



SUBMISSION TO THE MINISTRY OF FOREIGN AFFAIRS AND TRADE

CONSULTATIONS ON A UNITED KINGDOM-NEW ZEALAND FTA FEBRUARY 2019

This submission is made on behalf of the NZ International Business Forum (NZIBF), whose members are listed at Annex A.¹ NZIBF is a forum of senior business leaders working together to promote New Zealand's engagement in the global economy.

2 NZIBF warmly welcomes and supports the concept of negotiating a free trade agreement (FTA) with the United Kingdom (UK), once the UK is in a position to negotiate. New Zealand's economic relationship with the UK is in very good shape, but the latter's departure from the European Union (EU), along with our current FTA negotiations with the EU itself and the need to modernise this longstanding trade relationship, provide compelling reasons to negotiate an agreement. As a leadership body, NZIBF leaves to sectoral groups the task of identifying specific issues in the negotiation. This submission therefore comments on cross-sectoral or wider issues arising from the potential FTA negotiations.

Summary

3 When the UK is in a position to pursue an independent trade policy, there is a strong case for the UK and New Zealand to put in place an ambitious, comprehensive and high-quality bilateral FTA. This would preserve New Zealand's current trade interests, maintain parity with competitors in the UK market (and vice versa) and would potentially generate new benefits for business and consumers on both sides. For the UK, negotiating an early FTA with New Zealand would demonstrate its trade-liberalising credentials and serve as a solid preparation for and building block towards its aspiration to joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). For both sides, the FTA would help to thicken business relationships by increasing mutual awareness and generating new opportunities for shared ventures and complementary trade and economic activity.

4 An FTA should eliminate barriers to the flow of all goods, services and investment. Goods liberalisation should include agriculture, recognising among other things that the UK is an internationally-competitive producer. The FTA should enable dynamic economic growth by removing behind-the-border impediments and addressing 'next generation' trade issues, such as regulatory coherence, digital trade, government procurement, competition policy, labour and environment issues and other elements designed to foster inclusive growth for small business, women and Maori. The right of governments to regulate for legitimate public policy reasons, and the ability of the New Zealand Government to meet the Crown's obligations to Maori, must be preserved.

5 NZIBF has been dismayed at the approach taken over the last two years by the UK and the EU to splitting the WTO Uruguay Round tariff rate quotas for sheepmeat, dairy products and beef as part of the Brexit process. In the strongest terms, NZIBF rejects the

¹ The views in this submission are those of NZIBF as a whole. Individual members may have different views on specific issues covered in this submission.

IN CONFIDENCE

UK's proposed approach, which is not consistent with the UK's WTO obligations and which would abrogate New Zealand's WTO rights as well as causing or potentially causing significant injury to New Zealand commercial and economic interests. NZIBF urges the New Zealand Government to continue, quite properly, to seek to resolve this issue entirely separately to the FTA negotiations.

6 NZIBF recommends that the New Zealand Government pursue a substantive and mutually-advantageous outcome to the negotiations as quickly as possible, with a view to an early conclusion to the negotiating process. This will be particularly important if the UK leaves the EU in 2019 without having resolved UK-EU future trade arrangements, in order to minimise short- to medium-term adverse economic impacts on New Zealand exporters.

About the New Zealand International Business Forum

7 NZIBF provides a voice to articulate the needs and priorities of New Zealand's international business community, and in particular the importance of open markets, to the New Zealand Government and public stakeholders. The NZIBF Board brings together leaders from amongst New Zealand's largest internationally oriented companies and peak business organisations.

8 Incorporated in May 2007, NZIBF works with companies, business organizations and government agencies to implement projects in the international trade and economic sphere, including working to develop New Zealand's key international business relationships and conducting research relative to New Zealand's competitiveness.² NZIBF receives no direct government funding for its operating budget but from time to time receives funding for jointly-funded projects. Funding is also provided in respect to the policy advice and support NZIBF provides to the New Zealand members of the APEC Business Advisory Council (ABAC).

9 While this submission is made on behalf of the NZIBF membership, NZIBF members may make their own submissions on specific issues relevant to their individual interests.

