

## EU - New Zealand Free Trade Agreement: Questions and Answers

### What happens next in the EU-New Zealand FTA process?

The first round of negotiations took place in Brussels from 16-20 July 2018. The next round is scheduled to take place in New Zealand from 8-12 October.

Both sides are agreed that we should aim to move negotiations quickly, with the goal of completion within two years.

### What public engagement has been done so far for the EU-New Zealand FTA?

The New Zealand Government is committed to engaging effectively with stakeholders, with Māori and with the wider public at all stages of the FTA process, in line with *Trade for All*. In 2016, the Ministry of Foreign Affairs and Trade ran a public submissions process on the EU-NZ FTA (submissions are available [here](#)). We also welcome further public feedback on an ongoing basis (details [here](#)), and invite you to contact us at [eu-fta@mfat.govt.nz](mailto:eu-fta@mfat.govt.nz).

Since November 2017, we have engaged with the public on the EU-NZ FTA at 15 public outreach events throughout New Zealand and at nine consultation hui dedicated to Māori groups including Iwi Leaders, the Federation of Māori Authorities (FOMA) and Waitangi Tribunal Claimants.

We issued a further call for public submissions alongside the formal launch of negotiations with the EU in June, so that we can receive an updated view of New Zealand perspectives. This is running until Friday 17 August (details can be found [here](#)). However, as noted above, we remain open to receiving submissions at any time during the negotiations.

### What further public engagement is planned?

A range of general and specific engagement opportunities are planned for the general public, Māori, and exporters in the coming months. Please check the Ministry of Foreign Affairs and Trade's website or twitter account ([@MFATgovtNZ](#)) for details.

Public events covering New Zealand's trade negotiations, including the EU-NZ FTA, will be held across the country between September and November 2018. The current schedule of dates and locations for these is:

- 3 September: Dunedin

- 5 September: Christchurch
- 10 September: Auckland
- 12 September: Hamilton
- 18 September: Nelson
- 19 September: Napier
- 25 September: Tauranga
- 26 September: New Plymouth
- 28 September: Palmerston North
- 23 October: Wellington
- 24 October: Invercargill
- 30 October: Rotorua
- 13 November: Timaru
- 15 November: Whangarei

The Government is also committed to ongoing and dedicated engagement with Māori on trade issues, including the EU-NZ FTA. This will include consultation with Māori in coming months on *Trade for All*, further consultation under processes already established and possible new modes of engagement. We are particularly interested in advancing Māori trade and economic interests through these negotiations.

To receive more information about Māori consultation, please email us at [maori@mfat.govt.nz](mailto:maori@mfat.govt.nz).

### **How will the Government ensure transparency in these negotiations?**

The Government has released a package on our [website](#) to inform the public of New Zealand's approach and positions for the negotiations and of the issues that we expect to face during the course of negotiations. The package includes:

- a summary objectives paper setting out New Zealand's broad negotiating objectives
- chapter papers setting out our approach and views on the chapters and other elements of the FTA

During the course of negotiations we will also release the following:

- summaries of negotiating round outcomes
- further information papers on New Zealand's views, where appropriate, taking into account the constraints of an active negotiation

Upon conclusion of the agreement, we will release the following information:

- fact sheets outlining the contents of specific chapters and market access commitments
- the results of economic analysis of the agreement and other analysis relevant to parts of the agreement
- the National Interest Analysis
- the final text prior to signature

New Zealand's negotiators will respond to any requests for consultation with New Zealanders who have an interest in the outcome of negotiations. We also remain open to receiving submissions at any time during the negotiations by contacting [eu-fta@mfat.govt.nz](mailto:eu-fta@mfat.govt.nz).

**The EU has raised concerns about sensitivities in trade in agricultural goods. How will this be dealt with in negotiations?**

New Zealand's approach in all trade agreements is to seek comprehensive tariff elimination for all goods. The EU's well-documented sensitivities with respect to certain agricultural goods were, however, made clear by the EU during scoping discussions. We agreed therefore that the Agreement may include a range of measures that might be used to address these types of sensitivities, including long phase-out periods for tariffs or tariff rate quotas.

Any agreement, regardless of the measures used, must achieve meaningful commercial outcomes for New Zealand. We will be guided by the principles of fairness and reciprocity.

In the area of primary products, New Zealand producers face high tariffs and quota restrictions in the EU market, in contrast to the open access that EU producers face when exporting to New Zealand. This disparity needs to be addressed.

