Briefing

International Agreements in Progress October 2017



EU-New Zealand free trade agreement All set for the launch of negotiations

OVERVIEW

New Zealand already enjoys a number of bilateral trade cooperation agreements with the EU. These agreements pave the way for negotiations on a free trade agreement (FTA) between the EU and New Zealand. However, both sides are expected to raise several sensitive issues during negotiations, not least because New Zealand is a major and competitive producer and exporter of agricultural goods. The EU is committed to taking European agricultural sensitivities fully into consideration in its negotiating strategy, seeking to protect vulnerable sectors through specific provisions.

In addition to facilitating trade and investment flows between the parties, the FTA would create a level playing field for the EU with other trading partners that have already concluded FTAs with New Zealand. The FTA would also strengthen the EU's position in Asia-Pacific value chains, and help to advance the trade policy interests of the EU in the region.

On 13 September 2017, the European Commission presented draft negotiating directives for an FTA with New Zealand. This draft mandate, in line with the EU Court of Justice's recent opinion on the EU-Singapore FTA, covers only areas falling under the EU's exclusive competence. Therefore, the prospective agreement could be concluded by the EU on its own and could be ratified at EU level only. The Commission aims to finalise negotiations before the end of its mandate in late 2019.



Free trade agreement between the European Union and its Member States, of the one part, and New Zealand, of the other part

Committee responsible: International Trade (INTA)
Rapporteur: Daniel Caspary (EPP, Germany)

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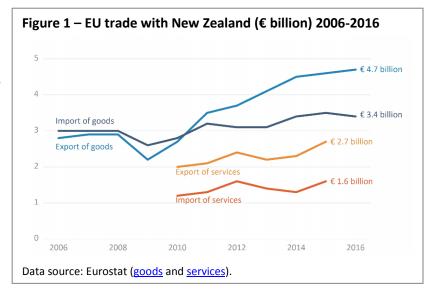
Introduction

New Zealand was the EU's 49th largest trading partner in goods in 2016, with a 0.2 % share in EU total trade in goods. In comparison, the EU ranked as New Zealand's third largest goods trading partner, after China and Australia, accounting for 14 % of New Zealand's global trade in goods. Total trade in goods between the two partners amounted to approximately €8 billion in 2016 (see Figure 1). Manufactured goods, mainly machinery and transport equipment, and chemicals (54.1 % and 13.6 % of total exports respectively) made up 86.5 % of EU exports to New Zealand, while 72.3 % of EU imports from New Zealand consisted of agricultural goods. Since 2011 the EU has recorded a surplus when it comes to trade in goods with New Zealand. Moreover, that surplus has shown an upward trend since then, amounting to €1.3 billion in 2016.

In 2015, the EU exported €2.7 billion worth of services to New Zealand, while imports of services totalled €1.6 billion. For trade in services, the <u>surplus</u> for the EU increased from €0.8 billion in 2012 to €1.1 billion in 2015. Services trade is a considerable component in EU-New Zealand bilateral trade relations; the value of total trade in services amounted to 53 % of the value of total trade in goods in 2015.

The EU held €9.8 billion inward foreign direct investment (FDI) stocks in New Zealand in 2015. In that year, the stock of New Zealand's investment in the EU was €4.5 billion. This made the EU the secondlargest source of FDI in New Zealand.

The <u>United Kingdom</u> (UK) was New Zealand's largest services trade partner and top export



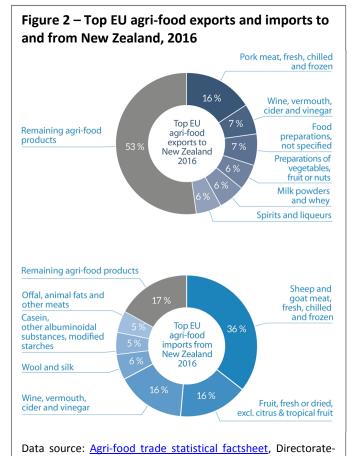
market for goods among the EU Member States in 2016. In addition, the UK held a significant share of total EU FDI stocks in New Zealand and was an important destination for New Zealand's FDI stocks in the EU Member States.

