FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE HEARING ON THE NZ/EU FTA LEGISLATION AMENDMENT BILL: SUBMISSION BY THE AUCKLAND BUSINESS CHAMBER[1].

SUMMARY

The Auckland Business Chamber strongly supports the legislation necessary to enact the recently concluded NZ/EU FTA.

The Chamber's support is based on two fundamental considerations that are consistent with, but go far deeper than, this particular recent FTA:

- First, our standard of living, our levels of employment and our ability to continue to be a first world, competitive economy are critically dependent on our successful participation in the international trading system and removing discrimination against NZ exports. This requires stable, rules-based access to the major markets of the world. We could never support existing levels of employment and activity in Aotearoa-NZ or pay for our vital imports without such access. Trade Agreements can be considered akin to 'clubs' – the benefits extend only to Members and deliberately discriminate against non-Members in terms of access to their markets. Those who have opposed every trade agreement over the last forty years have never explained how NZ could retain a first world economy without these agreements.

- Second, the multilateral trading system (WTO) – always our country's first best option to support our export economy - is under sustained pressure and it would be very optimistic to believe this is going to change for the better any time soon. The FTA with the EU is another important step forward in our country's well developed 'Plan B', strongly supported over decades by previous Labour and National-led Governments. Briefly stated, that 'Plan B' is designed to shore up our trading opportunities by negotiating a series of bilateral or 'plurilateral'[2] FTAs (or agreements of this nature by another name) to ensure our competitive export industries have access to markets essential to our future export success. This FTA will be totally consistent with this long-standing bi-partisan policy strategy.

Finally, since this FTA is a 'new generation' FTA, its positive implications go well beyond the bedrock arguments above. Its innovative provisions on, for example, trade and labour, trade and the environment, help chart out policy directions aimed well beyond our important and immediate trade and employment concerns to other structural policy objectives.

---

[1]This submission is in the name of the Hon Simon Bridges, CEO of the Auckland Business Chamber and has been prepared with the advice of the Hon Tim Groser, former NZ Trade Minister and former NZ Chief Trade Negotiator.
[2] 'Bilateral' meaning trade agreements amongst two parties; 'plurilateral' meaning trade agreements amongst a number of countries that are a subset of the international trading community. The ANZERTA (CER) agreement is a bilateral agreement; CPTPP is a plurilateral agreement because there are currently 11 countries that have accepted the obligations of that agreement.

In summary, and in the Chamber's view, this FTA deserves strong support from the Committee.

BACKGROUND

Introduction

The Auckland Business Chamber is a voluntary organisation and a part of New Zealand's largest business network organisation, the New Zealand Chambers of Commerce network. The Chamber has worked with business within NZ for more than 160 years. We provide our members advice, HR support, mentoring, training for their staff, and provide a range of services essential to their success. The Chamber is particularly focussed on the internationalisation of NZ business. It provides exporters business contacts and certificates essential to meeting the requirements of importing countries (Commercial invoices, Certificates of Analysis, Supplier Declarations of Conformity etc).

But we also advocate, on their behalf, for policies designed to deepen our export success. This includes strong and consistent support to successive Governments for opening up opportunities for our export economy through well-designed trade agreements. That is the basis of this submission to the Committee.

The need to negotiate separate FTAs with the EU and the UK Governments springs from two broad strategic developments of fundamental importance both globally and to our own country's trading economy: first, Brexit, and second, the deep difficulties in the wider multilateral trading system (the WTO). Whatever one's views on the wisdom of Brexit may be, it created the case for Europe's trading partners to negotiate new agreements to reflect those two realities.

At the most basic level, the commitments NZ had negotiated in the highly successful last set of multilateral trade agreements (the Uruguay Round, concluded 30 years ago) had been based on the UK being part of the EU. For example, our exports of sheepmeat (prior to the rise of China as a serious market) Europe was the destination for some 80% of our sheepmeat exports). This vital trade was governed by a single legal undertaking of the EU – to accept, with a single Europe-wide tariff quota of almost 230,000 tonnes, imports of NZ sheepmeat and apply zero tariffs to such imports.

