Report on the second round of negotiations for a Free Trade Agreement between
the European Union and New Zealand

8-12 October 2018, Wellington

Summary
The second round of EU-New Zealand FTA negotiations was held from 8 to 12 October 2018 in Wellington covering all areas except for Small and Medium Enterprises and Digital Trade. In majority of cases, the negotiations were based on the EU textual proposals.

The discussions allowed to bridge gaps between both sides’ positions in a number of areas, and to close corresponding portions of texts. They also allowed to clearly identify follow up actions which each side has to complete ahead of the third negotiating round, scheduled to take place in Brussels in February 2019.

Details per negotiating area

Trade in Goods: The constructive atmosphere of first round continued. Both sides resumed work on the text on rules for trade in goods, closing another article and making substantial progress on four others. The EU and New Zealand then engaged in a technical discussion over the trade and tariff data exchanged in advance of the round, which allowed both sides to clarify a number of issues and agree on some follow-up work. Further discussions were held on expectations for initial market access offers, addressing elements such as sensitivities of the two sides, degrees of ambition and link between market access and progress in other chapters of the Agreement. Next steps include further exchanges of data, continued work on the text and start of preparation of initial market access offers.

Rules of Origin: Good progress made in a constructive atmosphere. All the Articles of General Provisions (Section A) and Origin Procedures (Section B) were covered, and parts conceptually or fully agreed. Both sides agreed on the use of self-certification and that no third party or government issued certification would be required. New Zealand tabled its proposal for the Product Specific Rules. The discussions during this round covered these rules on a sectoral basis, while detailed discussions will take place during the next round. The EU intends to table its product specific rules proposal and the introductory notes to those rules before the next round.

Customs and Trade Facilitation: The discussion focused on the text contributions that were shared between rounds as well as on the remainder of the text to gain a better understanding of each other's proposals. A number of provisions have been agreed and further progress was made on other parts of the text.

Technical Barriers to Trade: Both sides exchanged information on each of their accreditation and conformity assessment systems. A reasonable progress was made on the text. Both sides agreed to parts of the articles on standards and conformity assessment. There were constructive and detailed discussions as regards to technical regulations, transparency, marking and labelling. Both sides also exchanged further views on possible sector annexes.

Sanitary and Phyto-Sanitary measures: Open and detailed discussions based on both sides' text proposals. The discussions re-confirmed the common grounds and high ambition on animal welfare, the fight against antimicrobial resistance and on several other SPS issues. Both sides maintained their position on the structure of the SPS Chapter, in particular in relations to their Veterinary Agreement.

Trade Remedies: The chapter was discussed for the first time on the basis of an EU text. Both sides went through the whole text (anti-dumping/anti-subsidy, global and bilateral safeguards). Both sides showed a constructive approach. Certain issues of convergence (transparency, and certain procedural issues) and
certain difficulties such as duration of measures or the length of the transition period for the bilateral safeguard clause were identified.

Trade in Services: During this round, the EU side presented its text proposal on Investment Liberalisation and Trade in Services. Dedicated sessions were held on the aspects of the text common to investment and trade in services, e.g. the scope of application of the provisions, common definitions and domestic regulation. In addition, services-specific sessions took place with regard to cross-border trade in services, mutual recognition of professional qualifications, financial services, international maritime transport services and delivery services. Finally, both parties also discussed the chapter on the entry and temporary stay of natural persons for business purposes. Overall, the EU and New Zealand could make good progress on the services text during this round.

Investment and Capital Movements: The session focused on the presentation of the EU’s approach as reflected in the text proposal provided by the EU side. Constructive technical discussions took place with regard to the investment-related definitions and key provisions, such as market access, non-discrimination, prohibition of performance requirements and non-conforming measures. The provisions concerning capital movements and payments, including the relevant safeguards and exceptions, were also discussed. Based on that, a number of potential commonalities and gaps could be identified. Still, more in-depth discussions will be required, in particular in light of the complex interactions between the architecture and the substance of the investment provisions.