Trade in agriculture

Agriculture plays a major role in New Zealand's economy. According to an <u>overview</u> published in 2016, agriculture accounted directly for approximately 4 % of gross domestic product (GDP), with food, beverages and tobacco processing accounting for another 4 %. New Zealand is also a major exporter of agricultural products. In 2015, approximately 70 % of total merchandise exports were agricultural products and, for example, the following percentages of goods produced were <u>exported</u>: 83.7 % of beef, 96.8 % of sheep meat, 88.7 % of butter and 75.1 % of cheese. Moreover, according to a 2017 <u>FAO report</u>, the country was globally the leading exporter of butter and whole milk powder. New Zealand is particularly <u>well integrated</u> into the agriculture and food sectors' global value chains (GVCs) as regards the food and beverages industry, with the majority of imported components in this sector used for export production.

The EU is currently New Zealand's second-largest trading partner for agricultural products. The value of EU agricultural imports reached €2.3 billion in 2016. Sheep and goat meat represented 35.9 % of agri-food imports from New Zealand that year (see Figure 2). New Zealand is the EU's major supplier in sheep and goat meat, with an import market share of approximately 85 %. Other key food commodities imported to the EU in 2016 were fruit and wine. New Zealand also exported wool and silk, dairy products, such as casein, butter and cheese, and also beef into the EU.

Comparatively, the value of EU agricultural exports to New Zealand is low, although that is changing. For example, the value of EU exports increased from €326 million in 2012 to €456 million in 2016. In agriculture, the EU has a consistent trade deficit with New Zealand,



General Agriculture and Rural Development (DG AGRI), European

oscillating around €2 billion (€1.9 billion in 2016). Key EU exports include pork, wine, food preparations, spirits and liqueurs, as well as milk powders and whey (see Figure 2).

Commission.

EU average tariff rates on agricultural imports are higher than those applied in New Zealand (simple average applied most-favoured nation (MFN)¹ tariff of 12.2 % versus 1.4 %). A 2016 study prepared at the request of the French Ministry of Economy and Finance compared the 2013 market shares of certain goods exported by New Zealand first to the global market and then to the EU specifically. The study noted that in the case of red meat, dairy products and other animal products, New Zealand held important market shares in the EU. Despite high EU tariffs, New Zealand already performed better on the EU market for 'bovine meat products' (in the study's categorisation this includes not only beef products)² than on the global market (25.3 % EU market share versus 10 % global market share), whereas the situation was the opposite for dairy products (6.2 % versus 20.6 %). The study stated that in the case of an FTA, European producers would have to face considerable additional competition regarding both types of product.

Existing situation

EU-New Zealand trade and economic relations are built on a number of cooperation agreements, such as the bilateral <u>agreement for mutual recognition</u> (MRA) (signed in <u>1998</u> and subsequently amended in <u>2012</u>), the veterinary agreement (signed in <u>1996</u> and updated in <u>2015</u>) and the customs cooperation agreement, signed in July <u>2017</u>. Moreover, the <u>Commission</u> has recognised New Zealand, among a few other countries, as providing adequate protection of personal data. The political framework agreement,

the EU-New Zealand Partnership Agreement on Relations and Cooperation (<u>PARC</u>), was signed in 2016 and is currently the subject of provisional application.

Comparative elements

New Zealand's economy is highly dependent on trade. Its new <u>trade policy strategy</u> published in 2017 outlines a 'heavy FTA agenda' for the coming years and states that by 2030, around 90 % of the country's exports of goods should be covered by FTAs.

New Zealand has already concluded a number of bilateral <u>FTAs</u> in the region, for instance with China and South Korea. Besides regional agreements, such as the one signed in 2009 with Australia and the ASEAN countries, mega-regional agreements are also on New Zealand's trade agenda. It is one of the two Trans-Pacific Partnership (<u>TPP</u>) signatories that has ratified this agreement and it is also taking part in negotiations for the Regional Comprehensive Economic Partnership (<u>RCEP</u>).

As a result of the existing trade agreements, Asia's importance has grown in New Zealand's trade and investment relations in the last decade. The share of goods and services New Zealand exported to Asian countries rose to 41 % in 2016 from 31 % in 2007, while its exports to the EU dropped from 15 % in 2007 to 12 % in 2016. Asian countries have also become important FDI destinations for New Zealand, which held an 18% share in 2016. As regards global value chains (GVCs), the importance of China and ASEAN countries as upstream GVC suppliers to New Zealand has grown significantly in recent years, while the EU has remained an important destination for exported inputs.

