	Commerce Commission
EU	European Union
EU GI producer	A producer of an EU GI product
EU GI product	An EU product that can lawfully be labelled or described with an EU GI term in the EU
EU GI term	A term registered in the EU as a GI
FTA	Free Trade Agreement
FTE	Full Time Equivalent
Generic term	A term that is considered descriptive or generic in the New Zealand market (e.g. feta)
GI	Geographical Indication
Non-generic term	A term that is assumed to not currently be used in the New Zealand market to describe food and beverage products, except in some cases to market EU GI products
Non-GI product	A product from anywhere in the world that uses an EU GI term as part of its labelling or branding, but does not qualify for EU GI status
Non-GI producer	A producer of a non-GI product
NPV	Net Present Value
SKU	Stock Keeping Unit

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Executive Summary

The Ministry of Business, Innovation and Employment has asked Castalia to undertake a preliminary analysis of the potential economic impacts, costs and benefits of introducing new regulatory arrangements governing the use of geographical indications (GIs), a form of intellectual property. In scoping discussions on a potential free trade agreement (FTA) between New Zealand and the European Union (EU), the EU has signalled that it will seek an outcome on geographical indications that requires New Zealand to recognise, and protect for exclusive use by EU producers, an extensive list of specific terms for agri-food products.

A GI is defined as a term that identifies the origin of a good, where the origin conveys a particular quality, reputation, or other characteristic of the good that is essentially attributable to its geographical origin.

New Zealand law already operates to prohibit misleading labelling and to restrict the use of many GI terms

New Zealand has a variety of mechanisms that work to restrict the use of descriptive terms that are also GIs in the EU (EU GI terms), including penalties for misleading product labelling. This framework does not, however, generally restrict the use of GI terms that are considered descriptive or generic in the New Zealand market (generic terms), such as ‘feta’ or ‘parmesan’.

The EU has sought further recognition of GIs in other jurisdictions

The EU and Canada have concluded a FTA, the Comprehensive Economic and Trade Agreement (CETA), under which Canada has agreed to implement additional protections for an agreed list of EU GI terms.

The EU will likely also seek further regulatory protections for GIs as part of any EU-New Zealand FTA. Based on CETA, the EU may seek:

- Additional protections for a defined list of EU GI terms
- A general prohibition against anything in the presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin of that good, or which misleads the public as to its geographical origin
- Additional civil and administrative enforcement mechanisms.

This paper provides a preliminary analysis of the potential impacts, costs and benefits, of additional restrictions on the use of GIs in New Zealand

Our analysis evaluates the likely economic impacts of overlaying the existing regulatory framework with more restrictive regulation on the use of EU GI terms. For this analysis, we have evaluated two possible scenarios, one more restrictive than the other:

- A ‘CETA-strong’ scenario, where New Zealand grants exclusive protection to a defined list of EU GI terms
- A ‘CETA-light’ scenario, where New Zealand agrees to grant protection to a defined list of EU GI terms, but with compromises allowing ‘grandfathered’ or qualified use of certain EU GI terms by other producers

Our economic analysis focuses on the impacts of ‘clawing-back’ exclusive protection for generic terms, or for terms that are otherwise protected by trade mark (owned by someone other than the EU GI holder). Economic impacts are likely to be concentrated in markets where the use of generic terms is suddenly restricted to EU GI products.

In contrast, if restrictions are applied to the use of terms that are currently not used in New Zealand, or only used to describe EU GI products (non-generic terms), the economic impacts are likely to be more limited. The main potential economic impact from restricting the use of these non-generic terms is on the development of new markets in New Zealand. The restrictions would foreclose the use of these terms in the future, except to market EU GI products. In other words, if it were not for the restrictions, there is a possibility of these non-generic terms becoming generic in New Zealand over time, used to describe a whole new product category.

We estimate that the costs to the New Zealand economy are modest

We qualitatively assess the costs and benefits, and, where possible, quantify material impacts. As Table 1.1 shows, the total costs are relatively modest. This is primarily a result of the fact that only a few of the EU GIs have significant market share in New Zealand, if they are sold at all.

Our preliminary estimate of the costs to the New Zealand economy is set out in Table 1.1 below:

Table 1.1: The Costs of introducing a GI Framework in New Zealand

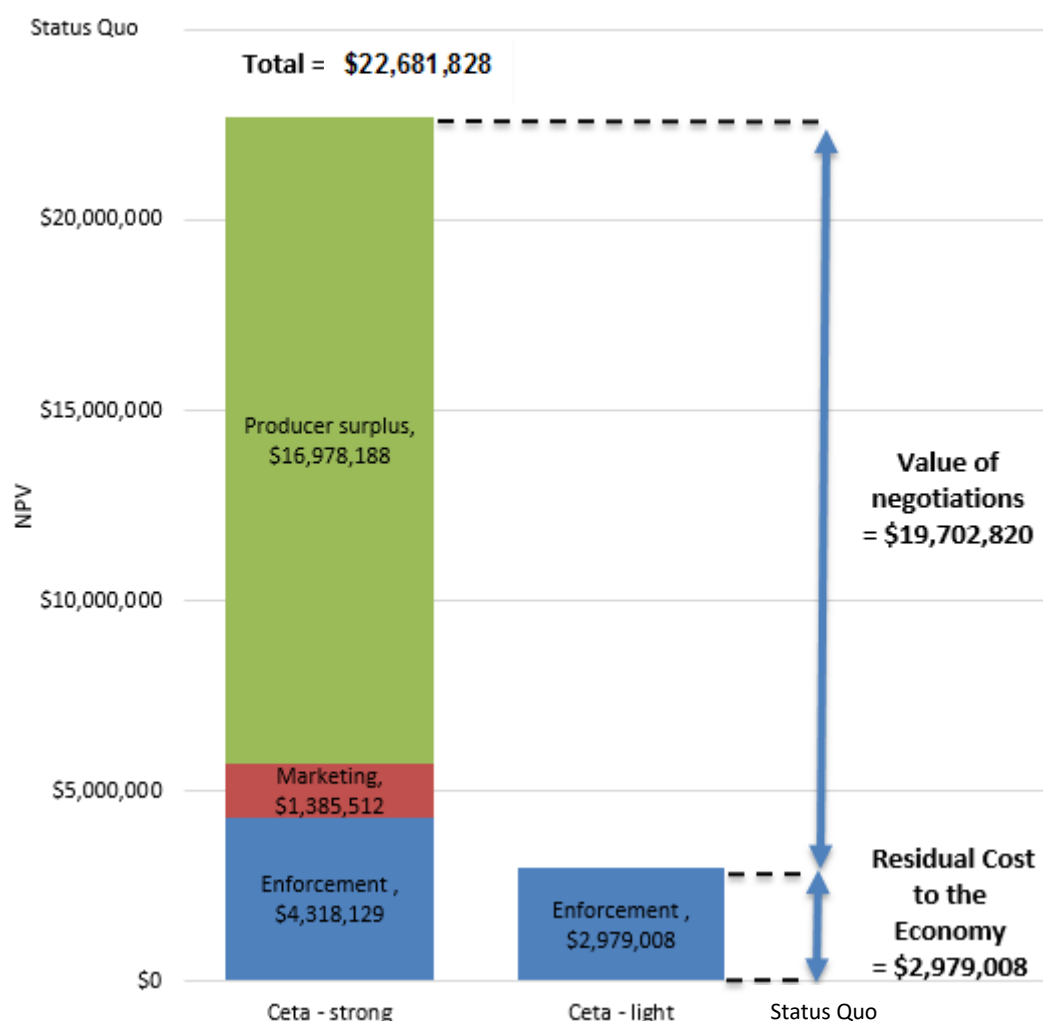
Impact borne by	CETA-strong	CETA-light
New Zealand	\$(22,681,828)	\$(2,979,008)
EU GI producers	\$21,832,386	\$(2,949,592)
Rest of world producers	\$(7,766,427)	\$-

While we estimate the costs to the New Zealand economy as a whole to be modest, the ‘CETA-strong’ scenario could see a small number of boutique producers severely impacted, mainly in the wine and cheese sectors.

We also test the sensitivity of key assumptions around enforcement and dynamic impacts where these impacts are uncertain. This confirms that potential costs to the New Zealand economy are likely to be modest, even when disputes increase and consumption shifts further towards EU GI products.

Figure 1.1 shows the summary of costs under each scenario. The value of negotiating a ‘CETA-light’ approach, relative to a ‘CETA-strong’ approach, is \$19,702,820 and the residual cost to the economy if this scenario were to be implemented would be \$2,979,008.

Figure 1.1: Costs to New Zealand of the two GI frameworks



The ‘CETA-strong’ scenario is likely to impose significantly higher costs on New Zealand than the ‘CETA-light’ scenario

Our preliminary qualitative and quantitative analysis clearly illustrates that the ‘CETA-strong’ framework is likely to impose materially higher costs to New Zealand than the ‘CETA-light’ approach. This is due to differences in relabelling costs and a significantly higher risk of negative competitive impacts to New Zealand producers under the ‘CETA-strong’ approach.

In contrast, the economic impacts of the ‘CETA-light’ approach are likely to be much more confined as incumbent producers are protected, and new entrants can still make qualified use of the generic terms. However, over time, this will create an uneven playing field in certain markets that may inefficiently privilege incumbents over new entrants.

Overall, most of the EU GI terms are only used in New Zealand to describe EU GI products, if at all. The EU GI terms identified for the purposes of this analysis are listed in Appendix B. Existing law on product labelling and marketing may also deter producers of non-EU GI products from ever using these EU GI terms. New descriptive terms can still be developed to market new product categories. For example, in Australia the term ‘tawny’ is now used instead of the EU GI ‘port’. This situation means the impacts of any

new regulatory framework are unlikely to be large, particularly if ‘grandfathered’ and qualified use rights are provided for.

To evaluate the potential economic impacts, we split the potential costs and benefits into direct and indirect impacts, and quantify material impacts

The potential direct impacts include:

- Costs associated with changes to labelling, as well as new marketing costs
- Costs and benefits associated with trade marks, including from loss of trade marks or from no longer having to maintain trade marks
- Costs associated with enforcing and administering the new regulatory requirements.

The potential indirect impacts include a variety of competition impacts from restricted use of GI terms:

- Producer impacts, which may see producers and retailers of EU GI products increase revenues from higher pricing and increased market share, and corresponding losses in revenues to New Zealand and other overseas producers
- Consumer impacts, which may include losses from confusion, lower competition and high pricing, and gains from lower pricing for certain products
- Dynamic efficiency impacts, which may include lower innovation from New Zealand producers as they face restrictions on using certain descriptive terminology, or possibly gains in innovation from New Zealand producers being driven to create new appellations and brands.

For the ‘CETA-strong’ scenario, we assess labelling, marketing, administration, and enforcement costs as material, and quantify them. We also assess potential impacts on producers as material, as restricting the use of generic terms to only EU GI products may shift consumption to those products.

For the ‘CETA-light’ scenario, we assess administration and enforcement costs as material. We exclude labelling costs in this scenario, as all incumbents enjoy ‘grandfathered’ rights to use GI terms. Therefore, there would be no need to relabel products to comply with the GI framework. We also exclude market impacts as being immaterial or too speculative to reliably quantify, as all producers could continue using generic terms to signal information about their products.

1 Introduction and Approach to the Evaluation

The Ministry of Business, Innovation and Employment has asked Castalia to undertake a preliminary analysis of the potential economic impact of introducing a new framework for additional protection of EU GI terms in New Zealand. A GI is a term that identifies the origin of a good, where the origin conveys a particular quality, reputation, or other characteristic of the good that is essentially attributable to its geographical origin. They are largely used in relation to food and beverage products.

Through scoping discussions on a potential FTA between New Zealand and the EU, the EU has signalled that it will seek an outcome on GIs that requires New Zealand to recognise and protect an extensive list of specific terms for agri-food products for exclusive use by producers of EU GI products. This framework may involve:

- Additional protections for a defined list of EU GI terms
- A general prohibition against anything in the presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin of that good, or which misleads the public as to its geographical origin
- Additional civil and administrative enforcement mechanisms.