Intellectual Property Rights: Both sides constructively discussed every section of the IPR Chapter (general provisions, copyright and related rights, patents, trade marks, regulatory data protection and trade secrets, plant varieties, enforcement including border measures, and cooperation). Both sides provided further clarifications and explanations of their respective IP frameworks. A number of further articles have been agreed. Relevant areas were identified where more work will be required in the next rounds.

Public Procurement: Both sides had further in-depth discussions based on the EU’s text proposal. In order to further both sides’ ambitions to build on the WTO Government Procurement Agreement (GPA) in the bilateral relationship, it was agreed in principle to incorporate provisions of the GPA by reference and to work towards agreement on additional provisions. The discussions on these provisions were fruitful with emerging convergence on some articles, such as the use of electronic procurement procedures and a single point of access to procurement opportunities information. With respect to market access, both sides continued to deepen understanding of each other’s procurement systems, existing commitments and engaged in constructive discussions on the scope for further access.

Trade and Competition: Competition negotiations confirmed largely converging positions. New Zealand signalled interest in negotiating similar provisions on procedural fairness as the EU has negotiated with Mexico.

As regards Subsidies, both sides continued discussions on the basis of New Zealand’s text proposal, and the texts which the EU had tabled for Chile and had agreed with Mexico. While New Zealand flagged an intention to table additional proposals with regard to agricultural subsidies and fossil fuel subsidies, the EU side pointed out that fisheries subsidy provisions should only be negotiated multilaterally, referring to the ongoing negotiations in the WTO.

Both sides had also very constructive discussions on State-Owned Enterprises, based on the EU’s text proposal. Some issues remain with regard to some definitions and the scope of the provisions but both sides expressed confidence that these issues can be resolved in the coming rounds.

Trade and Sustainable Development: The discussions covered a range of issues for potential inclusion in a future TSD text, on a without-prejudice basis. Both sides discussed objectives, the right to regulate and levels of protection, responsible business conduct/corporate social responsibility, scientific and technical information, transparency and cooperation.

On Labour, both sides discussed the multilateral labour standards and trade supporting decent work. New Zealand detailed the background and context to its position on the ratification of Fundamental ILO Conventions 87 and 138, and committed to provide a background paper. The EU side reconfirmed the importance of this issue.

On Environment, both sides discussed multilateral environment governance and agreements, biological diversity, forestry, marine fisheries/biological resources, trade aspects of circular economy, and trade supporting environmental benefits. The EU side committed to provide information papers on competence issues regarding aquaculture, and on the current reform process regarding the Common Fisheries Policy.

On Climate, both sides discussed trade and climate change, including carbon markets and areas of cooperation. Both sides also discussed institutional provisions and reconfirmed their approaches to dispute settlement.

In a useful joint session with the Subsidies Working Group, both sides discussed fossil fuel subsidy reform and fisheries subsidies.
Energy and Raw Materials: This was the first round in which ERM was discussed in depth with New Zealand. The discussions focused on presenting the EU-proposed provisions. The discussions were positive, in particular as regards provisions aimed at ensuring environmental sustainability of ERM projects, promoting renewable energy and preventing fossil fuel subsidisation. In terms of next steps, New Zealand will further consult internally with a view to reverting to the EU side ahead of the next round.

Transparency and Good Regulatory Practice: The discussions were based on the text proposals tabled by the EU side. The exchanges on Transparency allowed both sides to introduce their respective systems. The discussions on Good Regulatory Practice were an opportunity to introduce the EU text proposal and to provide replies to detailed questions from New Zealand.

Dispute Settlement: The discussions focussed on the interpretation of seasonal goods and services, the roster approach to establishment of panels, post-suspension compliance, and mediation. Both sides reached an agreement on a range of provisions. New Zealand also provided an explanation of the Treaty of Waitangi exception which reconfirms certain rights of the country’s Māori population.