In recent years, the EU has also completed or has been negotiating trade agreements throughout the region. For example, FTAs have been concluded with South Korea, Singapore and Vietnam; elsewhere in the region, negotiations have been launched with Indonesia, and are close to completion with Japan.

At this stage it is too early to say how the EU-New Zealand FTA talks will be influenced by the Brexit negotiations, particularly when it comes to agriculture. The UK accounts for a <u>dominant share</u> of EU imports of sheep meat from New Zealand (48 % in 2015).

EU negotiation objectives

The <u>draft negotiating directives</u>, presented by the Commission on 13 September 2017 state that: 'The Agreement should provide for the progressive and reciprocal liberalisation of trade in goods, services and foreign direct investment. It will include rules

on other trade-related areas in order to promote, facilitate or govern such trade and foreign direct investment'. The draft mandate <u>does not cover</u> investment protection or investment-dispute resolution.

In line with the 2017 <u>opinion</u> of the Court of Justice of the EU (CJEU) on the EU-Singapore FTA, which has authoritative value for the interpretation of similar FTAs, the areas covered by the draft mandate fall under exclusive EU competence. Accordingly, this FTA could be concluded by the EU on its own and could be ratified at EU level alone.³

The EU is committed to taking European agricultural sensitivities fully into consideration during the negotiations. Therefore, while the draft mandate declares that the agreement should 'ensure the highest possible degree of trade liberalisation', it also states that the most sensitive products should be covered by specific provisions. For instance, 'tariff rate quotas, longer transitional periods or other arrangements should be considered' for certain agricultural products. The draft mandate also asks for the recognition of green box payments⁴ as non-trade distortive, meaning that these payments should not in principle be subject to anti-dumping or anti-subsidy measures.

Tariff liberalisation for processed agricultural and food products will likely be an important <u>objective</u> for the EU, as tariffs applied by New Zealand in these sectors are relatively high. Certain exporting sectors in which the EU successfully competes in global markets, for instance cheeses, wines and spirits, are subject to these relatively high tariffs. Other likely areas of liberalisation for EU exports, according to a <u>study</u> carried out by Lincoln University of New Zealand, are mechanical, electrical and transport goods.

The EU will also strive to solve issues that it has with New Zealand regarding sanitary and phytosanitary (SPS) measures. For instance, <u>plant health measures</u> applied by New Zealand present obstacles for EU traders. The dismantling of unjustified non-tariff measures is expected to be raised in sectors other than agriculture as well.

In general, measures protecting geographical indications (GIs) are a basic component of the EU's negotiating objectives. As the EU system used for the recognition and protection of GIs is in many ways <u>different</u> from that of New Zealand, this will be a key issue during negotiations. The draft mandate sets the objective that the agreement should provide direct protection based on a list of GIs, including wines, spirits, agricultural products and foodstuffs. This issue will be all the more important as New Zealand does have some <u>problems</u> with insufficient protection of GIs.

Given the importance of services trade and investment for bilateral trade relations, these sectors will be an important focus for EU negotiators. In relation to services, the EU will seek improved market access, as some sectoral restrictions still exist, for instance in the area of telecommunications. Arrangements to achieve temporary mobility of service suppliers (often referred to as 'Mode 4') are also likely to be issues in the negotiations. Moreover, the EU is likely to request increased public procurement market access at all levels of government. Based on the draft negotiating directives, EU data protection rules will not be affected.

According to the draft mandate, the FTA should include a specific small- and mediumsized enterprises (SME) chapter and provisions on the labour and environmental aspects of trade and sustainable development. The agreement should also reaffirm the right of the parties to regulate in the areas of labour and the environment, as well as economic activity in the public interest.

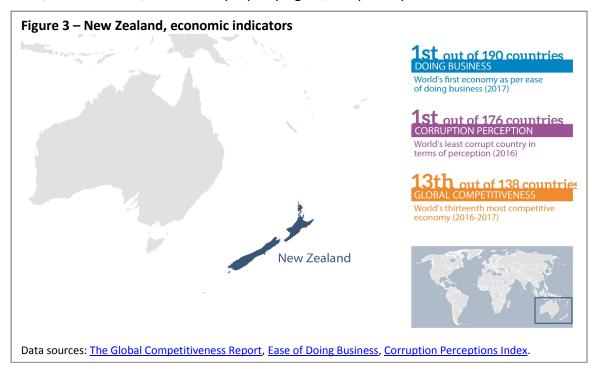
New Zealand's position

As a study by Lincoln University (NZ) points out, concessions on <u>agricultural products</u> are expected to be one of the most important subjects for New Zealand in these negotiations.