1.1 This paper provides a preliminary analysis of the costs and benefits of introducing a GI framework

This Paper provides a preliminary evaluation of the potential economic impacts, costs, and benefits of introducing a new framework for protecting a defined list of EU GI terms. To undertake this evaluation, we benchmark the impacts of two scenarios against the status quo regulatory framework. These two scenarios are based on the CETA Agreement between the EU and Canada:

- A ‘CETA-strong’ regulatory framework, where New Zealand grants exclusive protection to a defined list of EU GIs
- A ‘CETA-light’ regulatory framework, where New Zealand agrees to grant protection to a defined list of EU GI terms, but with compromises allowing ‘grandfathered’ or qualified use of EU GI terms by other producers.

This paper is structured into the following additional sections:

- **This Section**, where we outline our methodology for this evaluation
- **Section 2**, where we outline our assumptions on the status quo, the ‘CETA-strong’ scenario, the ‘CETA-light’ scenario, and the GI terms most relevant to our economic analysis
- **Section 3**, where we identify the categories of potential costs and benefits, and we qualitatively assess each category to find material impacts
- **Section 4**, where we quantify material costs and benefits, compare and discuss the costs and benefits of the two scenarios, and test key uncertainties.

1.2 The Introduction of a GI Regime is Evaluated in Three Steps

The steps in our economic evaluation of the GI Regime are:

- Step One: Determine the counterfactual scenarios for evaluation
- Step Two: Identify and qualitatively assess the costs and benefits to find material impacts of the GI scenarios
- Step Three: Quantify the material costs and determine distribution of costs and benefits, and sensitivity analysis to key uncertainties.

Step One: Determine the counterfactual scenarios for evaluation

The evaluation focuses on incremental economic impacts from changes to the status quo. Under the status quo, the use in New Zealand of some EU GI terms may be restricted by a combination of tort law, fair trading requirements, and other mechanisms, such as trade marks. Therefore, New Zealand already provides a level of protection for EU GI terms that are not considered descriptive or generic in the New Zealand market.

We evaluate two deviations from the status quo:

- An ‘CETA-strong’ scenario, where New Zealand grants exclusive protection to a defined list of EU GIs
- A ‘CETA-light’ scenario, where New Zealand grants protection to a defined list of EU GI terms, but with compromises allowing ‘grandfathered’ or qualified use of EU GI terms by other producers.

Both approaches would be accompanied by civil and administrative enforcement rights.

The full list of EU GI terms that we consider in this evaluation is set in Appendices A and B. For this analysis, we divide this list of EU GI terms into the categories defined below:

- Generic terms – terms considered descriptive or generic in the New Zealand market (e.g. feta)
- Non-generic terms – we assume these terms are not currently used in the New Zealand market to describe food and beverage products, except in some cases to market EU GI products.

Step Two: Identify and qualitatively assess the costs and benefits to find material impacts of the GI scenarios

In this step, we hypothetically impose the GI scenarios and evaluate the costs and benefits that may ensue to find material impacts.

We split possible costs and benefits across two categories:

- Direct costs and benefits of regulation, which are those that businesses or people face as a direct result of complying with the regulations and the cost to government of administering and enforcing the regulations.¹
- Indirect costs and benefits, such as competitive market impacts of regulation, which includes impacts on consumer and producer welfare, and on innovation.

¹ Organisation for Economic Co-operation and Development. Introductory Handbook for Undertaking Regulatory Impact Analysis. October 2008. <https://www.oecd.org/gov/regulatory-policy/44789472.pdf>

For both the ‘CETA-strong’ and ‘CETA-light’ scenarios, we then qualitatively assess the costs and benefits based on the likely significance of economic impacts. These assessments consider the likelihood of the economic impact, the number of parties affected, and the scale of the impact across both scenarios.

Table 1.1: Qualitative assessment framework

Assessment	Description
High	Material impacts are likely - Impacts are judged to be sufficiently significant and are likely to occur
Medium	Material impacts possible, but speculative - Impacts may be significant, but are judged to be speculative or unlikely to occur
Low	Impacts are negligible - Impacts are judged to be both unlikely and below the threshold of significance

Step Three: Quantify the material costs and determine distribution of costs and benefits

For both scenarios, we quantify the costs and benefits that we assess as having a high or medium materiality. The model uses appropriate quantification methods for each specific cost.

We then compare the aggregated results for both scenarios against each other and the status quo. The assessment of costs and benefits are also subject to a degree of uncertainty that is a result of several factors. These factors include predicting the timing, likelihood and significance of impacts.

This economic assessment deals with this uncertainty by altering assumptions made in our quantitative assessment to create a range of expected outcomes. We reassess the quantified costs and benefits for key uncertainties, including different dispute costs and potential competitive market impacts.

2 How Have We Evaluated Introducing GIs?

We have identified two potential scenarios that could be implemented. Our economic evaluation is based on comparing the status quo with the regulatory scenarios described in this section. We will therefore describe:

- The status quo regulatory framework, and our understanding of how it operates
- The two hypothetical regulatory scenarios for evaluation, and our assumptions about how these frameworks would operate. The scenarios are based on the CETA Agreement between Canada and the EU.

We also introduce the list of EU GI terms relevant to this analysis. We divide the full list of EU GI terms into two categories based on their status in the New Zealand market.

2.1 The Use of Many GIs is Already Restricted under New Zealand Law

New Zealand is a signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights. This Agreement obliges New Zealand to provide the means for interested parties to protect GIs against use that misleads consumers as to the true origin of the goods, or use that amounts to unfair competition. The Agreement restricts the use of GIs for wines and spirits that do not originate in the place indicated by the GI.

To meet this obligation, producers already face a suite of legal restrictions on product labelling, which must not be misleading or deceptive, nor infringe trade marks. Therefore, GI terms already enjoy a degree of protection in New Zealand. This system largely relies on the threat of industry-led enforcement and, therefore, on deterrence. Without more, using a generic term, such as feta, is unlikely to be found to breach New Zealand law.

The current framework requires labelling to be truthful and restricts the use of certain GIs

The main elements of this system include the legal requirements set out below.

Tort of passing off:

This tort can be used by a producer or producer group to protect against misleading or deceptive use of an EU GI term where that use is damaging to the goodwill of the producer or producer group. In New Zealand, a Champagne producers' group successfully used this tort against a New Zealand importer which was importing Australian wine labelled as 'Champagne'.

Trade Marks Act 2002:

A trade mark identifies a unique product or service. Trade marks must have a distinctive character. The holder of a trade mark has the exclusive right to use the trade mark throughout New Zealand to promote the goods it covers.² Geographical terms generally cannot be registered as trade marks unless there is something more distinctive accompanying the term.

² New Zealand Intellectual Property Office. Trade Marks. <https://www.iponz.govt.nz/about-ip/trade-marks/>

Producers of EU GI products may be able to collectively register their GI term as a trade mark in New Zealand. They are unable to do so where the term is generic, registered by someone else or is otherwise non-distinctive (e.g. a geographic location). Relevant industry bodies can also register certification trade marks. Some EU GI terms have been registered as collective or certification trade marks. For example, the GI ‘parmigiano reggiano’ has been registered in New Zealand as a certification mark for ‘parmigiano reggiano’ cheese produced in the relevant regions of Italy in accordance with traditional processes.³

Producers may be able to register trade marks which include EU GI terms where they are the first in time, the term is distinctive, and the trademark is unlikely to deceive or mislead. For example, a manufacturer of maritime safety equipment has registered the trade mark ‘beaufort’, which is also an EU GI term for a particular type of cheese produced in France.⁴

There are costs to maintaining trade mark registration of \$350 every ten years plus professional advisor fees, and there is a risk that the trade mark could be revoked if it becomes generic or falls into disuse.

Fair Trading Act 1986:

This Act prohibits misleading or deceptive conduct in trade generally,⁵ as well as listing specific types of false or misleading representations that are treated as offences under the Act.⁶ A product that does not originate from the geographical area indicated, or that does not possess the characteristics for which a geographical indication is known, could be found to breach the Act. The Champagne producers’ group also took action against the New Zealand importer of the Australian wine under this Act.

Section 13 of the Act sets out a list of prohibited types of false or misleading representations, including “a false or misleading representation that goods are of a particular kind, standard, quality, grade, quantity, composition, style, or model, or have had a particular history or particular previous use.”

Food Act 2014:

Food must be accurately described in its labelling (“truth in labelling”).

Geographic Indications (Wines and Spirits) Registration Act 2006:

The law is expected to come into force mid-2017, and will enable producers of EU wine and spirits GIs to register their GIs in New Zealand—if they are not generic terms in New Zealand.

Some producers of EU GI products may seek to register their GIs in New Zealand. The new framework would provide some assistance to New Zealand wine or spirits producers looking to have their GIs recognised in the EU (which would enable explicit ‘bright line’ protection of those GIs). The prospect of a New Zealand-EU FTA may alter the incentives for producers to apply for GI protection. They may hold-off in the hope they could obtain protection through the FTA itself, thereby avoiding the costs of registration.

For this analysis, we will assume this framework helps protect the exclusivity of EU wine GIs in New Zealand, except to the extent they are generic terms.

³ See <http://app.iponz.govt.nz/app/Extra/IP/Mutual/Browse.aspx?sid=636336340394631105>

⁴ See <http://app.iponz.govt.nz/app/Extra/IP/Mutual/Browse.aspx?sid=636338030372637847>

⁵ See section 9

⁶ See section 13

A breach of this Act can be enforced as if it were a breach of section 9 of the Fair Trading Act.

Wine Regulations 2006

These require truth in labelling in respect of origin, vintage and grape variety.

Existing GI protections in overseas jurisdictions

To varying degrees, South Korea, Singapore, the EU, Canada and several Pacific Island countries have rules that protect EU GI terms. Labelling for New Zealand products exported to these markets will already have to comply with these rules.

Australia is exploring an FTA with the EU, and may eventually adopt additional protections for EU GI terms as part of any agreement. Currently, Australia uses similar mechanisms to New Zealand to regulate the use of GIs, and already has a framework in place for protecting wine GIs.

For the purposes of this analysis, we assume that the status quo regulatory framework will prevail in Australia.

Enforcement of the existing framework generally relies on civil action

Enforcement of all types of intellectual property rights generally relies on the affected party (i.e. the rights holders or their licensees) taking civil action, rather than administrative action. The Commerce Commission's (Commission) Fair Trading Act enforcement activities focus on areas that meet its tests for significant harm, seriousness and being in the public interest.⁷

Key enforcement mechanisms include:

- Civil enforcement by the New Zealand GI holder (i.e. registered under the domestic GIs legislation)
- Civil enforcement by a person with an interest in a particular GI term (e.g. an EU GI holder), for example, actions in tort or civil action under the Trade Marks Act or Fair Trading Act
- Customs detention of goods that infringe a registered trade mark, where the trade mark owner has lodged a notice with Customs⁸
- Administrative enforcement of section 13 of the Fair Trading Act by the Commission.

2.2 Scenario One: A 'CETA-strong' Approach

The evaluation compares the likely economic impacts of a 'CETA-strong' framework compared to the status quo framework outlined above. It is based on the implementation of a more restrictive GI framework in New Zealand than the GI framework outlined in CETA, and adopts certain assumptions for simplicity of analysis.

Use of certain terms would be restricted to EU GI products

Under this scenario, there would be a prohibition on labelling or selling a food or beverage product (within the relevant class of products) in New Zealand with a term from a defined

⁷ Commerce Commission. Enforcement criteria. <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-criteria/>

⁸ New Zealand Customs Service. Copyright, trade marks & intellectual property rights notices. <http://www.customs.govt.nz/news/utilities/pages/copyright.aspx>

list of EU GI terms—unless that product is the EU GI product. The restriction would apply even if the relevant producer held a trade mark for that term. This would mean:

- Unless it was an EU GI product, no product in New Zealand could lawfully be labelled or described in trade with an EU GI term. As a result, we assume:
 - Where New Zealand exporters wish to continue using an EU GI term from the list in third-party countries (that do not recognise the EU GI terms domestically), those exporters would have to label products outside New Zealand
 - Importers would have to ensure any product labelling complies with the GI framework before it enters New Zealand.

