



SUBMISSION TO THE MINISTRY OF FOREIGN AFFAIRS AND TRADE

PROPOSED NEW ZEALAND/EUROPEAN UNION FREE TRADE AGREEMENT

FEBRUARY 2016

Introduction and Summary

This submission is made on behalf of the New Zealand International Business Forum (NZIBF), whose members are listed at Annex A¹. NZIBF is a forum of senior business leaders working together to promote New Zealand's engagement in the global economy.

NZIBF warmly welcomes and supports the Government's intention to negotiate a free trade agreement (FTA) with the European Union (EU). New Zealand's economic relationship with the 28 EU Member States is in good shape, but has significant potential to expand and deepen for mutual benefit.

An FTA could be expected to generate new business in both directions by reducing trade barriers and by increasing awareness of opportunities in each other's market. Specific new high-quality export opportunities exist for New Zealand in the dairy, meat, seafood, niche machinery and services sectors; an FTA would also help to ensure that New Zealand exporters remain competitive with other third-country exporters into the European market, and could potentially deepen mutual involvement in global value chains, including into Asia. European and New Zealand investors are already active in each others' markets but there is scope for this activity, too, to increase in both directions.

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 in the FTA.

NZIBF believes that the goal of the FTA should be a comprehensive agreement with a commitment to eliminate all barriers in all goods and services sectors by an agreed deadline. There should be no *a priori* sectoral exclusions from the ambit of the negotiations but differing sectors may be subject to differing timetables for liberalisation. The negotiating agenda should encompass all issues of relevance to both sides including market access for goods and services, investment including investment disputes, competition

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

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policy, intellectual property, government procurement, labour and environment issues.

NZIBF recommends that the New Zealand Government proceed forthwith to initiate the detailed negotiating process and conclude that process as soon as there is a substantive and mutually advantageous outcome.

About the NZ International Business Forum

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. (A list of Board Members is in Annex A.)

Incorporated in May 2007², NZIBF works with companies, business organisations 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. 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).

While this submission is made on behalf of the NZIBF membership, a number of NZIBF members are likely to make their own submissions containing more detailed comments on specific issues relevant to their individual business interests.

The case for transforming the trade/economic relationship with the EU

NZIBF acknowledges that New Zealand's trade and economic relationship with the EU is in good shape: Europe is already a very significant trade and investment partner, ranking as our third-largest overall market for goods and services (fourth-largest export market for goods, second-largest for services) and our largest source of imports overall. Two-way trade was worth \$19.3 billion in the year ended June 2015. The EU is our second-largest source of and destination for investment.³

However, there are both economic and strategic reasons to seek to expand and deepen the relationship. In the view of the NZIBF, the trade and economic relationship has significant growth potential.

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

³ Global New Zealand (Year Ending June 2015), Statistics New Zealand

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The EU is a global economic powerhouse, with a GDP of over NZD\$20 trillion and representing a market of more than 500 million consumers. Although New Zealand is in the top quartile of economies worldwide and has a creditable GDP growth rate forecast to be above the average for all OECD countries next year⁴, New Zealand ranks a modest 50th in the list of European merchandise trading partners⁵.

With the conclusion of the TPP negotiation, the EU is the only one of our major trading partners with which we do not yet have an FTA; in turn, New Zealand is one of only a small handful of economies with which the EU has not negotiated any preferential trade arrangements (while it has negotiated and continues vigorously to pursue new FTAs with important potential competitors of New Zealand including the United States, Asian and Latin American economies). Among other benefits, an FTA would at a minimum help to ensure that New Zealand exporters remain competitive with other third-country exporters into the European market – and vice versa.

NZIBF believes that there is scope to transform the relationship with the EU in ways that reflect our shared history and values, our respective economic strengths and the complementarities of our two economies, and to set in place a framework that will help equip New Zealand for the modern global trading environment more broadly.

New Zealand has strengths as a supplier of innovative, high-quality sustainably-produced food and agricultural products such as dairy, sheepmeat, beef, kiwifruit, apples, fish and wine, along with high-value niche manufacturing and services (ICT, education, tourism, transport, logistics and business services such as specialised consultancy services). These areas of relative advantage complement Europe's strengths in value chains for both agri-food and sophisticated manufactured goods and services, and its role as a major world exporter and importer.