The case for a UK-New Zealand FTA

10 NZIBF warmly acknowledges the longstanding and mutually-beneficial relationship between the United Kingdom and New Zealand, underpinned by shared history, culture, language and values, people-to-people links and economic engagement of all kinds. We believe that there is scope to transform what is already a very good, solid bilateral connection into a dynamic, modern, world-leading and mutually-beneficial relationship that better reflects the evolution of the way that we live, do business, prosper and thrive as societies.

11 The UK is already New Zealand's sixth-largest single export market for goods and services and eighth-largest source of imports, and a substantial investment partner.³ The New Zealand business community strongly supports the preservation of the existing trading relationship.

12 There would also seem to be considerable potential for this relationship to expand in the future under ambitious trade rules that better reflect 21st-century models of business

² NZIBF is a successor organisation to the NZ Trade Liberalisation Network Inc which was established in 2001.

³ Statistics New Zealand figures for the Year Ending June 2018, www.stats.govt.nz.

IN CONFIDENCE

and trade. There are clear complementarities across sectors, production approaches and seasonality and market demand – in the primary sector (including for wine and other beverages, horticulture, meat and meat products, dairy products, fish and seafood, processed food and wood and forest products); in niche manufactured products including medical equipment and agri-tech, and in services such as computer services, tourism, professional and business services, financial services, education, and more specialized areas such as environmental services and agriculture-related services. An FTA could foster greater cross-fertilisation of ideas, technology, people and capital.

13 The reduction and elimination of barriers to trade and investment, and the higher profile generated by the negotiating process itself, would potentially enable the development of new partnerships and networks into third markets around the Asia-Pacific.

14 A bilateral FTA could also serve to burnish both sides' credentials as forward-looking and creative negotiating partners, particularly if a high degree of ambition can be achieved in key areas such as the digital economy. An ambitious FTA would also help the UK to prepare for and serve as a building block towards membership of CPTPP, one of the UK's stated aspirations for its new independent trade policy. NZIBF would welcome UK membership.

Goods, services, investment

15 Although the average tariff in the United Kingdom is relatively low, a number of items of significant export interest to New Zealand continue to face barriers in the form of high tariffs and restrictive tariff-rate quotas, some with in-quota tariff rates that make exports uneconomic. NZIBF would want to see a comprehensive and ambitious market access outcome involving the elimination of all tariffs including all in-quota tariffs; the significant expansion leading to the elimination of tariff rate quotas, and the removal of other barriers to trade including regulatory barriers. This would reduce costs for business, smooth trade flows and provide benefits for consumers.

16 NZIBF acknowledges that the British side may indicate that it has sensitivities on a number of agriculture products. We note that the UK is an efficient, internationally-competitive and high-quality agriculture producer and exporter in many sectors, and that New Zealand production – naturally limited by our size – makes up only a tiny fraction of British consumption. It should also be noted that New Zealand is a counter-seasonal producer in both the livestock and horticulture sectors, and there is potential for British and New Zealand producers to work together to offer year-round supply in a range of markets, grow brands and consumption, and to develop innovative and complementary approaches that draw on the best expertise, ideas, resources and areas of comparative advantage in each economy for mutual benefit.

17 NZIBF has been dismayed at the approach taken over the last two years by the UK and the EU to the process of "splitting" the WTO Uruguay Round tariff rate quotas for sheepmeat, dairy products and beef as part of the Brexit process and the establishment of the UK's own independent WTO Schedule separate to the EU WTO Schedule.

18 In the strongest terms, NZIBF rejects the UK's proposed approach, which is not consistent with the UK's WTO obligations and which would abrogate New Zealand's WTO rights, and cause or potentially cause significant injury to New Zealand commercial and economic interests. The UK's existing bound WTO legal obligations continue regardless of

IN CONFIDENCE

whether it is a member of the EU or not. NZIBF urges the New Zealand Government to continue, quite properly, to seek to resolve this issue entirely separately to the FTA negotiations. Market access improvements in the FTA should take as their starting point, and build on, existing legally-bound market access commitments and administrative arrangements.

19 NZIBF stresses the importance in any FTA of robust frameworks designed to facilitate trade (including through streamlined Customs procedures and simple and transparent Rules of Origin to minimise compliance costs and foster global value chains) and to eliminate non-tariff barriers. We urge the inclusion of WTO-plus approaches to sanitary and phytosanitary measures and to technical requirements. On the latter, NZIBF would support the inclusion of sectoral annexes, for example, CPTPP-style approaches to mutual recognition of winemaking practices or standards for medical equipment, to enhance market access and opportunities to develop partnership approaches. NZIBF welcomes the recent announcement of the new UK-NZ 'Vet Agreement' and Mutual Recognition Agreement.