For this analysis, the GI list is assumed to be fixed (e.g. newly recognised terms in the EU could not be added over time). Our interpretation of the list is also strict – it is use of the full name and its direct translation that is restricted, not partial use of the name. For example, while use of the term ‘brie de meaux’ would be restricted to the EU GI product, cheese which does not meet all of the EU GI requirements could still be labelled as ‘brie’.

The EU may seek protection for descriptive terms that ‘evoke’ an EU GI term (known as ‘evocation’). For example, the term ‘prosciutto’ might arguably ‘evoke’ the GI term ‘prosciutto di parma’. However, to enable a workable analysis, we assume that there would be no protection for ‘evocation’ in New Zealand. We make one exception for the term ‘parmesan’, as the EU may seek explicit protection for this term in New Zealand. Within the EU, the term ‘parmesan’ can only be used to describe the EU GI product ‘parmigiano reggiano’. A court ruling in the EU has established that ‘parmesan’ is an ‘evocation’ or translation of ‘parmigiano reggiano’ under EU law.⁹

To simplify our analysis, we also assume:

- Use of ‘customary’ terms like ‘chateau’ would not be restricted
- There would be no change in the existing general prohibition on misleading or deceptive conduct. The EU is likely to seek a general prohibition against any product labelling that indicates or suggests that the good in question originates in a geographical area other than the true place of origin of that good. For our analysis, we assume this prohibition is adequately covered by the existing regulatory prohibitions (in particular, sections 9 and 13 of the Fair Trading Act) described in Section 2.1. However, we acknowledge that the new framework might have a more nuanced behavioural effect – for example, EU GI producers might be more likely to complain if New Zealand ‘white cheese’ has a Greek flag on it.

For this analysis, we assume EU GIs would primarily be enforced by rights holders (i.e. producers) through the Fair Trading Act, with administrative enforcement as well

This evaluation will assume that misuse of the EU GI would be a breach of section 9 of the Fair Trading Act, and an offence under that Act. To enforce their rights, we assume:

- Producers of EU GI products may take civil action under the Fair Trading Act

⁹ European Commission Legal Service. Case C-132/05 Commission v Germany, judgment of 26 February 2008 Protection of geographical indications and designations of origin for agricultural products and foodstuffs. http://ec.europa.eu/dgs/legal_service/arrets/05c132_en.pdf

- Producers of EU GI products would be able to request the Commission to take administrative action on their behalf.

We assume Customs would detain goods suspected of infringing the EU GIs when requested to do so by rights holders or the Commission.

We assume that enforcement will primarily be driven by the producers of EU GI products themselves. For the purposes of this scenario, we also assume that the Commission would actively pursue all complaints, even if it would not normally do so under its enforcement criteria. Further, we assume that any valid complaints would be dealt with by the Commission using a ‘cease and desist’ approach.

Finally, we assume broad compliance with the new restrictions by traders in New Zealand.

We believe these assumptions broadly reflect New Zealand’s approach to enforcing intellectual property rights, while acknowledging there may be an expectation for proactive government action under this scenario.

2.3 Scenario Two: A ‘CETA-light’ Approach

The evaluation compares the likely economic impacts of a ‘CETA-light’ framework compared to the status quo framework. It is based on the implementation of a more permissive GI framework in New Zealand than the GI framework outlined in CETA, and adopts certain assumptions for simplicity of analysis.

Under this scenario, we assume that restrictions on the use of EU GI terms would be forward looking, preserving the position of existing traders

As with the ‘CETA-strong’ scenario, there would be a default prohibition on labelling or selling food or beverage products in New Zealand with a term from the defined list of EU GI terms, unless the product is an EU GI product. However, under this scenario, there would be several exceptions to this default prohibition:

- Existing traders, including exporters and importers, could continue to use generic terms from the EU GI list (see Appendix A), where those terms are used to describe existing products (‘grandfathered’ rights). These ‘grandfathered’ rights would continue in perpetuity. There would be no registration system for ‘grandfathered’ rights. Holders of grandfather rights would need to establish an existing prior use defence if their use of a term is challenged. This assumption is based on the approach in the Trade Marks Act, where continuous prior use of an unregistered trade mark is a defence to infringement of a registered trade mark. The onus is on the person relying on the defence to establish they qualify for the defence.
- All producers could continue to describe Appendix A products as GI-‘like’ or GI-‘style’, as long as it is clear that the product is New Zealand made. For example, ‘New Zealand feta-style’ cheese.
- Prior existing trade marks would co-exist with the EU GI terms.
- The prohibitions would not apply to names that are plant varieties or animal breeds previously used in New Zealand—for this analysis, we assume this would allow the terms like prosecco and Valencia oranges to continue to be used in New Zealand.

Unless a product is an EU GI product, or falls into one of the exceptions outlined above, no product in New Zealand could lawfully be labelled or described in trade with an EU GI term. As a result, unless they are using one of the exceptions above, we assume:

- Where New Zealand exporters wish to continue using an EU GI term from the list in third-party countries (that do not recognise the EU GI terms domestically), those exporters would have to label products outside New Zealand
- Importers would have to ensure any product labelling complies with the GI framework before it enters New Zealand.

As with the ‘CETA-strong’ scenario, we assume:

- The EU GI list is assumed to be fixed for this analysis (e.g. newly recognised terms in the EU could not be added over time). Our interpretation of the list is also strict – it is use of the compound name and its direct translation that is restricted, not partial use of the name
- The GI framework would not restrict use of ‘customary’ terms like ‘chateau’
- Aside from unlawful use of GI terms, there would be no other change in the existing general prohibition on misleading or deceptive conduct
- There would be no protection for ‘evocation’ in New Zealand.

For this analysis, we assume the GI framework would primarily be enforced by rights holders through the Fair Trading Act

The evaluation of this scenario will also assume that misuse of the EU GI term from the defined list would be a breach of section 9 of the Fair Trading Act, and an offence under that Act. To enforce their rights, we assume:

- Producers of EU GI products may take civil action under the Fair Trading Act
- Producers of EU GI products would be able to request the Commission to take administrative action on their behalf.

We assume Customs would detain goods suspected of infringing the EU GIs when requested to do so by rights holders or the Commission.

We assume that enforcement will primarily be driven by the producers of EU GI products themselves. For the purposes of this scenario, we also assume the Commission would be reactive. In contrast to the ‘CETA-strong’ scenario, the Commission would apply its current enforcement criteria, and only actively pursue serious breaches of the GI framework.

Finally, as with the ‘CETA-strong’ scenario, we assume broad compliance with the GI framework by traders in New Zealand.

We believe these assumptions broadly reflect New Zealand’s approach to enforcing intellectual property rights and culture of respect for intellectual property rights, while acknowledging there may be an expectation for government action in some circumstances under this scenario.

2.4 The Goods Covered by GI’s Fall into Two Categories of Economic Relevance

The defined list of EU GI terms for this analysis are listed across Appendices A and B. This list is based primarily off the list included in CETA as well as some wine GIs included in the EU’s FTA with Singapore. It is possible that the EU will seek to add further wine GIs to the list consistent with the list protected in Australia under their wine agreement with the EU, which could impact the results of the analysis. This is an area for further consideration.

The EU GI terms on this list, on evaluation, fall into two different categories. The first are terms that are in common usage in New Zealand. The second are terms that have no or very little use in New Zealand, except to describe EU GI products. Therefore, we split the list between:

- Generic terms – these are terms that are used in the New Zealand market to describe both EU GI products and non-GI food and beverage products, such as feta cheese
- Non-generic terms – for this analysis, we assume these terms are not currently used in the New Zealand market to describe food and beverage products, except in some cases to market EU GI products.

This distinction is important for the economic evaluation. If an EU GI term is used by New Zealand producers, or is used to describe other products imported into New Zealand, then these producers may have to change their branding and marketing under a more restrictive GI framework. In turn, this change may affect consumer behaviour.

In contrast, if an EU GI term is currently only used to describe EU GI products, then any change from the status quo would be less significant. These incumbent producers would not be required to alter their existing branding and marketing. The main potential economic impact from restricting the use of these non-generic terms is on the development of new markets in New Zealand. The GI frameworks would foreclose the use of these terms in the future, except to market EU GI products.

The number of generic terms on the EU GI list is relatively small

We have gone through a comprehensive list of EU GI terms and identified 14 terms that are used in New Zealand by manufacturers, exporters and retailers to describe food and beverage products that are not EU GI products. We assume that these 14 descriptive terms are generic terms under the status quo regulatory framework. These generic terms are:

- Feta
- Parmesan
- Gorgonzola
- Gruyère¹⁰
- Haloumi (the EU does not yet recognise this term as a GI, but for this analysis we assume it will soon be classified as one as)¹¹
- Havarti (the EU does not yet recognise this term as a GI, but for this analysis we assume it will soon be classified as one as)¹²
- Danbo (the EU does not yet recognise this term as a GI, but for this analysis we assume it will soon be classified as one as)¹³
- Mortadella

¹⁰ Although Gruyère is a Swiss GI, and Switzerland is not part of the EU, we have included Gruyère in this preliminary analysis on the assumption that the EU may seek protection for broader European GIs, which it recognises. This may not be the case.

¹¹ See http://europa.eu/rapid/press-release_IP-15-5448_en.htm

¹² See <http://www.geoprod.com/geographical-indication/cheese/havarti>

¹³ See <http://www.geoprod.com/geographical-indication/cheese/danbo/protection>

- Kalamata Olive Oil
- Valencia Oranges
- Port¹⁴
- Sherry¹⁵
- Prosecco¹⁶
- Montepulciano¹⁷

This list was identified through a combination of research and discussion with key government stakeholders.

The remaining non-generic EU GI terms are listed in Appendix B. They are assumed to only be used in New Zealand to describe EU GI products, if at all. Over time, some of these terms may become generic in New Zealand under the status quo regulatory framework. We understand the most likely candidates are the EU cheese GIs ‘fontina’ and ‘asiago’, which are also used in the United States market to describe cheeses produced in the United States.¹⁸ Under both scenarios, the new framework would prevent these non-generic terms from ever being used to describe food and beverage products—except by EU GI producers.

For this analysis, we will assume that most of the non-generic EU GI terms in Appendix B will remain non-generic under the status quo regulatory framework, either because the existing regulatory framework discourages their wider adoption in New Zealand, or it is not generally expected that these terms will be widely adopted to describe non-EU GI products in New Zealand.

A search of the trade mark register has also been performed for both the generic and non-generic terms on the EU GI list. This search found that only a few of the GIs in Appendices A and B have been registered as trade marks, or a part of a trade mark. Of these, no New Zealand food or beverage producers appear to have the exclusive right to use an EU GI term from Appendices A and B.

¹⁴ We assume that this term could not be registered as a GI under the Geographic Indicators (Wines and Spirits) Registration Act 2006 as it may be considered a common term in New Zealand.

¹⁵ We assume that this term could not be registered as a GI under the Geographic Indicators (Wines and Spirits) Registration Act 2006 as it may be considered a common term in New Zealand.

¹⁶ We assume that this term could not be registered as a GI under the Geographic Indicators (Wines and Spirits) Registration Act 2006 as it may be the customary name of a grape variety existing in New Zealand on 1 January 1995.

¹⁷ We assume that this term could not be registered as a GI under the Geographic Indicators (Wines and Spirits) Registration Act 2006 as it may be the customary name of a grape variety existing in New Zealand on 1 January 1995.

¹⁸ Enrico Bonadio. Why Europe and the US are locked in a food fight over TTIP. August, 2015. <http://theconversation.com/why-europe-and-the-us-are-locked-in-a-food-fight-over-ttip-45279>

3 What are the Estimated Material Impacts of Introducing GIs?

There are a range of economic impacts that will affect a variety of entities, both in New Zealand and overseas. Some of these impacts will be highly material, others will not be.