Although its average applied tariff is modest, the European Union maintains high tariffs and/or restrictive non-tariff measures on a number of key items of export interest to New Zealand, particularly in the primary sector. (High tariffs or restrictive non-tariff measures are found on some dairy products, beef, hides and skins, some fruits and vegetables, some fish and seafood products, processed food and wine – some so high or restrictive that they effectively prohibit trade outside of the limited volumes of tariff-quota access.)

Reducing and binding the remaining tariff peaks and addressing non-tariff barriers would provide new opportunities for New Zealand exporters and would offer consumers with a wider variety of competitively-priced products and services, and manufacturers with access to high-quality, competitively-priced inputs. Likewise, New Zealand consumers and manufacturers would benefit from lowering of a number of remaining New Zealand tariffs on European products and inputs.

⁴ OECD, Real GDP forecast (data.oecd.org)

⁵ trade.ec.europa.eu/doclib/html/122530.htm

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Further, taking a close look at the regulatory settings for services trade has the potential to grow that important sector in key areas of interest to New Zealand services providers and to deepen regulatory coherence and cooperation on other behind-the-border issues of concern to business. In particular, rules around skilled labour mobility, commercial presence and complex regulatory requirements appear to have limited New Zealand services exports to Europe.

In addition to improved market access, an FTA could be expected to focus unprecedented commercial attention on opportunities in each other's market. New export opportunities are not just into each other's markets, however, but potentially also into other zones (especially Asia) through incorporation of New Zealand goods and services with those of European counterparts into global value chains. New Zealand's extensive suite of FTAs in the Asia-Pacific can be expected to offer an attractive pathway for the EU in that regard.

European investors may be interested in specific opportunities in New Zealand's natural resource base including agriculture and food processing, building on the extensive investment relationship that already exists. Enhanced European capital flows could potentially assist the New Zealand productive sector to absorb new technologies, generate new intellectual property and other innovative approaches, enhance competitiveness, create scale and deliver more effective integration into global value chains.

Issues in the negotiation

NZIBF is primarily a leadership body: its membership comprises representatives of key sectors as well as New Zealand's largest business organisations with an interest in promoting New Zealand's relationship with key economic partners. NZIBF's role is to support the negotiating process so that it ultimately leads to the timely conclusion of a comprehensive FTA which delivers value for New Zealand interests. It is not NZIBF's role to represent specific industry viewpoints in the negotiation – this is best left to industry sectoral groups.

By way of overarching objectives, however NZIBF believes that the agreement should be of high quality and conform fully to Article XXIV (8) (b) of the WTO's General Agreement on Tariffs and Trade, which stipulates that FTAs should cover "substantially all trade" among participating countries.

Goods, services

NZIBF recommends that there should be no *a priori* sectoral exclusions from the ambit of the negotiations. The aim should be the complete elimination of tariffs and tariff quotas between the EU and New Zealand, and complementary disciplines intended to ensure that only coherent and minimally trade-restrictive non-tariff measures remain in place. In any case, at a minimum the negotiation should ensure that current market access

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opportunities for New Zealand exporters are not diminished in any way as a result of the negotiated outcomes.

As with New Zealand's other FTAs, a putative services schedule should adopt a "negative list" approach, meaning that FTA commitments apply to all services categories unless specifically excluded. Liberalisation of trade in services should be achieved across all four modes of supply, reflecting the already positive services trade relationship between the two economies and the significant potential to make this sector even more vibrant and more closely integrated into bilateral and global value chains.

Investment and other issues

NZIBF believes the negotiating agenda for the FTA should encompass all issues of relevance to both sides, including not just market access for goods and services (and related provisions such as rules of origin and customs cooperation), but also investment, competition policy, intellectual property, government procurement, labour and environment issues as well as 'new economy' aspects such as electronic commerce, cross-border data flows, science and technology/research and development and regulatory coherence (including transparency).

In many of these areas, such as regulatory coherence, services trade, labour and the environment, New Zealand and the EU are to a greater or lesser extent like-minded and will be able to build on existing cooperation to develop some exciting new models – perhaps even new global benchmarks – for the trade and economic architecture of the bilateral relationship. This is arguably an important element of the value proposition for the EU in engaging with New Zealand, given the relatively small size and openness of the market opportunity we represent.