20 On services, NZIBF is a strong supporter of progressive liberalisation of this sector, both for direct services sector gains but also recognising the important role that services play in goods trade and global value chains. While New Zealand and the UK both already have relatively open services sectors, an FTA could offer gains by locking in these current policy settings, ideally through an ambitious negative list approach and with provision for ongoing review and progressive liberalisation over time. Such efforts could use as a starting point progress in the Geneva-based Trade in Services Agreement negotiations. In addition, ambitious outcomes should be pursued in services trade-facilitating measures relating to Mode 4 business mobility (e.g. business visas), commercial presence and mutual recognition of qualifications and licensing.

21 On investment, NZIBF is a longstanding strong supporter of foreign investment in New Zealand and of provisions in our trade agreements which provide appropriate protection and certainty for foreign investors and investment (both inward and outward), while also recognising the Government's continuing right to regulate in the public interest.

Next generation issues

22 NZIBF believes that the UK-NZ FTA should set new benchmarks on a range of "next generation" trade issues, including intellectual property, regulatory coherence, the digital economy and "progressive" trade issues.

23 On intellectual property, NZIBF supports approaches that are trade-enabling. The CPTPP is a useful model in that regard. With regard to geographical indications (GIs), NZIBF notes that New Zealand's GI legislation enables New Zealand to meet its international obligations relating to GIs for wines and spirits. GIs have a role in international trade law to protect the intellectual property rights of truly specialised products like wines and spirits that possess a unique and strong tie to a single geographical location. However, NZIBF could not accept an approach in which the use of generic names or other terms for products widely in commercial use or production, distribution and consumption were restricted in New Zealand or other markets.

24 NZIBF strongly endorses the inclusion of provisions aimed at regulatory coherence between New Zealand and the United Kingdom, and would welcome further work as part of

IN CONFIDENCE

the FTA negotiations to build on the recently-agreed bilateral Mutual Recognition Agreement to broaden and deepen this approach. It is worth noting that exporters can also face impediments behind the border in the form of private standards (for example, those imposed by supermarkets with significant market power and large retail chains). We recognise that by their very nature, private standards would fall outside the scope of an FTA. However NZIBF urges consideration of a business/retailer/regulator dialogue on the development of private standards that address consumer preferences while not impeding or adding significant costs to trade. This could benefit exporters, the retail sector and consumers.

25 New Zealand and the United Kingdom have the opportunity to set new benchmarks for the digital economy, an area where global rules frameworks are lagging behind technology and commerce, but which is increasingly reshaping traditional business models. Central to these will be robust rules for the free flow of data across borders, including a prohibition on forced data localisation or other data flow restrictions, while also ensuring that legitimate objectives including privacy, consumer protection and cybersecurity are met in the least trade-restrictive manner. We note the EU's recognition of New Zealand's "adequacy" status for the protection of personal data, and would want to see an approach at least as ambitious put in place by the UK.

26 The FTA could also usefully adapt the CPTPP approach on e-commerce – for example, a commitment not to impose duties, fees or other charges on digital products; provisions on e-authentication and recognition of e-signatures; quick, transparent and predictable e-border processes, a high *de minimis* threshold for e-commerce transaction; creator- and business-friendly intellectual property frameworks; cooperation on interoperability and conformity assessment; and consultation with stakeholders on new standards. It will be important additionally to ensure that financial services are covered by any e-commerce provisions, given the centrality of e-payments to the smooth functioning of e-commerce.

27 NZIBF welcomes the emphasis by both New Zealand and the UK on the need to ensure that the benefits of trade liberalisation can be more broadly and equitably shared by our communities. The FTA should include provisions that seek to avoid uneven outcomes or unrealized potential, for example among SMEs, women and Maori, while recognising that at least some of the solutions are likely lie outside the immediate scope of trade policy. An emphasis on sustainable as well as inclusive development, seeking to ensure that trade reform and environmental policies are compatible and mutually-reinforcing, should also be central.

NZIBF Advocacy paper

28 NZIBF recently prepared a paper advocating for an ambitious FTA along the lines of this submission, entitled "Old Friends, New Opportunities: A discussion paper on the potential for a UK-NZ FTA". A copy of the paper can be found at the following link on the NZIBF website: <http://www.tradeworks.org.nz/on-the-potential-for-a-uk-nz-fta/>.