This section:

- Describes the categories of possible economic impacts from the two hypothetical GI frameworks
- Assesses, qualitatively, whether each impact category is material and assigns them with a high, medium, or low materiality ranking.

3.1 Economic impacts of the GI framework

The imposition of a GI framework will have some immediate impacts on economic agents who would have to change their behaviour in some way compared to the present. It would also change the framework under which producers and consumers buy and sell their products over time. Therefore, we split possible costs and benefits of the two scenarios across two categories:

- Direct impacts of regulation, which are the costs and benefits that businesses or people face as a direct result of complying with the regulations, the cost to government of administering the regulations and the costs associated with enforcing the regulations.¹⁹
- Indirect impacts of regulation, which includes impacts on consumer and producer welfare in competitive markets, and on innovation — in other words, how might a change in branding affect economic behaviour.

This split facilitates a workable evaluation of the economic impacts, with the evaluation split between the more certain direct costs of administering, enforcing and complying with a new framework, and the more speculative, dynamic impacts a new framework can have on competitive markets. We acknowledge that economic impacts may cross-over between the categories, with higher compliance costs leading to higher prices for consumers or a loss of competitiveness by certain businesses.

In accordance with Treasury guidance on cost benefit analysis, we evaluate first round effects only, and we do not evaluate subsequent multiplier effects. For example, if consumption of New Zealand cheese falls due to a new GI framework, this may in turn reduce consumption for inputs such as milk.²⁰ These impacts are assumed to be adequately captured by analysing the impacts on the market for cheese. We also do not include the costs of legislative processes required to translate either scenario into New Zealand law. Legislative costs are assumed to be fixed in any given year. And in the context of this analysis, it is not practicable to assess whether one set of legislation crowds out more beneficial legislation.

Table 3.1 below describes the different potential categories of cost and benefit in more detail.

¹⁹ Organisation for Economic Co-operation and Development. Introductory Handbook for Undertaking Regulatory Impact Analysis. October 2008. <https://www.oecd.org/gov/regulatory-policy/44789472.pdf>

²⁰ New Zealand Treasury. Guide to Social Cost Benefit Analysis. July 2015, at 54. <http://www.treasury.govt.nz/publications/guidance/planning/costbenefitanalysis/guide/14.htm>

Table 3.1: Description of possible economic impacts

Possible Economic Impacts	Description
Direct Impacts	
Relabelling of products and menus, and marketing	<p>Producers who are no longer entitled to use the GI will have to relabel to comply with the new framework. This would include producers using the affected products as an ingredient, such as other food manufacturers, restaurants and retailers</p> <p>New Zealand exporters using EU GI terms may have to shift labelling to third-party jurisdictions, if they wish to continue using the affected term in overseas markets</p> <p>Traders currently importing products labelled with EU GI terms would have to ensure that this product labelling complies with the framework. If the imported product is not an EU GI product, then this would require changes in their existing labelling processes</p>
Trade marks	<p>Some businesses would be unable to use their trade marks or be forced to allow EU GI producers to use the term. Therefore, these producers may be persuaded to apply for trade marks using new terminology</p> <p>EU GI holders with trade marks registered in New Zealand may choose not to extend their trade mark registrations or bother with policing compliance with existing trade marks</p>
Administration of the GI framework	The New Zealand government may devote resources to administering the GI framework (e.g. maintain a registration system)
Enforcement of the GI framework and related costs	<p>The GI framework may be enforced by government and the EU GI holders, incurring legal and personnel costs</p> <p>Producers may spend additional money on legal advice to ensure compliance, or to defence themselves against enforcement action</p>
Indirect impacts	
Impacts on producers	<p>Producers who lose the right to use an affected term may see a loss in demand and price premium, reducing overall revenues</p> <p>In contrast, producers or retailers of EU GI products may gain additional market power from exclusive branding, resulting in higher prices and increased consumption</p>
Impacts on consumers	<p>Consumers may experience a loss in economic welfare due to:</p> <ul style="list-style-type: none"> ▪ Increased prices for products or services ▪ Reduced range of products available ▪ Delays in the introduction of new products ▪ Confusion as use of generic terms is restricted <p>Some consumers may benefit from:</p> <ul style="list-style-type: none"> ▪ Reduced prices for affected non-GI products ▪ Provision of clearer information about which products are EU GI products

Possible Economic Impacts	Description
Impacts on dynamic efficiency	<p>There may be restrictions on the ability to develop and market new products and services using EU GI terms</p> <p>There may be an uneven playing field between producers that can and cannot use the EU GI term, discouraging entry into the market and efficient levels of competition</p> <p>Conversely, some producers may be driven to create new brands, that eventually lead to the creation of new product niches (e.g. the Cervena appellation developed by the New Zealand deer industry)²¹</p>

3.2 Qualitatively Assessing Economic Impacts for Materiality

Using the categories identified in Section 3.1 above, we use a qualitative assessment to identify which impacts are likely to be material. For both scenarios, each category is given a materiality level of high, medium or low. Table 3.2 describes what each materiality level means.

Table 3.2: Materiality test

Materiality level	Description
High	Impacts are judged to be sufficiently significant and are likely to occur
Medium	Impacts may be significant, but are judged to be speculative or unlikely to occur
Low	Impacts are judged to be both unlikely and below the threshold of significance

Our decisions on materiality are made using an ‘on balance’ assessment of the following factors:

- The likelihood of the economic impact
- The number of parties affected
- The significance of the impact in monetary terms.

The two scenarios are evaluated separately below. We use the product research set out in Appendix B to help inform our assessments.

The materiality of costs under the ‘CETA-strong’ scenario

We qualitatively assess the materiality of the economic impacts under the ‘CETA-strong’ scenario in Table 3.3. Each category is given a materiality level of high, medium, or low.

Table 3.3: Qualitative assessment of costs and benefits of ‘CETA-strong’ scenario

Impact	Qualitative and Materiality Evaluation
Direct	

²¹ See <http://www.cervena.com/origin-of-the-cervena-name>.

Impact	Qualitative and Materiality Evaluation
Relabelling of products and menus, and marketing	<p>Materiality assessment: High</p> <ul style="list-style-type: none"> ■ Where they are using generic terms, a significant number of producers will likely have to relabel their products using new terminology, representing a material cost over the status quo. <ul style="list-style-type: none"> – Products not entitled to be labelled with the EU GI term will have to be relabelled to comply with the new framework. This includes products imported into New Zealand that are not EU GI products. Exports currently labelled in New Zealand with EU GI terms will also either have to be relabelled or labelled offshore. – All retailers, restaurants and cafes with a EU GI term on their menus or other labelling will need to reprint those menus or labels – Bigger companies or industry bodies are likely to conduct marketing campaigns to educate the public on the name change, particularly for the generic cheese EU GI terms ■ The likely labelling impacts on exporters of affected products is less clear than for importers of affected products. <ul style="list-style-type: none"> – As we currently have limited insight into how much affected export product is labelled in New Zealand for export, we cannot reliably determine whether the GI framework would impose material costs on those exporters. The impact on New Zealand exporters depends on where they are sending the affected products, in what volumes, and whether those products are currently labelled in New Zealand or overseas. We do not have specific information on the trade flows for most of the affected products out of New Zealand, and destination markets. Many jurisdictions have their own labelling requirements, or even GI frameworks, meaning New Zealand products may already be labelled for, or relabelled in, those markets. In contrast, our main export market, Australia has more harmonised labelling with New Zealand, and currently does not restrict the use of terms like ‘feta’ or ‘parmesan’. Most of New Zealand’s cheese exports are cheddar and mozzarella, while most of the generic EU GI terms can be described as niche products that may have a relatively insignificant export presence. If those products are already shipped overseas in bulk or in plain wrapping, and then labelled in their export destination, there will be no change from the status quo. However, if they now have to be labelled offshore to maintain use of the EU GI term in those markets, then this will impose new costs. These costs may not be large if the overseas distributor of the product already has the facilities to label imported products, but could be large if the exporter has to invest in new labelling facilities. From our research, most of the affected products are likely to be niche cheeses, primarily sent to Australia, and their local distributors may have to put new labels (using the generic terms) on them on arrival in Australia. We assume these producers could experience some increase in their labelling costs. – Importers will have to ensure their labelling complies with the GI framework before it enters New Zealand. We assume any affected imported products will have to have their labels reset for the New Zealand market, wherever they are labelled in the world. If those products are already labelled in New Zealand, then the cost will be resetting the label so it complies with the GI framework. It seems that some brands of imported Bulgarian and Danish feta are already labelled in New Zealand. However, if the imported product is labelled for the New Zealand market overseas, then the costs could be higher, if they have to reconfigure wider labelling operations specifically for New Zealand. If the same labelling process is used for both Australian and New Zealand markets, then the costs of separating out New Zealand labelling could be higher than

Impact	Qualitative and Materiality Evaluation
	<p>simply resetting the wording on the existing label template. However, further information is required to assess how material the impacts will be to these producers. Imported EU GI products, of course, will not have to change their labelling, so there are no labelling impacts for their producers and retailers</p> <ul style="list-style-type: none"> ▪ For non-generic terms, we assume the GI framework has no impact. We assume the only incumbents are retailers or producers of EU GI products, whose labelling will be unaffected.
Trade marks	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ▪ Trademark applications are understood to be relatively low cost and the scale of the impact is low, so we assess this impact category as being below our significance threshold. <ul style="list-style-type: none"> – Only two or three trade marks appear to be held for products using generic EU GI terms, where those products are not also EU GI products. The trade mark holders may be induced to reapply for trade marks using new terms – Producers of EU GI products will no longer need certification trade marks to restrict use of EU GI terms. However, because the cost is low (\$350 renewal every 10 years), the saving to the producers will also be low. Indeed, there are currently few collective or certification trade marks in place for non-generic terms. And trade marks distinct to individual producers will presumably be maintained – Some producers of EU GI products may refrain from registering new certification or collective trade marks due to the new GI framework. However, this is highly speculative, so we assume no change from the status quo.
Administration of the GI framework	<p>Materiality assessment: High</p> <ul style="list-style-type: none"> ▪ We assume New Zealand government agencies will devote resources to administering the GI framework. <ul style="list-style-type: none"> – We assume an official will be tasked with administering the framework. Even the use of one full time employee is likely to represent an opportunity cost in the tens of thousands – These costs are likely to be greater in the short term as more staff are needed to implement the GI framework and educate key stakeholders about its operation.
Enforcement of the GI framework and related costs	<p>Materiality assessment: High</p> <ul style="list-style-type: none"> ▪ To enforce and ensure compliance with the framework, producers will instruct lawyers and employ investigators. The government will also devote official time to enforcement and compliance matters. <ul style="list-style-type: none"> – It is likely that producers will spend money on legal advice to ensure or police compliance with the new framework – The majority of these costs will accrue to those with an interest in restricting the use of EU GI terms to describe EU GI products, including the producers themselves and New Zealand importers and producers – We assume the government will actively investigate each complaint that it receives. The government's enforcement activities are likely to be focussed on education or harm minimisation (e.g. cease and desist procedures), meaning most costs will be represented by staff time investigating complaints and issuing warnings, or detaining goods at the border.
Court costs	<p>Materiality assessment: Medium</p> <ul style="list-style-type: none"> ▪ Court costs would be material. However, we regard an increase in court cases as an unlikely outcome.