Post-Brexit, a single 'Europe-wide' commitment to a single 'customs area' was by definition no longer possible. As a country we faced the choice of accepting a unilateral UK/EU decision how to 'split' the quota between them or negotiate it with each party. We wisely chose the latter. While sheepmeat is among the most important examples, the point made here applies across the board to all our exports of goods and services: for fifty years from 1973, we dealt with only one trading partner (the EU). From now on, we have to deal with two (the EU and the UK) and their two different trade regimes.

This submission necessarily focusses on the FTA with the EU (we occasionally use the term 'Continental Europe', where it fits the context). By far the most difficult issues in the negotiation involved highly sensitive agriculture policy issues and this submission starts by analysing the complicated historical background to that set of negotiating issues. Later, we examine the FTA's provisions dealing with the growing international agenda of 'trade-related' issues, such as trade and the environment, including climate change.

The History of Our European Trading Relationship

From the late 19th Century our export economy until the mid-20th Century was focussed not on Continental Europe or even the rest of the world, but on one European Economy, the United Kingdom – the largest economy in the world until it was overtaken by the United States in the early 20th Century. In 1950, some 90% of total NZ exports went to the UK. Set against current concern in both Australia and NZ about our two economies' dependence on China (as high as 43% of Australian exports in 2020, and some 27% of NZ exports in 2022), this extraordinary degree of dependence in 1950 on the UK (90%) is on another level altogether. To put the risk in terms of a familiar metaphor: if, all those years ago, the UK 'caught a cold' economically, that would feed through immediately into a crisis of epidemic proportions in NZ.

We were conventionally (and correctly) called in those days 'an offshore farm of Britain' and we supplied an extraordinarily large percentage of a number of critical foodstuffs to the British public. As a consequence, NZ Governments up until the mid 1970s, whatever their political complexion, were locked into a political consensus based on:

- Complete dependence on Britain for our export economy and an almost complete indifference to both the multilateral trading system (the GATT – the forerunner of the WTO). In trade policy terms, it was an extension of Prime Minister Peter Fraser's famous statement at the outbreak of the Second World War in 1939 on security grounds – 'where Britain goes, we go'.

- An economic policy internally of free trade in agriculture and total protectionism on non-agriculture (think: 'industrial') goods. NZ maintained the developed world's last comprehensive import licensing system and very high tariffs until finally the ANZCERTA (CER) Agreement was negotiated in the early 1980s requiring the liberalisation of our highly protected (non-agriculture) economy. This was a revolution at the time but successfully managed by 'NZ inc'. The Manufacturers Federation (up to then the principal supporter of policies of high protection) even requested the then Labour Government in 1988 to accelerate the liberalisation of the NZ economy to deepen our CER relationship with Australia.

A single political event created the shockwave to disrupt this comfortable post-war political consensus: the decision of the UK Government in 1973 to join the then EEC (European Economic Community, as the EU was then called). The country (the UK) which had championed the principle of free trade in food[3] was joining a customs union based on precisely the opposite policy – high food prices, huge barriers to food imports. This created enormous problems for a range of countries which had developed agricultural export sectors for the giant British market of the early 20th Century – including Argentina, Uruguay, Brazil, and Australia. But no other country was as relatively impacted as NZ, so strong was our economy dependent on exporting to the British market.

Facing this crisis to our export economy, our political leaders of the day (Norman Kirk, Jack Marshall, Brian Talboys) constantly called on New Zealanders to 'diversify, diversify, diversify'. We had some time to do this - an insurance policy that was negotiated on our behalf by the British Government – a special provision in the British accession to the EEC (it was called 'Protocol 18').

This essentially delayed the full effect of implementing the then deeply protectionist provisions of the EEC Common Agriculture Policy to imports from NZ, but at a cost: every three years our access to the combined EU market would decrease – the opposite to the principle of progressive trade liberalisation; it was referred euphemistically as the 'principle of degressivity'. But the agreement did give us time, and no other trading partner of Britain received such a concession. The relationship between Australia and the EU in the 1980s on all trade policy matters was unusually bitter as a result.

To the great credit of previous generations of New Zealanders, that time was used productively to develop a fairly coherent diversification strategy. The first step was to sort out the chaotic trade relationship with Australia. For that we had strong support in Canberra from a group of senior Australian public servants and the then Deputy Prime Minister and Trade Minister of Australia, Doug Anthony. That led to the 'CER negotiation' – initially a deeply controversial negotiation within NZ, because it inevitably called into question our own high barriers to imports from Australia, but eventually enjoying bipartisan political support.