Conclusion

29 There are strong strategic, economic and commercial reasons to negotiate an ambitious, comprehensive and high-quality free trade agreement. This would enable dynamic economic growth in both economies by removing barriers to trade and investment. A quick and ambitious negotiating process will be particularly important if the UK leaves the

IN CONFIDENCE

EU in March 2019 without having resolved UK-EU future trade arrangements, in order to minimise short- to medium-term adverse economic impacts on New Zealand exporters.

30 NZIBF encourages the Government to continue to consult and to take into account the views of relevant stakeholders throughout the negotiating process to ensure that the overall balance of New Zealand interests continues to be met. NZIBF recognises that whether concessions are made will be determined by the New Zealand Government after consultation with stakeholders and in the context of a satisfactory overall balance of interests achieved in the negotiation. NZIBF supports an inclusive, consultative and transparent negotiating process which allows all stakeholders the opportunity to have their voices heard.

Recommendations to the Ministry of Foreign Affairs and Trade

- 32 NZIBF recommends that the Ministry:
- a. **note** the NZIBF's support for the negotiation of a high-quality, ambitious and comprehensive FTA between New Zealand and the United Kingdom;
 - b. **agree** that the goal of the FTA should be the elimination of all barriers in all goods and services sectors by an agreed deadline;
 - c. **agree** that the negotiating agenda should encompass all issues of relevance to both sides including market access for goods and services, non-tariff barriers to trade, investment, competition policy, intellectual property, e-commerce and digital trade, government procurement, labour, environment and "inclusive trade" issues, seeking to use WTO disciplines as a starting point in the negotiation as appropriate;
 - d. **agree** that the resolution of the issues relating to the WTO Uruguay Round TRQs should be dealt with entirely separately to the FTA negotiations, and that New Zealand's longstanding WTO rights should be defended to the fullest extent;
 - e. continue to **consult widely** with sectors likely to be impacted directly by the negotiation, and with other stakeholders, operating on the basis of a maximally inclusive and transparent process as far as the negotiating parameters and sensitivities allow;
 - f. **develop** an active communications and outreach programme aimed at deepening New Zealand business' understanding of the opportunities presented by the FTA negotiation; and
 - g. **agree** to seek to conclude these negotiations as soon as a substantive and mutually advantageous outcome is to hand;

For further information

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IN CONFIDENCE

Annex A

Board members of the NZ International Business Forum

Executive Committee

Malcolm Bailey (Chair), Chair, Dairy Companies' Association of New Zealand
Michael Barnett, Chief Executive, Auckland Regional Chamber of Commerce and Industry
(*representing the New Zealand Chambers of Commerce*)
Philip Gregan, Chief Executive, NZ Winegrowers
Kirk Hope, Chief Executive, Business NZ
John Loughlin, Chairman, Meat Industry Association
Bruce Cameron, Chairman, Zespri International Ltd
Andrew Morrison, Chairman, Beef + Lamb New Zealand
Alan Pollard, Chief Executive, NZ Apples and Pears
Hon Simon Power, General Manager, Consumer Banking and Wealth, Westpac
Sarah Salmond, Special Counsel/Head of International Trade, Russell McVeagh
Simon Tucker, Director, Global Stakeholder Affairs, Fonterra
Steve Yung, Chief Executive, Sealord Group Ltd

Alternate Directors

Catherine Beard, Executive Director, Export NZ/Manufacturing NZ
Jeffrey Clarke, General Manager, Advocacy, NZ Winegrowers
David Courtney, General Manager, Zespri International
Jenny McGregor, General Manager, Trade Strategy, Fonterra
Sam McIvor, Chief Executive, Beef + Lamb New Zealand
John Milford, Chief Executive, Wellington Chamber of Commerce
Tim Ritchie, Chief Executive, Meat Industry Association

Executive team

Stephen Jacobi, Jacobi Consulting Ltd (*Executive Director*)
Fiona Cooper, Cooper Consulting (*Associate Director*)
Stephanie Honey, Honey Consulting (*Associate Director, Staffer ABAC*)

Associate members

NZIBF's membership comprises a range of associate members who are listed on our website,
www.tradeworks.org.nz.