Impact	Qualitative and Materiality Evaluation
	<ul style="list-style-type: none"> – We assume compliance with the list of EU GI terms will be clear cut so no cases will go to Court – We have assumed no changes in the law on misleading labelling and therefore no changes in litigation related to representations on origin, tradition and national symbols from the status quo. There is a possibility that increased publicity or focus on this area could encourage EU GI holders or their agents to take more action.
Indirect impacts	
Impacts on producers	<p>Materiality assessment: Medium</p> <ul style="list-style-type: none"> ■ On balance, we consider there is a genuine risk of negative affects to non-GI producers being prevented from using generic terms to describe their products. However, the extent of these impacts is unknown: <ul style="list-style-type: none"> – The effect of GIs is like that of trade marks—they give exclusive branding rights to one group of producers. The hope is that this will allow those producers to entice more consumers to their produce, and pay higher prices. A 2013 meta-analysis of studies into price premia for EU GIs, found the average percentage premium for EU GIs is 15.1 percent over equivalent non-GI products.²² – This impact is not guaranteed. Indeed, it is likely that EU GI products already enjoy a premium from their branding, where they can sell tradition and authenticity that their other competitors cannot. Several EU GI products in New Zealand already use their EU GI status as a branding device. – The question is, will there be an increase in consumption of EU GI products, or an increase in pricing for those products, as a result of their competitors having to change the terminology used to market their products. The key markets of economic significance that may be affected are those for feta, parmesan and haloumi. Based on our research, the markets for the other food and beverage products described using generic terms from the EU GI list are likely to be much smaller in scale. – For cheese, this is speculative, particularly given that any changes will be well signalled. There may be changes at the margins, but the market is already likely to be segmented between those willing to pay more for the EU GI product, those loyal to premium New Zealand cheese brands, and those only willing to pay for ‘middle of the road’ products. Switching of consumption to an EU GI product is most likely to occur when premium non-GI cheeses currently compete directly with the EU GI product, for example, goat’s milk feta. Our research shows that premium non-GI products have similar price points to the EU GI products at supermarkets. A change in branding that suggests one is more authentic and premium than the other product could draw consumers to the EU GI product. For more inferior products, some consumers may substitute to other products altogether, rather than switching to the more expensive EU GI cheese. Feta producers can also draw on alternative names used in the EU to describe non-GI feta cheese, such as ‘white cheese’ or ‘salad cheese’, to market their products.²³ For other cheeses, it is less obvious how producers would describe their products under the new GI framework. – The impacts may be different for the other affected products, which may lack the same scale as some cheese producers to re-educate consumers. The New

²²Oana C. Deselnicu, Marco Costanigro, Diogo M. Souza-Monteiro, and Dawn Thilmany McFadden. A Meta-Analysis of Geographical Indication Food Valuation Studies: What Drives the Premium for Origin-Based Labels? 2013, at 209. <http://www.waeaonline.org/UserFiles/file/JAREAug20135Deselnicup204.pdf>

²³ See <http://www.cheesewiki.com/feta>.

Impact	Qualitative and Materiality Evaluation
	<p>Zealand wine companies using the wine EU GI terms in Appendix A appear to be offering premium, niche products. They could see consumers simply switch to European sherry, port, and prosecco if they have to abandon existing terminology, as EU GI sherry, port and prosecco are available in New Zealand. This could be particularly damaging to these businesses if they are reliant on these product lines. New Zealander's may also stop buying non-GI imports of port and sherry, and substitute for EU GI port and sherry. The same might occur in the case of non-GI imported and domestically produced mortadella. In contrast, Valencia oranges may be relatively unaffected from changes in branding. The New Zealand produced product does not compete against any imported EU GI Valencia oranges, so consumers may be less likely to substitute for an alternative product.</p> <ul style="list-style-type: none"> – Any shifts in revenues are also likely to be complex. It may be non-GI producers who capture additional revenue from shifts in consumption habits. The presence of market power at the retailer or distributor level may result in those traders capturing some of the benefits of the price premium, rather than the producers of EU GI products.²⁴ Therefore, New Zealand traders may capture any increased revenues for EU GI products. Moreover, losses to some New Zealand traders may be matched by gains to other New Zealand traders. Even if some affected products lose market share, such as imported non-GI port, New Zealand traders may increase sales of EU GI port, making up for lost revenues. Consumers who stop consuming products because of changes in descriptive terms may substitute to products that are not EU GI products. For example, a decrease in demand for New Zealand havarti may see an increase in demand for an alternative New Zealand cheese, rather than an increase in demand for Danish havarti.
Impacts on consumers	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ▪ Overall, we assume there will not be a net change to New Zealand consumer welfare as a whole. <ul style="list-style-type: none"> – Some New Zealand consumers will be better off if non-GI products decrease in price and some might be worse off if GI products increase in price—all other things staying constant. – There is a risk that consumers may lose welfare from confusion and, if products are withdrawn from the market, a possible loss in product selection. However, this is uncertain, and confusion may be addressed through industry marketing about the changes. Therefore, we assume any impacts to be of low materiality.
Impacts on dynamic efficiency	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ▪ The net effect on overall economic welfare from impacts on innovation is speculative. Given there will be impacts both ways and we expect both of these impacts to be low, we believe it is reasonable to assume no overall change in welfare compared to the status quo: <ul style="list-style-type: none"> – The GI framework may discourage local producers from introducing new products as non-GI producers cannot harness EU GI terms in their marketing. This may lead to less competition and choice over time, to the detriment of consumers. – Conversely, the restrictions may encourage high value innovations as producers create new terms or appellations to market their products.

²⁴ See above, at 205.

Impact	Qualitative and Materiality Evaluation
	<ul style="list-style-type: none"> – If the GI term has not been used in NZ before it is likely that a compliant market solution to competition will be discovered by local producers that does not impose substantial costs, as say, an established term being prohibited would be likely to do. Many of the non-generic terms in Appendix B will be unknown to New Zealand consumers, meaning consumers would need to be educated by producers seeking to establish a market in New Zealand. Presumably, any planned effort in marketing and educating consumers on new products using those EU GI terms can similarly be devoted to educating consumers about that same product using a new term – the product is exactly the same except for the descriptive term on the branding. The consequence is little change in economic behaviour over the status quo.

The materiality of costs under a ‘CETA-light’ approach

We also assess the materiality of the economic impacts of the ‘CETA-light’ scenario. Each category is qualitatively assessed and given a materiality level of high, medium, or low in Table 3.4.

Table 3.4: Qualitative assessment of costs and benefits of ‘CETA-light’ scenario

Impact	Qualitative and Materiality Evaluation
Direct	
Relabelling of products and menus, and marketing	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ▪ We assume there will be no additional marketing or relabelling costs over the status quo: <ul style="list-style-type: none"> – Incumbent producers will enjoy ‘grandfathered’ rights so will not face relabelling costs – Restaurants and cafes with an EU GI term on their menu will not need to reprint menus – Marketing campaigns won’t be needed if existing companies don’t need to change the names of products – New entrant producers will already have to develop new labels under status quo, meaning no additional costs will be incurred over the status quo – There is a risk that some exporters may face greater labelling costs over the status quo, where they create new products and do not wish to use the qualifiers ‘like’ and ‘style’ in overseas markets. Rather than label in New Zealand, they would have to arrange for the products to be labelled overseas, which may be costlier than domestic labelling. However, this is speculative and it is difficult to assess whether any producers will face materially higher costs than under the status quo. Some exporters may already label overseas.
Trade marks	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ▪ We do not believe there will be significant changes in trade mark registration behaviour. <ul style="list-style-type: none"> – We assume New Zealand producers will continue to use trade marks, even if they have to allow EU GI producers to use the term – We assume EU GI producers will keep spending the same on trade marks as they currently do because they will wish to maintain existing exclusivity for their trade marks. That is, prevent new entrants from even making qualified use of the EU GI terms.

Impact	Qualitative and Materiality Evaluation
Administration of the GI framework	<p>Materiality assessment: High</p> <ul style="list-style-type: none"> ■ We assume New Zealand Government agencies will devote resources to administering the GI framework. <ul style="list-style-type: none"> – We assume an official will be tasked with administering the framework. Even the use of one full time employee is likely to represent an opportunity cost in the tens of thousands – These costs are likely to be greater in the short term as more staff are needed to implement the GI framework and educate key stakeholders about its operation.
Enforcement of the GI framework and related costs	<p>Materiality assessment: High</p> <ul style="list-style-type: none"> ■ To enforce and ensure compliance with the framework, EU GI producers will likely instruct lawyers and employ investigators. The government will also devote official time to enforcement and compliance matters. <ul style="list-style-type: none"> – It is likely that producers will spend money on legal advice to ensure or police compliance with the new framework – The majority of these costs will accrue to those with an interest in restricting the use of EU GI terms to describe EU GI products, including the producers themselves and New Zealand importers and producers – The government's enforcement activities are likely to be focussed on education or harm minimisation (e.g. cease and desist procedures), meaning most costs will be represented by staff time investigating complaints and issuing warnings, or detaining goods at the border. Costs will be less than under the 'CETA-strong' approach because the government is assumed to apply its current enforcement criteria, which aims to focus enforcement resources on the most serious complaints.
Court costs	<p>Materiality assessment: Medium</p> <ul style="list-style-type: none"> ■ Litigation is more likely under this scenario as compliance will become less clear over time. While the extent of any impacts is uncertain, we assume there will be at least one court case. <ul style="list-style-type: none"> – Incumbent producers will have to defend their 'grandfathered' rights to use a GI term, which may become less obvious over time, increasing the prospects for a dispute – We assume there will be at least one High Court case with costs of around \$100,000, and with costs split between New Zealand producers and the EU GI producers.
Indirect impacts	
Impacts on producers	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ■ Over the short term, there is likely to be little change in producer welfare over the status quo. <ul style="list-style-type: none"> – The position of incumbents is preserved, meaning no immediate changes in producer welfare, and new entrants can make qualified use of the EU GI term to signal information on the product – There is a risk of greater welfare losses over time, as new entrants will have to compete against incumbents using either qualified GI terms or different terms altogether. If new entrants cannot use the same descriptive terminology as incumbents, this can make it harder to displace less efficient incumbents. For example, a producer using the term 'feta' may convey an impression the producer is superior to a producer using the term 'feta-like', even if the 'feta-like' product is better. This may be particularly damaging to producers trying to market new niche, premium cheeses. Any suggestion of inferiority may

Impact	Qualitative and Materiality Evaluation
	<p>make it difficult to achieve premium pricing. However, the size of any impacts is likely to be low given that there are already several existing cheese producers using the generic terms, and producers may innovate and develop new terms. This risk also does not apply to prosecco, Montepulciano, Valencia oranges or Kalamata olive oil under this scenario.</p>
Impacts on consumers	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ■ There will not be any immediate changes to the products consumers are currently buying. Therefore, we assume consumer welfare will be unaffected. <ul style="list-style-type: none"> – There is a risk that consumer welfare may suffer over time as new entrant products may find it more difficult to compete directly against New Zealand incumbents, possibly leading to higher prices, lower quality and less choice over the status quo. However, the scale of this impact is unknown, and there should be residual competitive pressure as there are several New Zealand incumbents in the markets for haloumi, parmesan and feta. Some consumers may benefit if new entrants discount based on having less appealing descriptions on their labelling. Therefore, we assume any impacts to be of low materiality.
Impacts on dynamic efficiency	<p>Materiality assessment: Low</p> <ul style="list-style-type: none"> ■ The net effect on overall economic welfare from impacts on innovation is highly speculative. Given there will be impacts both ways, we believe it is reasonable to assume no overall change to the status quo. <ul style="list-style-type: none"> – All producers will still be able to use generic terms when creating new product lines. However, they will have to qualify use with terms like GI-style. Therefore, the generic terms in Appendix A can still be used to market new products to consumers. There may be a decrease in economic welfare over time as it is harder for new products to displace incumbents (as discussed above)²⁵ – For non-generic terms, the GI framework may discourage local producers from introducing new products as non-GI producers cannot use EU GI terms in their marketing. This may lead to less competition and choice over time, to the detriment of consumers. – Conversely, the restrictions may encourage high value innovations as producers create new terms or appellations to market their products. – If the EU GI term has not been used in NZ before, it is likely that a compliant market solution to competition will be discovered by local producers that does not impose substantial costs, as say, an established term being prohibited would be likely to do. Many of the non-generic terms in Appendix B will be unknown to New Zealand consumers, meaning consumers would need to be educated by producers seeking to establish a market in New Zealand. Presumably, any planned effort in marketing and educating consumers on new products using those EU GI terms can similarly be devoted to educating consumers about that same product using a new term – the product is exactly the same except for the descriptive term on the branding. The consequence is potentially little change in economic behaviour over the status quo.