Following the first successful FTA with Australia (CER), successive NZ Governments adopted a highly activist trade policy on multiple (but consistent) fronts. First, NZ's long indifference to the multilateral trading system (GATT – WTO since 1994) changed abruptly in the early 1980s. A former NZ Prime Minister, the Rt Hon Mike Moore, would even become its head (Director General) twenty years later and both Labour-led and National-led Government strongly committed to supporting liberalisation of trade in both goods and services during the last successful multilateral trade negotiation (the 'Uruguay Round').

As Asia developed economically from the late 1960s, the diversification strategy of successive NZ Governments gathered pace. Initially focused on Japan (still the world's third largest economy), as the 'Asian Tigers' (Singapore, Taiwan, Hong Kong, Korea) transitioned from poor, low-wage, low-technology economies into exporting powerhouses, NZ Governments followed a variety of

---

[3] See the literature on repeal of the Corn Laws in 1846 – designed to provide cheap food for the new industrial working class who had left the farms to drive the 'First Industrial Revolution'.

long-term policies designed to strengthen our links (not just trade) on these increasingly successful economies.

This involved, amongst other policies, strengthening our diplomatic ties and embassy networks, strong support for the APEC initiative started in 1989 by Australian Prime Minister Bob Hawke, the creation of the NZ/Asia Foundation (formerly 'Asia 2000') to augment our non-economic ties with Asia. Our participation in RCEP and CPTPP can themselves be seen as linked to this diversification strategy.

From this perspective, the recent FTAs with both the UK and the EU have their origins in this complicated history and represent a logical continuation by the current generation of New Zealand leaders of the diversification strategy initiated from the mid 1970s.

Evaluation of the FTA

Against this background, the Chamber notes some of the more salient outcomes of the FTA.

The EU (now 27, no longer 28, countries) is a vital partner of New Zealand, economically, politically and, for many New Zealanders, historical family and cultural ties. In trade terms, the two way trading relationship is a $20 billion relationship. In political terms, the EU, with a population nearly 100 times our 5 million resident population, is founded on the principles of democracy and rule of law. There would be few broad areas of foreign policy where we do not work closely with them, frequently taking complementary positions.

Modelling of this FTA shows positive, but not spectacular, gains on an 'economy-wide' basis and in terms of impact on real wages. This is consistent with modelling carried out on every trade agreement in recent decades. Such modelling has usually been shown to have under-estimated the export and other gains – in some cases, spectacularly under-estimating the benefits (eg modelling on the China FTA). For a variety of reasons (mainly, the limited additional liberalisation on our most competitive agricultural exports) the Chamber would not expect this to be the case for this particular FTA. But this does not obscure the core point: it is all positive in net terms and each of these FTAs has an overall cumulative effect that is anything but trivial.

The Committee should bear in mind that these are literally 'economy-wide' results from the modelling. There are considerably more positive results for a few sectors of our economy such as wine, various horticulture products and seafood. The Auckland Chamber has a number of Members which are extremely positive about the impact of this FTA on their businesses and the regions in which they operate.

The FTA will also help companies that many members of the public would not even think of as 'exporters' – certain education providers, engineering and environmental services for example. Within the conceptual frameworks used by trade negotiators, these are called 'services exports'. It is worth bearing in mind, however, that the division between 'goods' (say, a honey exporter's products) and 'services' is finally artificial: every one of our honey exporters will have employed legal services, will have used domestic transport services and many other such services to produce and then get their product to market. In that sense the positive impact for employment from liberalisation of trade in 'goods' is always wider. We have chosen honey as the example deliberately: the elimination of a high EU tariff on manuka honey will remove a significant competitive disadvantage faced by honey exporters and thus the benefits of this FTA will spread to a wider circle of businesses beyond manuka honey producers linked to the success of our honey exports.

The Committee should also note that it is impossible to quantify some of the gains, but it is certainly possible to specify them. We give here three concrete examples: customs facilitation, temporary work visas, and the provisions relating to Public (Government) Procurement.

