



**Trade Works**



**ExportNZ**  
A DIVISION OF BUSINESSNZ

## **SUBMISSION TO THE PARLIAMENTARY FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE**

### **NEW ZEALAND EUROPEAN UNION FREE TRADE AGREEMENT LEGISLATION AMENDMENT BILL**

**FEBRUARY 2024**

#### **Introduction and Summary**

- 1 This submission is made on behalf of the New Zealand International Business Forum (NZIBF) and Export NZ. NZIBF is a forum of senior business leaders working together to promote New Zealand's engagement in the global economy. Export NZ is a national industry association representing a diverse range of exporters throughout New Zealand. ExportNZ is a division of BusinessNZ, itself a member of NZIBF.
- 2 Despite continuing concerns about the comprehensiveness of the New Zealand/European Union Free Trade Agreement ("the Agreement"), both NZIBF and Export NZ support the passage of the implementing legislation provided any technical concerns over its provisions can be overcome. Both NZIBF and Export NZ are concerned that the value of the Agreement could be further lessened by overly restrictive implementation provisions and they urge the Committee to take careful note of the views of affected sectors, including dairy and wine.

#### **About NZIBF**

- 3 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 representing many exporters of all sizes. (A list of Board Members is in Annex A.)
- 4 Incorporated in May 2007, 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 activities to promote 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 in respect to the policy advice and support which NZIBF provides to the New Zealand members of the APEC Business Advisory Council (ABAC) is provided by both NZIBF and the Ministry of Foreign Affairs and Trade (MFAT).

## **About Export NZ**

- 5 Export NZ is a membership organisation with approximately 2,000 export members around the country. ExportNZ advocates for, inspires, connects, and celebrates New Zealand exporters. It aims to build a thriving ecosystem that supports each other. "We are exporters helping exporters".

## **Past qualified support for the Agreement**

- 6 Both NZIBF and Export NZ, in their previous submissions to the Committee, have expressed qualified support for the Agreement. This is because the Agreement is less than fully comprehensive and should not therefore be seen as a model for future agreements. This view has not changed. Further work will continue to be required as the Agreement is implemented and reviewed to enhance its contribution to both trade diversification and the economy more generally.
- 7 Both NZIBF and Export NZ recognise however that the Agreement confers advantages to some sectors, including kiwifruit, onions, other horticulture, honey including mānuka, wine, seafood and manufactured products. These sectors, several of whom especially in the horticulture sector, have seasonal shipments either underway or about to start, are keen to see the Agreement ratified as soon as possible. For dairy and beef the additional market access granted under the Agreement is limited. NZIBF and Export NZ continue to urges the Government to seek to improve market access for dairy and beef as the opportunity arises.
- 8 Both NZIBF and Export NZ remain concerned that growing EU regulation of sustainability could further undermine the value of the Agreement. The unilateral imposition of such regulation has the potential to impact trade significantly, with one example being the EU's Deforestation Free Supply Chain Regulation. As it is currently drafted, New Zealand's beef and leather trade to the EU could cease when the regulation comes into force in December. New Zealand needs to be proactive in using the consultative mechanisms in the FTA to discuss these matters.

## Implementing legislation

- 9 The draft legislation currently before the Committee serves to give effect to the agreement reached between New Zealand and the EU in July 2023. To oppose the legislation outright would be to prevent the Agreement taking effect and the benefits being extended to the sectors as outlined above. For this reason both NZIBF and Export NZ support in principle the passage of this legislation despite their reservations about the Agreement as a whole. That said, much of the legislation is highly detailed and technical. This applies particularly to the provisions in Part 3 concerning the implementation of an expanded regime for geographical indications (GIs). Both NZIBF and Export NZ urge the Committee to take careful note of the views of industries, such as dairy and wine, who will be directly affected by these measures.
- 10 It is our view however that the provisions related to GIs should go no further than what is required to implement the specific requirements of the NZ-EU FTA and should align with New Zealand's existing legal system for the protection of intellectual property rights. We are concerned that several GI-related enforcement provisions extend far beyond this, placing a significant burden on New Zealand food and wine producers. For example, the Bill establishes an enforcement system with GI officers that are granted unjustified and far-reaching powers; there are no credible limitations on persons that can take civil actions under the New Zealand court system; and financial remedies are set at levels that create a high risk of misuse and risk deterring legitimate users of terms not covered by GI protections. Furthermore we consider there must be a proper consultation and opposition process around any new names before they are added to the register or to Annex 28-B of the FTA, and the provisions to protect common names – or shield them from the protections of the proposed legislation – must be further clarified.
- 11 Both NZIBF and Export NZ support the provisions in Part 5 which will enable EU investors to benefit from the same screening threshold, NZ\$200 million, applied to many of New Zealand's other FTA partners, including CPTPP Parties, China, Korea and the UK.

## Conclusion

- 12 The Agreement is different from others New Zealand has concluded in the less than comprehensive market access coverage and the larger number of concessions New Zealand has to make in its own domestic policy settings, including GIs. While both NZIBF and Export NZ have continuing concerns about aspects of the Agreement, opposing the implementing legislation at this stage would mean the loss of the gains that have been made for some sectors and send a negative signal about New Zealand's reliability as a negotiating partner.

## Recommendations to the Committee

13 NZIBF recommends that the Committee:

- a. **note** that NZIBF and Export NZ support the passage of the NZ/EU Free Trade Agreement Legislation Amendment Bill provided any technical concerns highlighted by affected industries can be overcome
- b. **note** that the sectors benefiting from the Agreement would be assisted by prompt implementation of the Agreement.

### For further information

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**NZ International Business Forum/Export NZ**

**February 2024**

## ANNEX A

### NZIBF BOARD MEMBERS

#### Executive Committee

1. Philip Gregan, (Chair) Chief Executive, NZ Winegrowers
2. Raewyn Bleakley, Chief Executive, NZ Food and Grocery Council
3. Kimberly Crewther, Executive Director, Dairy Companies' Association of New Zealand
4. Michael Fox, Head of Global Public Affairs, Zespri International
5. Kirk Hope, Chief Executive, Business NZ
6. Sirma Karapeeva, Chief Executive, Meat Industry Association
7. Sam Mclvor, Chief Executive, Beef + Lamb NZ
8. Karen Morrish, Chief Executive, NZ Apples and Pears
9. Mike Pretty, Non Executive Chairman, Kraft Heinz
10. Sarah Salmond, Partner, Minter Ellison
11. Tim Silverstone, General Counsel and General Manager, Corporate Affairs, Sealord Group Ltd
12. A J Smith, Founder and Chief Executive, TradeWindow Ltd
13. Amy Tocker, General Manager, Māori Kiwifruit Growers
14. Reuben Tucker, General Manager, Institutional and Business Banking, Westpac
15. Simon Tucker, Director, Global Stakeholder Affairs, Fonterra

#### Associate members

NZIBF's membership comprises a range of associate members who are listed on our website, [www.tradeworks.org.nz](http://www.tradeworks.org.nz).