²⁵ <http://www.cervena.com/origin-of-the-cervena-name>

4 What Is the Estimated Cost of Introducing GIs?

Relabelling and marketing costs, enforcement and administration costs, and the producer impacts are found to be material. We provide a quantitative estimate of these impacts below.

We first quantify material impacts by category, and then compare aggregate net impacts between New Zealand, the EU and ‘rest of world’ (i.e. producers of non-GI products from overseas, including EU producers of non-GI products), and test key assumptions.

The costs are modelled over a 30-year horizon and represented in current dollars using a six percent discount rate.

4.1 Relabelling and Marketing Costs

The net present value (NPV) of relabelling and marketing is broken down by the affected goods in Table 4.1. These costs accrue only to New Zealand and only under the ‘CETA-strong’ scenario as they were considered immaterial in the ‘CETA-light’ scenario. We allocate no costs to the ‘rest of world’ because we assume that imports of non-GI goods are already packaged in New Zealand. Therefore, we assume the New Zealand importers will bear the costs. We also include some relabelling costs to New Zealand exporters of affected products.

Table 4.1: Relabelling and marketing costs (NPV)

Impact borne by	Affected cheese	Affected oranges	Other
New Zealand traders, including importers, exporters, producers, and retailers	\$(952,195)	\$(110,397)	\$(322,920)

How have we estimated these costs?

To determine the cost of relabelling by domestic producers for goods sold in New Zealand, we multiply the cost of relabelling by the number of different SKUs that will need to change their labels. The figures are shown in Table 4.2. Our estimate for relabelling cost come from a recent regulatory impact statement on country of origin labelling.²⁶ The number of SKUs has been determined from company websites and online shopping sites. More details on our market research can be found in Appendix C.

Table 4.2: Costs to domestic producers of relabelling products sold domestically

Affected products	Number of SKUs	Cost of relabelling
Cheese	100	\$1,364
Oranges	10	\$525
Other	40	\$1,364

²⁶ Country of Origin labelling: Consultation Regulation Impact Statement, Consumer Affairs Australia New Zealand <https://consult.industry.gov.au/cool-taskforce/cool/>

New Zealand producers exporting non-GI products may choose to package overseas so they can continue to use generic terms. To quantify this cost, we multiplied the number of exporters by the repackaging cost and add a one-off administration cost for the first year. Based on our market research, outlined in Appendix C, we assume there are five non-GI cheese product exporters, five Valencia Oranges exporters, and five exporters that fall under the “other” category. We assume that the administration costs to exporters for relabelling overseas will be \$14,694 in the first year for affected cheese and oranges and \$7,347 for “other” affected goods due to the smaller scale of the businesses. There will also be an ongoing cost of \$1,364 per SKU, these figures are also based on the regulatory impact statement for country of origin labelling.

There will also be a cost to restaurants that will have to change their menus. We assumed this will only be for affected cheese and quantified this cost by multiplying the number of restaurants with non-GI cheese products on their menu by the number of menus the typical restaurant has by the cost of replacing a menu. We take the number of restaurants from an industry report and assume that 20 percent of these will need to change.²⁷ We then assume that most restaurants have an average of 30 menus and they will cost \$1 each to change.

New Zealand producers are likely to spend more on marketing if they have to change the name of their product. Marketing costs would include rebranding campaigns and advertising. We quantify this by using the amount of a marketing campaign and assuming the campaign will happen for the first three years. We have assumed this marketing cost will be \$250,000 for affected cheese producers combined and \$50,000 for the “other” affected producers combined. We have not included marketing costs for affected oranges because we do not currently import oranges from the EU, and therefore, customers will be less confused by the name change.

The notice period will have a bearing on the costs

Labelling costs may be lower if producers are given sufficient notice of any changes. Labels have a lifecycle, and are updated over time. The estimate used by Consumer Affairs Australia New Zealand for the average label cycle is 2.7 years for a manufactured food product. Therefore, if changes are signalled sufficiently far in advance of any changes, many product labels can be updated as part of normal labelling cycle, reducing costs over the status quo.²⁸

4.2 Enforcement, Administration and Compliance Costs

There are enforcement, administration, and compliance costs for New Zealand traders and the EU traders under both ‘CETA-strong’ and ‘CETA-light’ scenarios, the NPVs are shown in Table 4.3.

Table 4.3: Enforcement, administration and compliance (NPV)

Impact borne by	CETA-Strong	CETA-Light
New Zealand	\$(4,318,129)	\$(2,979,008)
EU GI producers	\$(2,912,229)	\$(2,949,592)

²⁷Dr Susan Paulin, Nicola King, Dr Rob Lake, Peter Cressey. Risk Profile Update: s *Listeria monocytogenes* in cheese. February, 2015. <http://www.foodsafety.govt.nz/elibrary/industry/listeria-monocytogenes-cheese.pdf>

²⁸ Consumer Affairs Australia New Zealand. Country of Origin labelling: Consultation Regulation Impact Statement. December, 2015, at 90 <https://consult.industry.gov.au/cool-taskforce/cool/>

How have we estimated these costs?

New Zealand government employees will administer and, to some extent, enforce the changes. We assume that this will require two full time equivalent staff (FTE) staff in the first year and one from the second year onwards under the ‘CETA-light’ scenario. The ‘CETA-strong’ scenario, assumes one extra ongoing government employee (the FTE may be split across more than one agency). This will cost \$100,000 per FTE.

Along with government employees, there will be the costs of lawyers working on compliance and enforcement. We have assumed the annual cost of instructing a full-time lawyer is \$300,000 and the GI framework will require the equivalent of two lawyers in the first year and one from year two onwards. Under both scenarios, we assume two thirds of these costs will go to the EU GI producers, reflecting that they will have the greatest interests in enforcing the framework, with the other third accumulating to New Zealand traders, including those who import affected non-GI products.

We assume the costs of a High Court challenge will be \$100,000 and split evenly between New Zealand producers and the EU GI producers. We assume this will happen five years after the framework is introduced in the ‘CETA-light’ scenario, as the ‘CETA-light’ scenario assumes that non-EU GI producers would have to prove existing use rights, if their use of a term is challenged. Under the ‘CETA-strong’ scenario there are assumed to be no existing use rights to defend.

4.3 There are also Indirect Impacts of Introducing GIs

As we assess the risk of potential impacts to producers as material under the ‘CETA-strong’, we quantify a shift in consumption away from affected non-GI products to the EU GI products. The resulting changes to producer surplus under the ‘CETA-strong’ scenario are shown in Table 4.4.

Table 4.4: Distributional changes in economic surplus (NPV)

Impact borne by	Affected cheese	Affected oranges	Other
New Zealand	\$16,600,386	\$-	\$377,801
EU GI producers	\$23,033,036	\$-	\$1,711,579
Rest of World producers	\$(6,432,650)	\$-	\$(1,333,777)

We do not quantify changes to consumer surplus under the ‘CETA-light’ scenario as they were considered immaterial in Section 4. New Zealand orange producers are not affected as we do not import any EU GI Valencia oranges so no market share will be lost. Based on our qualitative analysis, we also do not quantify net impacts on consumer surplus or dynamic efficiency as we could not determine any material net impacts for these categories with confidence.

How have we estimated these costs?

We quantify the producer surplus changes for “other” affected goods by assuming demand will decrease for these products by 15 percent and that the same amount will be passed to

EU GI producers. This percentage is based on an analysis of EU GI products which states the average percentage premium for GIs is 15 percent.²⁹

The value of port and sherry exported from New Zealand is \$12,567 according to information from the Ministry of Primary Industries. We assume this is 10 percent of all New Zealand port and sherry production. We assume the value of Montepulciano produced in New Zealand is \$100,000 per annum and Kalamata Olive Oil and Mortadella produced in New Zealand is \$60,000 per annum combined. These figures are based on our market research.

The amount of port imported into New Zealand from the 'rest of world' is \$964,154 per annum. New Zealand also imports Montepulciano wine, mortadella, and Kalamata olive oil from 'rest of world', in particular from Australia. We list some of these companies in our market research in Appendix C, but we do not quantify changes to producer surplus as we cannot estimate the value of these imports. This can be updated if further information comes to hand.

To quantify changes to producer surplus of affected New Zealand cheese producers, we also assume demand will decrease by 15 percent, but that this will only apply to a small number of the affected cheeses. Most EU GI cheese products are already considered a premium product and only some affected cheese competes with this EU GI cheese in terms of price. Based on our market research, we estimate that 20 percent of affected New Zealand and 'rest of world' cheese competes with EU GI cheese. Therefore, we assume these cheese products see a decrease in demand from the GI framework.

We estimate the value of the affected cheese market in New Zealand to be \$60,000,000. We derived this amount from an article that states the NZ specialty cheese industry is \$150,000,000. We then assumed that 50 percent of that is cheese that would have to be relabelled,³⁰ and that 20 percent of speciality cheese is exported. These estimates can be revised with more specific information from the industry.

NZ importers and retailers of EU GI products will benefit from the increase in demand for EU GI products. We have assumed that they will capture 33 percent of the change in revenue and that the EU GI producers will capture the other 67 percent.

We do not quantify possible multiplier effects to the economy, as per Treasury guidelines. Multiplier effects are from the value to the economy of employees earning additional wages, they will then spend their wages and create income for local businesses, which in turn will spend their income and create income for other businesses etc. However, this ignores the fact that resources can be redirected so unless there is significant unemployment of people with the requisite skills, it is likely that multiplier effects do not exist.³¹

The quantified shifts in economic surplus are also stylised, assuming that a decrease in consumption for non-GI products is matched by increases in consumption for EU GI products. In reality, any shifts in consumption are likely to be more complex, with some consumers substituting to entirely different products.

²⁹ Oana C. Deselnicu, Marco Costanigro, Diogo M. Souza-Monteiro, and Dawn Thilmany McFadden. A Meta-Analysis of Geographical Indication Food Valuation Studies: What Drives the Premium for Origin-Based Labels? 2013. <http://www.waeonline.org/UserFiles/file/JAREAug20135Deselnicup204.pdf>

³⁰ Specialty cheeses described as ricotta, brie, camembert, blue, gouda or mozzarella would not be affected, and we assume these comprise a significant part of the New Zealand specialty cheese industry.