The value of enhanced European and New Zealand investment activity is described above. Bearing that in mind, any concessions in the area of investment will need to be carefully considered and safeguards sought as appropriate. NZIBF supports a robust and transparent investor-state dispute settlement, one that recognises the government's continuing right to regulate in the public interest while providing protection for investors of minimum standards of treatment and against unjustified expropriation of assets. NZIBF also notes that the EU brings a particular perspective to bear on such mechanisms. It may have new proposals to make in this area which differ from other recent precedents. This aspect will need careful consideration in due course for consistency with broader New Zealand policy and precedent.

NZIBF recognises that issues of concern or priority for the European Union should be included in the negotiating agenda. These may include areas of comparative sensitivity for New Zealand, including for example aspects of intellectual property rights and competition policy. NZIBF encourages the Government to consult and take into account the views of all stakeholders to ensure its negotiating position reflects an overall balance of interests. NZIBF recognises that whether concessions are made will be determined by the New

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Zealand Government after consultation with stakeholders and with regard to the overall balance of interests achieved in the negotiation.

NZIBF recognises that differing sectors may be subject to differing timetables for liberalisation. In general, the NZIBF recommends any timetables should if possible reduce and in no case extend the timeframe for liberalisation set by other agreements to which New Zealand is already a party including the Trans Pacific Partnership (TPP). Further, NZIBF recognises that where adjustment is required as a result of negotiated outcomes, domestically-appropriate transitional assistance may need to be given.

NZIBF supports an inclusive and consultative negotiating process and one which allows all stakeholders the opportunity to have their voices heard. The negotiating process should be as transparent and maximally inclusive as the negotiation's parameters and sensitivities of the negotiating partners allow.

NZIBF has prepared its own discussion paper on the prospects of an FTA, entitled "Towards a New Zealand-European Union FTA: A Business Perspective". [A copy is attached at Annex B.][A copy can be found on <http://www.tradeworks.org.nz/towards-a-new-zealand-european-union-fta/>]

While conscious of the complexity of the negotiations, NZIBF recommends to the New Zealand Government that it conclude this early phase expeditiously and proceed promptly to the negotiating table, with a view to concluding negotiations on a substantive and mutually advantageous outcome as soon as possible.

Recommendations to the Ministry of Foreign Affairs and Trade

NZIBF recommends that the Ministry:

- a. **note** the NZIBF's support for the negotiation of a comprehensive FTA between New Zealand and the European Union;
- 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 without *a priori* sectoral exclusions from the ambit of the negotiations;
- c. **agree** that the negotiating agenda should encompass all issues of relevance to both sides including market access for goods and services, investment, competition policy, intellectual property, electronic commerce and cross-border data flows, government procurement, labour and environment issues, seeking to use WTO disciplines as a starting point in the negotiation as appropriate;
- d. **consult** widely with sectors likely to be influenced 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;

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- e. **develop** an active communications and outreach programme aimed at deepening New Zealand business' understanding of the opportunities presented by the FTA negotiation
- f. **agree** to proceed to conclude these negotiations as soon as a substantive and mutually advantageous outcome is to hand;

For further information

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**NZ International Business Forum
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ANNEX A

Board members of the NZ International Business Forum

Malcolm Bailey, Director, Fonterra Co-operative Group (Chair)
Sir Graeme Harrison, Chairman, ANZCO Foods Ltd
Michael Barnett, Chief Executive, Auckland Regional Chamber of Commerce and Industry (*representing the New Zealand Chambers of Commerce*)
Peter Clark, Chief Executive, PF Olsen Ltd
Paul Gestro, Head of Asia, BNZ
Peter McBride, Chairman, Zespri International Ltd
Kirk Hope, Chief Executive, Business NZ
James Parsons, Chairman, Beef + Lamb New Zealand
Steve Yung, Chief Executive, Sealord Group Ltd

Alternate Directors

Catherine Beard, Executive Director, Export NZ/Manufacturing NZ
Scott Champion, Chief Executive, Beef + Lamb New Zealand
Simon Limmer, General Manager, Grower and Government Relations, Zespri
Philip Turner, Director Global Stakeholder Affairs, Fonterra Cooperative Group

Executive team

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