**Non-tariff barriers often have a much greater impact on trade than tariffs. How will the FTA deal with these?**

Through the FTA, we will aim to facilitate trade by providing a framework for preventing, identifying, and eliminating unnecessary barriers to trade. In scoping, we discussed including sector-specific annexes to deal with non-tariff barriers in specific sectors including automotive, green technology, organic farming, pharmaceuticals (building on the existing EU and New Zealand Mutual Recognition Arrangement) and wines and spirits. Additional sectors may also be considered during negotiations.

**Will the FTA include a Treaty of Waitangi provision?**

Yes. New Zealand and the EU agreed during scoping that a Treaty of Waitangi exception should be included in the FTA. Combined with other provisions in the Agreement, the inclusion of this exception will protect the ability of the Crown to implement domestic policies that fulfil its obligations to Māori, including under the Treaty of Waitangi, without being obliged to offer equivalent treatment to members of the EU.

**Will the EU-New Zealand FTA include Investor-State Dispute Settlement (ISDS)?**

No. The EU's mandate for the FTA with New Zealand does not include any agreement covering investment protection and ISDS. In other words, ISDS is not on the table.

**Will the EU be proposing such an investment agreement with New Zealand in the future?**

It is currently unknown if or when the EU might bring forward such a proposal. However, our position remains that New Zealand is opposed to the inclusion of ISDS in future FTAs.

**If the EU sought such an investment agreement, would New Zealand support the EU's proposal for a multilateral investment court system?**

We are interested to learn more about the EU's evolving approach to an investment court system. But at this point, the issue is academic. We have no knowledge about if or when the EU might bring forward such a proposal. ISDS is not on the table in the FTA negotiations.

**Will the EU-New Zealand FTA require New Zealand to change the overseas investment screening regime?**

Specific issues relating to New Zealand's overseas investment regime have not yet been raised by the EU. The nature of any commitments in this area will be determined in negotiations.

**Will the EU-New Zealand FTA infringe on the government's right to regulate?**

No. New Zealand will not agree to an outcome that would prevent our Government from regulating for legitimate public policy purposes, such as for public health, safety or environmental reasons.

**How will you ensure commitments on the digital economy/e-commerce in this FTA will protect New Zealanders' privacy?**

The digital economy presents major opportunities for New Zealand businesses of all shapes and sizes. The FTA should help us realise trade and economic opportunities presented by e-commerce while ensuring consumer protection and the protection of personal information in the digital environment.

New Zealand pursues robust privacy protections in FTAs to ensure New Zealanders can transfer information to other jurisdictions confident it will receive a sufficient level of protection. The EU is also committed to strong data protection; its General Data Protection Regulation (GDPR) came into force this year. New Zealand's privacy system already has data adequacy equivalence recognised by the EU, one of only five non-European countries with full recognition of the protection of personal information available under our privacy regime.

**Will the proposed EU-New Zealand FTA force New Zealand into higher levels of intellectual property protection than we want?**

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

The Government believes in the importance of an intellectual property framework that promotes innovation, creativity and economic growth, while also supporting a sustainable and inclusive economy. This principle was agreed with the EU in scoping discussions and informs New Zealand's approach to negotiations on intellectual property in FTAs.

**Will the proposed EU-New Zealand FTA include provisions that could cause the cost of medicines to go up?**

No. The New Zealand Government will strongly resist proposals that would increase the prices New Zealanders pay for medicines.

**Will the Government defend the interests of Māori in the IP area, e.g. issues relating to genetic resources, traditional knowledge and folklore (GRTK)?**

Yes.

As in all our recent FTA negotiations, New Zealand will ensure that we retain the policy space for a domestic conversation and any potential outcomes on this issue. There may be other GRTK issues that we may wish to discuss during negotiations. New Zealand will be considering what those might be, in consultation with Māori.

**Will the proposed EU-New Zealand FTA require the term of copyright in New Zealand to be extended or extended data protection for pharmaceuticals? Will it require New Zealand to change its technological protection measures regime or put in place a patent term extension regime?**

These specific issues are included in the EU's text proposals.

New Zealand has a strong, efficient and effective IP regime. New Zealand's approach to these proposals will be to discuss with the EU whether there is evidence that such provisions are necessary in an FTA to encourage innovation and creativity and support trade between our economies. We are mindful that such provisions, if included, could impose costs on the New Zealand economy. If we do make commitments in these areas, our focus will be on ensuring that any cost or disadvantage is avoided or offset against a net beneficial gain to New Zealand from entering into an FTA with the EU.

If you are interested in these issues, there will be consultation opportunities to discuss these issues, ask questions and give us your feedback. For details and to register please visit the [Public Engagement on Trade](#) page on our website.