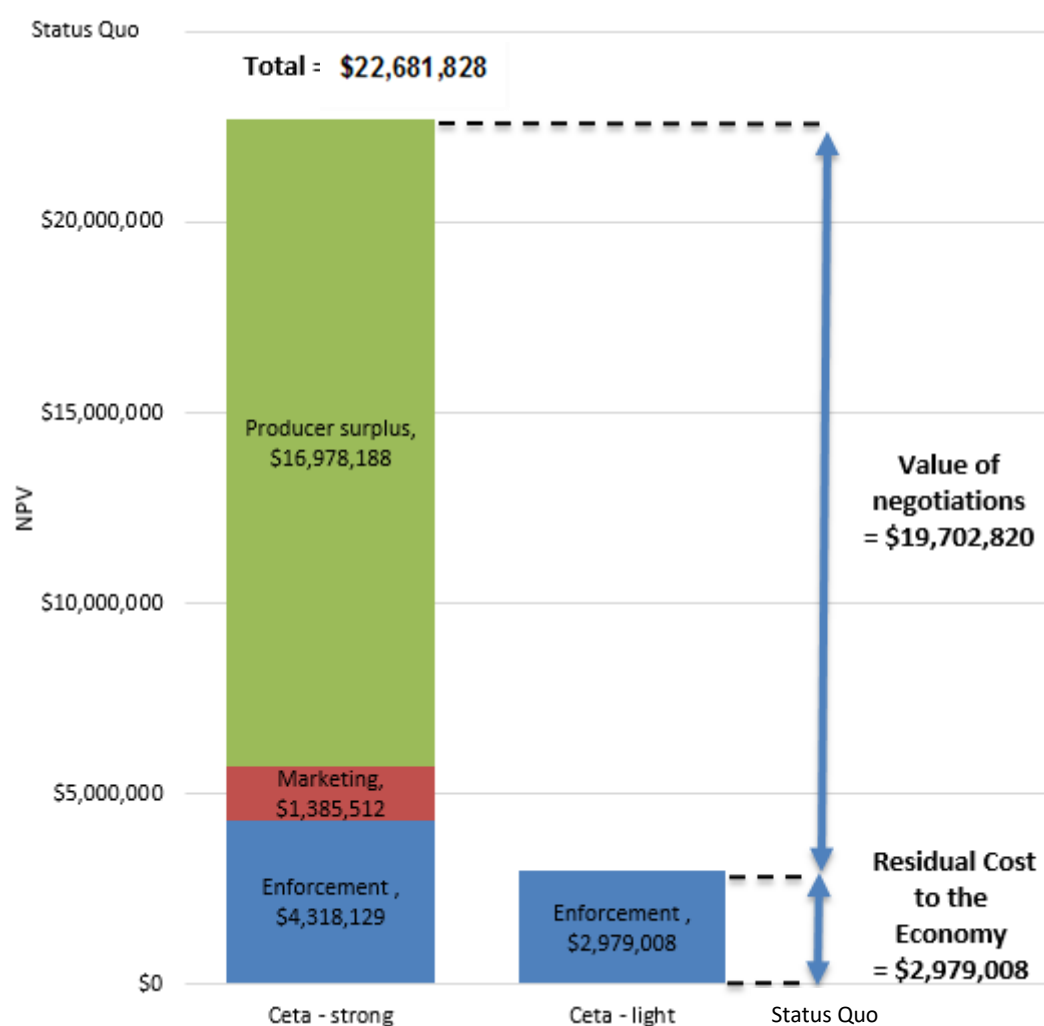
³¹ New Zealand Treasury. Guide to Social Cost Benefit Analysis. July 2015, at 54. <http://www.treasury.govt.nz/publications/guidance/planning/costbenefitanalysis/guide/14.htm>

4.4 How do the Two Scenarios Compare with the Status Quo?

We estimate that the incremental economic impact to New Zealand is likely to be negative under both scenarios. The negative economic impact to New Zealand from the 'CETA-strong' framework is likely to be significantly higher than under the 'CETA-light' framework. This difference is driven both by relabelling costs as well as from a significantly higher risk of negative market impacts for New Zealand producers under the 'CETA-strong' scenario. The breakdown of costs under both scenarios is shown in Figure 4.1 below.

The difference between the costs of the 'CETA-strong' scenario and the 'CETA-light' scenario can be viewed as the value of the negotiations with the EU. Therefore, we estimate that the value of the negotiations is \$19,702,820 when comparing a 'CETA-light' scenario to a 'CETA-strong' scenario.

Figure 4.1: Costs to New Zealand of the two GI frameworks



There will also be economic impacts to the EU and the rest of world

Under the 'CETA-strong' scenario, there would be positive NPV for EU GI producers and negative NPV for New Zealand and 'rest of world'. This is shown in Table 4.5. The benefits to EU would come from the increase in demand for EU GI products which would then lead to an increase in producer surplus.

Under the ‘CETA-light’ scenario, there would not be any benefits to New Zealand, the EU, or ‘rest of world’. There would only be costs to New Zealand and the EU which would come from enforcement and administration of the GI framework. This reflects the fact that this GI framework is unlikely to shift market behaviour, at least in the short term. Therefore, the impacts costs than can be quantified with certainty are the direct impacts of the GI framework, which are all compliance and enforcement for this scenario. The costs under the ‘CETA-light’ scenario are also shown in Table 4.5.

Table 4.5: Economic impact of the GI framework (NPV)

Impact borne by	CETA - strong	CETA – light
New Zealand	\$(22,681,828)	\$(2,979,008)
EU GI producers	\$21,832,386	\$(2,949,592)
Rest of world producers and other traders	\$(7,766,427)	\$-

Under both scenarios, the economic costs to New Zealand are likely to be low

The ‘CETA-strong’ approach presents material risks to a small number of markets in New Zealand. The most economically significant of these is the specialty cheese market. The downstream impacts of having to reprint menus and labels throughout the economy for cheeses like haloumi, feta and parmesan will also be disruptive. However, when put into context of the wider economy over 30 years, the costs are small.

This outcome is unsurprising given how few of the EU GI terms in Appendices A and B are in wide use in New Zealand, except to describe EU GI products. Of those in use by non-GI producers, several of them are extremely niche products. New Zealand traders are also likely to capture some of the benefits of any increase in revenues from EU GI product sales if they import and retail those products. And some of the largest estimated losses accrue to producers of imported non-GI port, rather than New Zealand producers. Moreover, as outlined in detail in Section 3, New Zealand law already prohibits misleading labelling, and, in effect, operates to discourage other producers from adopting EU GI terms in New Zealand. The introduction of alternative descriptive terms for entirely new markets should also be manageable. Therefore, impacts on innovation into new product categories are unlikely to be significant.

The risk of material economic impacts further diminishes under the ‘CETA-light’ scenario. Under this scenario, incumbent producers are protected and new entrants can still make qualified use of the EU GI term. However, over time, this framework will still create an uneven playing field which may inefficiently privilege New Zealand and EU incumbents over new entrants, leading to a loss of welfare. As we note in Section 3, we assume any such loss in welfare will be small.

Costs and risks would also be materially lower under both scenarios if parmesan is not included in the GI framework. Impacts would fall further if ‘halloumi’, ‘danbo’ and ‘harvati’ are not successfully registered as GIs in the EU. If these products are excluded, then the economic impacts of even the ‘CETA-strong’ scenario are likely to be confined to the market for feta and a handful of boutique producers of niche products. As we note in Section 3, there are alternative terms available for feta from markets where use of EU GI terms have been restricted, which could allow this market to be more resilient to changes in descriptive terminology, at least for non-premium products.

Conversely, potential costs to the New Zealand economy could materially rise if:

- The GI framework is more restrictive than we assume in this preliminary analysis, either through an expanded list of protected EU GI terms (particularly if those terms are generic) or through expanded prohibitions around what constitutes misleading and deceptive conduct (e.g. explicit prohibitions on using EU national flags or colours in marketing New Zealand products)
- Consumer behaviour is more strongly affected by the change in terminology than anticipated
- The size of affected markets has been underestimated in our analysis
- The GI framework genuinely forecloses the creation of new markets in New Zealand.

If these factors are reversed, then costs could materially fall. As there is uncertainty around the size of the relevant markets in our analysis, and around how consumers will respond, we vary our costings below.

When key assumptions are varied our conclusions remain the same

As the analysis has data limitations, we test key assumptions to see how the results change. We test the assumptions around the changes in producer surplus as well as if there was an increase in court challenges. The results show further costs to New Zealand and further gains to EU GI producers. However, within the context of the New Zealand economy over the next 30 years these costs remain very small.

The changes to producer surplus make up majority of the economic impacts under the ‘CETA-strong’ scenario. We assumed that 20 percent of New Zealand produced non-GI cheese would see a decrease in demand. We have changed that assumption down to 10 percent and then up to 30 percent to see how NPV changes, the results are in Table 4.6.

Table 4.6: Estimated additional costs from further shifts in producer surplus

	10 percent cheese affected	30 percent cheese affected
New Zealand	\$(14,381,635)	\$(30,982,022)
EU GI Producers	\$10,315,868	\$33,348,904
Rest of World	\$(4,550,102)	\$(10,982,752)

Increasing the number of court challenges will increase costs slightly for New Zealand and the EU but the change will not be significant. In the main analysis, under the ‘CETA-strong’ scenario we assume there would be no court challenges and under the ‘CETA-light’ scenario we assume there would be one. Table 4.7 shows what NPV would be for New Zealand and the EU if court challenges increased to one for ‘CETA-strong’ and two for ‘CETA-light’.

Table 4.7: Estimated additional costs from further disputes

Impact borne by	CETA-strong	CETA-light
New Zealand	\$(22,719,191)	\$(3,006,928)
EU GI Producers	\$21,795,023	\$(2,977,512)

For a small number of businesses, impacts could be significant

While the economic impacts are likely to be low in the context of the wider economy, the impacts on specific boutique producers from the ‘CETA-strong’ approach could be severe, particularly if they do not offer a diversified range of products. For example, there is a chance a New Zealand business solely producing port for domestic consumption could become unviable—although Australian producers have successfully moved from the EU GI term ‘port’ to the term ‘tawny’. Boutique wine producers with Montepulciano, sherry, and prosecco products would also probably face difficulty retailing that wine in New Zealand, and may have to replace those grapes. Moreover, boutique producers of European-style cheeses could struggle to retail some cheeses as premium products. In the context of those business, the impacts of the ‘CETA-strong’ approach would, therefore, likely to be very material.

While not part of our analysis, recognising EU GI terms could lead to benefits for New Zealand in the future

Our analysis identifies no net economic benefits to New Zealand over the status quo. However, expanding protection for EU GI terms may eventually enable reciprocal protection for any future New Zealand GIs. This is one benefit of New Zealand moving towards implementing a framework for registering wines and spirits GIs. If this framework is expanded to other food and beverage categories, qualifying producers may one day benefit for enhanced protection of their branding in the EU.

Appendix A: The List of Generic Terms

Below is the list of EU GI terms that we have assessed as being generic:

- Feta
- Parmesan
- Gorgonzola
- Gruyère (Swiss GI)
- Haloumi (not yet recognised as a GI in EU, but for this analysis we assume it will soon be classified as one as)
- Havarti (not yet recognised as a GI in EU, but for this analysis we assume it will soon be classified as one as)
- Danbo (not yet recognised as a GI in EU, but for this analysis we assume it will soon be classified as one as)
- Mortadella
- Kalamata Olive Oil
- Valencia Oranges
- Port
- Sherry
- Prosecco
- Montepulciano

Appendix B: List of Non-Generic Terms

Below is the list of EU GI terms that we have assessed as being non-generic:

- Κουμανδαρία /Commandaria
- Ζιβανία/Τζιβανία/ Ζιβάνια/Zivania
- Λουκούμι Γεροσκήπου
- České pivo
- Budějovické pivo
- Budějovický měšt'anský var
- Českobudějovické pivo
- Žatecký Chmel
- Danablu
- Suomalainen Vodka/ Finsk Vodka / Vodka of Finland
- Finnish berry liqueur / Finnish fruit liqueur
- Hopfen aus der Hallertau
- Nürnberger Bratwürste
- Nürnberger Rostbratwürste
- Schwarzwälder Schinken
- Aachener Printen
- Nürnberger Lebkuchen
- Lübecker Marzipan
- Bremer Klaben
- Hessischer Handkäse
- Hessischer Handkäs
- Tettlinger Hopfen
- Spreewälder Gurken
- Mittelrhein
- Rheinhessen
- Rheingau
- Mosel
- Franken
- Korn / Kornbrand
- Ελιά Καλαμάτας
- Μαστίχα Χίου
- Φέτα*
- Ελαιόλαδο Καλαμάτας
- Ελαιόλαδο Κολυμβάρι Χανίων Κρήτης
- Ελαιόλαδο Σητείας Λασιθίου Κρήτης
- Ελαιόλαδο Λακωνία
- Κρόκος Κοζάνης
- Κεφαλογραβιέρα
- Γραβιέρα Κρήτης
- Γραβιέρα Νάξου
- Μανούρι
- Κασέρι
- Φασόλια Γιγαντες Ελέφαντες Καστοριάς
- Crottin de Chavignol
- Saint-Nectaire
- Piment d'Espelette
- Lentille verte du Puy
- Beaujolais
- Bordeaux
- Bourgogne
- Chablis
- Champagne
- Graves (Graves de Vayres)
- Médoc
- Moselle
- Saint-Emilion
- Sauternes
- Haut-Médoc
- Alsace
- Côtes du Rhône
- Languedoc (coteaux du Languedoc)
- Côtes du Roussillon
- Châteauneuf-du-Pape
- Côtes de Provence
- Margaux
- Touraine
- Anjou
- Pays d'Oc
- Val de Loire
- Cognac
- Armagnac
- Calvados
- Aceto balsamico Tradizionale di Modena
- Aceto balsamico di Modena
- Cotechino Modena
- Zampone Modena
- Bresaola della Valtellina
- Mortadella Bologna
- Prosciutto di Parma
- Prosciutto di S. Daniele
- Prosciutto Toscano
- Prosciutto di Modena
- Provolone Valpadana
- Taleggio
- Asiago
- Fontina
- Grana Padano
- Mozzarella di Bufala Campana