Since the Chamber is deeply involved in customs facilitation (we provide around 70% of trade documentation used in NZ), we welcome the improved framework that our expert officials will be able to use in inter-actions with their European counterparts to simplify and speed up these processes.

With respect to work visas, some services can of course be provided remotely from NZ via modern digital technologies. But other services still require physical presence. For many years, some of our niche services companies have complained about the extreme difficulties of getting contracts in Europe for the specialist services they offer – they cannot get work visas. This agreement will provide one-year visas for a range of these companies and the Chamber would expect that some of our Members will, over time, benefit from the provisions since the European market provides huge opportunities for such specialist NZ companies. We will find out only over a long period of time the size of this benefit; we know already it can only be positive.

With respect to Public Procurement, the Committee will be aware that with Governments typically representing 40-50% of each EU Member State's GDP, this is a vast part of the EU economy. While the WTO Government Procurement Agreement ('GPA') provides us, as a Member, with certain rights to compete, for a series of practical reasons few NZ companies are large enough to entertain bids with the Central European Governments concerned. This FTA extends some helpful disciplines to far smaller sub-regional Governments (towns and cities) which are far more likely to be issuing contracts on a scale that our SMEs can cope with. Again, this is an example of a benefit that cannot be quantified (and therefore will not show up in 'gains' via economic modelling) but can certainly be specified.

The Chamber notes that the FTA pushes out the boundary in a helpful way on a number of environmental provisions, including on climate change cooperation, action against illegal logging and fishery subsidies (something that successive NZ Governments have championed for over 20 years).

The Chamber has always supported freer investment flows – both inward and outward. We appreciate there are strong and understandable sensitivities around this matter. We think the results of the FTA are positive and practical in terms of managing such sensitivities. Our long-standing screening provisions remain in place. The modest increase in the threshold to $200m merely extends to European investors the same provisions introduced as a result of the CPTPP agreement and should therefore be considered more a matter of removing discrimination against European investment than any liberalisation of FDI policy. Similarly, the highly controversial concept of Investor-State Dispute Settlement (ISDS), which is just as controversial in Australia as it is in NZ, is not part of this FTA.

The Chamber notes the FTA formalises cooperation on a range of labour-related issues, building on the cooperation NZ officials and Ministers have long undertaken with their European counterparts in, for example, the ILO, and has provisions on Treaty of Waitangi/cooperation on Indigenous people, in line with a variety of trade agreements NZ has entered into since the first provision on Te Tiriti was introduced in 1994 into NZ's first ever set of WTO Services Commitments.

Limited Liberalisation in Some Important Areas:

The Chamber is of course aware that some of our most important exporters, particularly our dairy and beef exporters, were disappointed at the results, while acknowledging small improvements in specialised areas such as casein and infant formula, where tariffs will be eliminated over a period of years.

The Chamber takes no particular view on this other than to note the obvious – the EU, in spite of some reform of the Common Agriculture Policy since 1990, retains very high protective barriers on a range of agriculture imports. As explained earlier in the Chamber's submission, this reflects 150 years or more of supporting high food prices, in spite of the costs to their consumers.

A bilateral negotiation with NZ was always going to hit this European reality brickwall – it is a little different negotiating multilaterally or regionally with far more powerful countries than us where NZ negotiators have other tools and strategies at their disposal. Acting on our own (bilaterally) we have very little actual leverage. Even initiating an FTA with some powerful countries, let alone concluding it with major gains, can be an insurmountable obstacle – compare 40 years of failure to negotiate a bilateral FTA with the United States, starting with the late Prime Minister David Lange's support for an FTA in the mid 1980s.

The far deeper liberalisation achieved with the now independent United Kingdom by Australian negotiators in the UK/Australia FTA and the very similar deep liberalisation achieved by NZ negotiators in the UK/NZ FTA reflects one simple alternative reality: the UK Government, once it had left the EU, wanted to return to where it was in 1973 when it joined the (then) EEC – a progressive move back into free trade in food products. The EU is not 'in that space' and may not be for many further years, if ever.

The Committee on Foreign Affairs, Defence and Trade, should, in the Auckland Business Chamber's view, endorse the legislative changes required to enact the FTA with the EU and move on to other matters where real choices have to be made.