**Will New Zealand have to implement the EU's existing Geographical Indications (GIs) regime?**

We agreed in scoping discussions with the EU that the Agreement should aim at including a broader framework for the recognition and protection of geographical indications if there is a satisfactory overall outcome in the Agreement for New Zealand. The detail of any such framework will be addressed in the negotiations. We will be considering what is in New Zealand's overall interests when negotiating this and other chapters.

**Does this mean New Zealand will be protecting EU Geographical Indications?**

New Zealand already protects certain GIs through a number of mechanisms including our Trade Marks Act and our consumer protection laws. The Geographical Indications (Wines and Spirits) Registration Act 2006 provides a further mechanism for protection of wine and spirits GIs in New Zealand. In the

negotiations, the EU has asked New Zealand to recognise and protect an extensive list of terms for exclusive use by specific EU producers in relation to wines, spirits, and other foodstuffs.

GIs are likely to be a sensitive issue for some New Zealand industries. Some of the GIs that the EU could ask New Zealand to protect are currently used by New Zealand producers as commonly used names for their products.

The detail of any protection will be addressed in the negotiations. We will be considering what is in New Zealand's overall interests when negotiating this and other chapters and we want to hear from New Zealanders on this issue. You will have an opportunity to do this at our upcoming public outreach events. For details and to register please visit the [Public Engagement on Trade](#) page on our website.

### **The summary objectives paper says New Zealand will seek an outcome that "builds on the WTO's Government Procurement Agreement". What does "building on" it mean?**

The World Trade Organization Agreement on Government Procurement (GPA) establishes open, fair, and transparent conditions of competition in over 40 Government Procurement markets around the world. As a signatory to the GPA, New Zealand companies are able to compete on equal terms with their international counterparts for government procurement contracts to provide a broad range of goods and services.

"Building on" this could involve expanding some types of government procurement that are covered under the GPA. We agreed with the EU in scoping that a particular focus would be to consider coverage of procurement at all levels of government. The extent to which the EU will be seeking coverage of local authorities or state-owned enterprises remains to be seen. However, both parties recognise that there are sensitivities in this area and any specifics would be an issue for negotiations.

### **Will an EU-New Zealand FTA prevent the government from giving preferences to New Zealand companies?**

New Zealand already has commitments under the WTO GPA and under other FTAs to offer non-discriminatory treatment to overseas suppliers (for purchasing above a value threshold by government entities covered by the agreements). Companies will continue to be able to bid for New Zealand government contracts, which are awarded on the basis of best value for money.

Purchasing entities won't be prevented from taking into account environmental and social considerations throughout the procurement procedure.

### **What specific measures might be included to improve outcomes for Small and Medium-sized Enterprises?**

There will be a specific chapter on Small and Medium-sized Enterprises in the FTA. In that chapter, New Zealand and the EU will discuss the types of provisions that could be developed to assist SMEs to fully benefit from the Agreement, such as information sharing (for example, each party establishing their own information websites, with a database providing updated comprehensive market access information) and developing appropriate institutional structures under the FTA to ensure SME-relevant issues are considered during implementation.

Special attention will also be given in negotiations to ensuring that provisions across the FTA are small business-friendly – simple, transparent and easy to use.

### **What are some of the ways the agreement might promote sustainable development?**

The EU-NZ FTA is an opportunity to show how trade and investment can contribute to sustainable development. Standard practice in both New Zealand and the EU has been to include general trade and sustainable development obligations that recognise the need for effective enforcement of labour and environmental laws, including commitments to not weaken or reduce laws or standards to attract or secure trade or investment advantage, alongside obligations ensuring labour and environmental laws and standards are not used as disguised means of trade protectionism.

New Zealand and the EU agree that trade agreements should seek to protect and enhance working conditions and promote decent work, with a view to improving living standards. New Zealand will seek outcomes which support the International Labour Organisation's (ILO's) overarching objectives of promoting decent work in the global economy, including the recognition and reinforcement in each party's domestic law of the ILO's Fundamental Labour Principles and Rights at Work.

New Zealand and the European Union are both committed to developing trade policy that ensures economic development goes hand in hand with high environmental standards, including through trade that supports efforts to tackle climate change. In early scoping, we agreed with the EU to include robust provisions related to trade and environment, key areas of cooperation such as climate change, and a greater contribution of trade and investment to sustainable development in areas such as trade in climate-friendly products and technologies, voluntary sustainability assurance schemes and corporate social responsibility.

We also agreed that the agreement will cover effective implementation of relevant multilateral environment agreements, such as the Paris Agreement, and commitments to support the conservation and sustainable management of natural resources, forestry, fisheries, and freshwater, marine and atmosphere domains (which includes climate change).