- Φασόλια Γίγαντες Ελέφαντες Πρεσπών Φλώρινας
- Κονσερβολιά Αμφίσσης
- Ρετσίνα Αττικής (Retsina of Attiki)
- Ούζο
- Σάμος
- Irish Whiskey / Uisce Beatha Eireannach / Irish Whisky
- Irish cream
- Baena
- Sierra Mágina
- Aceite del Baix Ebre-Montsía
- Oli del Baix Ebre-Montsía
- Aceite del Bajo Aragón
- Antequera
- Priego de Córdoba
- Sierra de Cádiz
- Sierra de Segura
- Sierra de Cazorla
- Siurana
- Aceite de Terra Alta
- Oli de Terra Alta
- Les Garrigues
- Estepa
- Guijuelo
- Jamón de Huelva
- Jamón de Teruel
- Salchichón de Vic
- Llonganissa de Vic
- Mahón-Menorca
- Queso Manchego
- Cítricos Valencianos
- Cítrics Valencians
- Jijona
- Turrón de Alicante
- Azafrán de la Mancha
- Málaga
- Rioja
- Jerez – Xérès – Sherry or Jerez or Xérès or Sherry
- Manzanilla - Sanlúcar de Barrameda
- La Mancha
- Cava
- Navarra
- Valencia
- Somontano
- Ribera del Duero
- Penedès
- Bierzo
- Parmigiano Reggiano
- Pecorino Romano
- Pecorino Sardo
- Pecorino Toscano
- Arancia Rossa di Sicilia
- Cappero di Pantelleria
- Kiwi Latina
- Lenticchia di Castelluccio di Norcia
- Mela Alto Adige
- Südtiroler Apfel
- Pesca e nettarina di Romagna
- Pomodoro di Pachino
- Radicchio Rosso di Treviso
- Ricciarelli di Siena
- Riso Nano Vialone Veronese
- Speck Alto Adige
- Südtiroler Markenspeck
- Südtiroler Speck
- Veneto Valpolicella
- Veneto Euganei e Berici
- Veneto del Grappa
- Culatello di Zibello
- Garda
- Lardo di Colonnata
- Grappa
- Chianti
- Marsala
- Asti
- Barbaresco
- Bardolino (superiore)
- Barolo
- Brachetto d'Acqui
- Brunello di Montalcino
- Vino nobile di Montepulciano
- Bolgheri Sassicaia
- Dolcetto d'Alba
- Franciacorta
- Lambrusco di Sorbara
- Lambrusco Grasparossa di Castelvetro
- Montepulciano d'Abruzzo
- Soave
- Campania
- Sicilia
- Toscano/a
- Veneto
- Conegliano Valdobbiadene - Prosecco
- Szegedi téliszalámi
- Szegedi szalámi

- Empordà
- Priorat
- Rueda
- Rías Baixas
- Jumilla
- Toro
- Valdepeñas
- Cataluña
- Alicante
- Utiel-requena
- Brandy de Jerez
- Pacharán Navarro
- Comté
- Reblochon
- Reblochon de Savoie
- Roquefort
- Camembert de Normandie
- Brie de Meaux
- Emmental de Savoie
- Pruneaux d'Agen
- Pruneaux d'Agen mi-cuits
- Huîtres de Marennes-Oléron
- Canards à foie gras du Sud-Ouest: Chalosse
- Canards à foie gras du Sud-Ouest: Gascogne
- Canards à foie gras du Sud-Ouest: Gers
- Canards à foie gras du Sud-Ouest: Landes
- Canards à foie gras du Sud-Ouest: Périgord
- Canards à foie gras du Sud-Ouest: Quercy
- Jambon de Bayonne
- Huile d'olive de Haute-Provence
- Huile essentielle de lavande de Haute-Provence
- Morbier
- Epoisses
- Beaufort
- Maroilles
- Marolles
- Munster
- Munster Géromé
- Fourme d'Ambert
- Abondance
- Bleu d'Auvergne
- Livarot
- Cantal
- Fourme de Cantal
- Cantalet
- Petit Cantal
- Tokaj
- Törkölypálinka
- Pálinka
- Tiroler Speck
- Jägertee / Jagertee / Jagatee
- Inländerrum
- Steirischer Kren
- Steirisches Kürbiskernöl
- Polska Wódka/Polish Vodka
- Wódka ziołowa z Niziny Północnopodlaskiej aromatyzowana ekstraktem z trawy żubrowej / Herbal vodka from the North Podlasie Lowland aromatised with an extract of bison grass
- Polish Cherry
- Queijo S. Jorge
- Azeite de Moura
- Azeites de Trás-os-Montes
- Azeite do Alentejo Interior
- Azeites da Beira Interior
- Azeites do Norte Alentejano
- Azeites do Ribatejo
- Pêra Rocha do Oeste
- Ameixa d'Elvas
- Ananás dos Açores / S. Miguel
- Chouriça de carne de Vinhais
- Linguica de Vinhais
- Chouriço de Portalegre
- Presunto de Barrancos
- Queijo Serra da Estrela
- Queijos da Beira Baixa
- Queijo de Castelo Branco
- Queijo Amarelo da Beira Baixa
- Queijo Picante da Beira Baixa
- Salpicão de Vinhais
- Madeira, Madère or Madera
- Douro
- Dão
- Bairrada
- Vinho Verde
- Alentejo
- Gouda Holland
- Edam Holland
- Magiun de prune Topoloveni
- Dealu Mare
- Murfatlar
- Cotnari
- Cotești
- Panciu

Confidential

- Tomme de Savoie
 - Pont - L'Evêque
 - Neufchâtel
 - Neufchâtel
- Reçaş
 - Odobeşti
 - Târnave
 - Vinohradnícka oblast' Tokaj
 - Kalix LÖjrom
 - Svensk Vodka/ Swedish Vodka
 - Scotch Whisky

Appendix C: Market Research

Table C.1: Findings from research

GI	Notes
Kalamata Olive Oil	<p>Only one producer found selling Kalamata Olive oil.</p> <ul style="list-style-type: none"> Old French Road Olive Grove <p>There are 4 producers of Koroneiki olive oil. This is a variety of Kalamata and they all use the term “Kalamata olive oil” to describe their product.</p> <ul style="list-style-type: none"> Rangihoua Estate Olive Oils Lepanto Devinity Simunovich Olive Estate <p>GI imports</p> <ul style="list-style-type: none"> Iliada PDO Kalamata Extra Virgin Olive Gaea Kalamata D.O.P. Cold Pressed Extra Virgin Olive Oil,
Prosecco	<p>Prosecco New Zealand is planning on planting the first glera vines in New Zealand in 2017.</p> <p>Several types of prosecco are available in New Zealand but they are mostly from Italy. The only exception we found was Brown Brothers Prosecco which is made in Australia.</p>
Mortadella	<p>Only found one New Zealand company making Mortadella and two types imported from Australia.</p> <p>New Zealand company: Swiss Deli Mortadella</p> <p>Australian company: Bertocchi and Bluerock</p> <p>GI Imports include Pedrazzoli mortadella and Ghiotti</p>
Port	<p>New Zealand exported \$12,164 of port in 2016, primarily to Australia.</p> <p>New Zealand imported \$2,284,752 of port in 2016. \$1,320,598 came from Portugal, with the balance coming from the United States, United Kingdom, France and Australia</p> <p>New Zealand port producers include:</p> <ul style="list-style-type: none"> Ruahine ports (just port, 10 types) Mazurans (sherry five types, port, one for every year between 1942 and 2000, and six types of wine) Mills reef winery (one port product) Vin Alto - Clevedon Hills Estate (one type of port and four other types of wine) Sailfish Cove wines (one type of port and eight other types of wine) Crossroads Milestone have a “fine tawny” that is described as port Liquid Alchemy (boysenberry port, and 10 other types of liqueur) Tairare Block (3three ports, two sherries, four other types of wine)
Montepulciano	<ul style="list-style-type: none"> Gimblett Gravels (one Montepulciano and five other types of wine) Obsidian Estate (one Montepulciano and 11 other types of wine) Hans Herzog (two Montepulciano and 19 other types of wine) Coopers Creek (two Montepulciano and 40 other types of wine) Jurassic Ridge (three Montepulciano and 25 other types) Omaha bay vineyard (two Montepulciano and seven other types of wine) <p>“In New Zealand, Montepulciano is a rarity and there has been confusion between the Montepulciano and Sangiovese varieties”</p>

GI	Notes
	<p>According to the latest national vineyard survey, between 2005 and 2017, New Zealand's area of bearing Montepulciano vines will expand slightly from 6 to 9 hectares (mostly in Auckland, Hawke's Bay, Nelson and Marlborough). http://michaelcooper.co.nz/grape-varieties-and-wine-styles/</p>
Sherry	<ul style="list-style-type: none"> ▪ Mazurans (sherry five types, port, one for every year between 1942 and 2000, and six types of wine) ▪ Tairare Block (three ports, two sherries, four other types of wine) ▪ New Zealand imported \$371,952 of sherry in 2016. \$220,095 came from Spain, with the balance coming from the United States, United Kingdom, France and Australia ▪ In 2016, New Zealand exported \$403 sherry to Tonga. This could be imported sherry that is then on sold to Tonga.
All GI Cheese	<p>Available cheese data is not broken down by cheese type New Zealand cheese exports in 2015: \$1.23b Fresh cheese imports 2015: \$62m Import from Europe: 50% of all imported fresh cheese Assumption: 50% from EU is real GI Domestically produced specialty cheese: \$150m Assumption: 50% of specialty cheese is on the GI list Assumption: 20% of NZ affected cheese directly competes with GI products Approximately 15 types of feta from 10 different brands at the average supermarket. Two are from Greece. There are New Zealand produced goat feta. The New Zealand goat feta is approximately the same price as the Greek feta. Greek feta and New Zealand goat feta costs approximately 25% more than the other feta (mainly cow milk) 32 New Zealand products with the name feta in title (and 2 non-GIs from rest of world, two GIs), 39 New Zealand products with Parmesan in the title (and two GIs), three New Zealand products with Gruyere in title, 3 New Zealand products with Haloumi in title, 8 New Zealand products with Havarti in title (and one non-GIs from rest of world, 1GI) Sources: http://www.nzherald.co.nz/sponsored-stories/news/article.cfm?c_id=1503708&objectid=11789378 http://www.mbie.govt.nz/info-services/sectors-industries/food-beverage/documents-image-library/Dairy%20sector%20review%202013%20-PDF%201.8%20MB.pdf https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Dairy%20and%20Products%20Annual%20Wellington%20New%20Zealand%2010-13-2016.pdf</p>
Valencia Oranges	<p>Gisborne produces 85% of New Zealand oranges 75% navels The other major type is Valencia 20% Valencia (assumption) http://www.firstfresh.co.nz/fresh-products/Citrus-2/oranges/ Total sweet oranges in New Zealand 450 acres and 24,000 bushels Oranges grown in New Zealand are Navelina, Washington, Navelate, Summer Navels, Sanguinelli, and Valencia. 3 of those fall under Navels. Source: Growing Citrus in New Zealand: A practical guide Our assumption is that the other 3 make up equal share of the 25% that isn't Navels.</p>



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