New Zealand has a yearly zero tariff-rated country-specific sheep and goat meat quota of 228 254 tonnes; the average <u>fill rate</u> has been around 72 % since 2012. New Zealand also has shared access to a yearly global 48 200-tonne grain-fed beef quota with a 0 % tariff rate and a yearly country-specific 1 300-tonne high-quality beef quota subject to a tariff of 20 %; the latter has been consistently filled in recent years. Finally, concerning dairy products, New Zealand has a country-specific tariff-rate quota for 74 693 tonnes of butter per year and two tariff-rate quotas for specific types of cheese with a combined volume of 11 000 tonnes per year. As the butter and cheese quotas are subject to substantial inquota tariffs, these <u>dairy quotas</u> are often under-filled.

New Zealand would seek to achieve further market opening through an increase in the quotas or through tariff concessions. New Zealand is also likely to strive for the liberalisation of its kiwi fruit and wine exports, as it does not benefit from preferential access for these products.

In its <u>summary</u> of the scoping exercise, the New Zealand Ministry of Foreign Affairs and Trade highlighted several areas, in addition to trade in goods, as issues to be discussed during the negotiations; these included trade in services and investment, the digital economy, customs and trade facilitation, non-tariff barriers and technical barriers to trade, SPS measures, intellectual property rights, and public procurement.



The strong focus on addressing barriers to trade in services can be explained by the increasing importance of services in New Zealand's economy (service exports amounted to 31 % of total exports in 2016). As regards the digital economy, in its new trade policy strategy New Zealand expressed the intention to address in its FTAs potential barriers to digital trade, such as the data localisation requirement. The EU's recognition of the adequacy of data privacy regulation provides a good basis for negotiations in this area.

Parliament's position

In February 2016, the European Parliament adopted a <u>resolution</u> on the opening of FTA negotiations with Australia and New Zealand. The Parliament supported the idea of negotiating FTAs with these countries, but called upon the Commission to strike a balance between better market access conditions offered by the FTAs and possible EU defensive interests. Parliament listed a number of areas that must be addressed in a meaningful way in the agreements, such as investment, trade in goods and services, e-commerce and public procurement. In order to reach a balanced outcome in the agricultural and fisheries chapters, Parliament asked that due consideration be given, for instance, either to the inclusion in the FTAs of transitional periods or appropriate quotas, or to the exclusion of commitments in the most sensitive sectors. Parliament also called for the inclusion of provisions for bilateral safeguards to prevent increased imports that would adversely affect European producers in sensitive sectors, and for the protection of intellectual property rights (IPR).

In June 2017, the Parliament's International Trade (INTA) Committee published a <u>draft</u> <u>report</u> on the negotiating mandate for EU trade negotiations with New Zealand. In the rapporteur's proposal it was requested that a clear distinction be made between an agreement on trade and foreign direct investment liberalisation, dealing with issues under EU-only competences, and an investment protection agreement. In addition to enumerating areas to be included in the future FTA, the protection of the most sensitive sectors through, for instance, the introduction of appropriate quotas, and of GIs, was also recommended. The vote in the INTA Committee on the draft report is <u>scheduled</u> for 12 October 2017.

The October 2017 <u>opinion</u> of Parliament's Agriculture and Rural Development (AGRI) Committee, for the INTA report, called on the Commission to guarantee a level playing field for those European producers who would face excessive or unsustainable pressure on account of the sensitive nature of their products. This could be achieved, for instance, by including transitional periods in the FTA or by excluding commitments in the most sensitive sectors. In the opinion, it was also requested that the ongoing Brexit talks and the impact of Brexit on the agriculture and food sectors in the EU be considered in the FTA.

The Commission's draft mandate reflects Parliament's particular concerns expressed with regard to agriculture. It explicitly mentions that sensitive products, including some agricultural products, should be covered by specific provisions. It also includes commitments, for instance, on the protection and enforcement of IPR, on safeguard measures and on sustainable development. On the other hand, the draft mandate formulates only the general objectives of the agreement, although it covers the chapters where the requests expressed in the resolution and the committee documents might be taken into account specifically.

Preparation of the agreement

The EU and New Zealand announced the start of a reflection process on stronger trade and investment connections in a joint declaration of March 2014. The joint statement of October 2015 set out a commitment to work towards beginning negotiations for an FTA. At the beginning of 2016, a scoping exercise was launched to define the scope of coverage and the level of ambition of the trade agreement; it was completed in March 2017. The joint scoping paper agreed by the parties recognised the sensitive nature of the

agricultural sector for the EU stakeholders, and confirmed the agreement to seek specific treatment for sensitive agricultural products. An impact assessment (IA) was conducted in preparation for a Commission decision to request authorisation from the Council to launch negotiations with New Zealand. The <u>IA report</u>, supported by an <u>external study</u> and an online <u>public consultation</u>, was published on 13 September 2017. On the same day, the Commission also presented a recommendation to the Council to launch negotiations, together with the draft negotiating directives. Once the Council gives its approval, negotiations will begin. The European Parliament will have to give its consent at the end of the negotiations.

The changes the agreement would bring

The <u>IA summary</u> noted that the policy option supported by the Commission and the authorities of New Zealand is a comprehensive FTA. Within this option, two sub-options were analysed: a conservative, partial liberalisation scenario and an increased liberalisation scenario including full liberalisation of import tariffs for goods. The IA report stated that from the EU's point of view the second sub-option is preferable, 'albeit with some special provision for sensitive agricultural sectors to mitigate the otherwise negative impact expected on specific sectors'. The IA report also emphasised that under this sub-option special consideration must be given to the sensitive EU sectors of ruminant meat and dairy.

According to the IA report, in the long term (2030), EU exports to New Zealand would increase by between 14.2 % (conservative scenario) and 32.4 % (increased liberalisation scenario), and exports from New Zealand to the EU by between 10.5 % and 22.2 %. The IA predicted a real GDP increase for the EU of 0.01 % to 0.02 %, again depending on the two scenarios. Taking into account the size of the EU economy, the increase of 0.02 % (€4.9 billion) is considered significant in the long term. New Zealand's real GDP would increase by between 0.28 % and 0.52 %.⁵ As regards the impact on European sectoral competitiveness, the motor equipment, machinery, chemicals and services sectors would benefit from an overall positive impact under both scenarios. The fruit and vegetables sectors under the first scenario and the ruminant, dairy, and fruit and vegetables sectors under the second scenario would be most negatively affected.

The 2016 study prepared at the request of the French Ministry of Economy and Finance examined different scenarios for a trade agreement between the EU on the one hand, and Australia and/or New Zealand on the other. The study suggested that the most significant impact in terms of the economic well-being of the EU (an increase of 0.1 %) would be expected should an agreement achieving 'total liberalisation' be concluded with both countries (tariffs reduced to zero and an important reduction of non-tariff barriers). Moreover, bilateral trade between the EU, on the one hand, and Australia and New Zealand, on the other hand, would increase by 85 %.

Stakeholders' views

The New Zealand Europe Business Council (NZEBC), made up of various European trade organisations in New Zealand, welcomed the idea of an FTA in its 2015 <u>position paper</u>. A public submissions process was conducted on the website of New Zealand's Ministry of Foreign Affairs and Trade in 2016. Organisations representing New Zealand's <u>beef, sheep</u> and dairy sectors received the prospective launch of negotiations favourably. They consider the FTA to be an opportunity for improved EU market access. It would also

create a level playing field between New Zealand's producers and competitors from countries that already have an FTA with the EU, such as Canada.

For its part, the Commission undertook a <u>public consultation</u> on the future EU-Australia and EU-New Zealand trade and economic relations in 2016. It received 108 answers, with those who responded representing industry associations, private companies and citizens. The majority of business sector stakeholders welcomed the FTA. The notable exceptions were business stakeholders of some EU agricultural sub-sectors, who did not support the full liberalisation of specific products. The non-profit stakeholders emphasised the need to maintain high standards in social, environmental, consumer and other areas, and to safeguard the governments' right to regulate.

The idea of an EU-New Zealand FTA has been met with harsh criticism from the European dairy and meat sector. According to the <u>German Dairy Association</u>, an FTA would seriously disrupt the dairy market in the EU. The president of the <u>Irish Creamery Milk Suppliers Association</u> has even called for the indefinite suspension of the FTA negotiations, fearing unfair competition between EU family farms and an 'industrialised farming system', especially in the context of the uncertainties linked to Brexit. Similarly, the <u>German Farmers' Association</u> advised against the launch of talks, arguing that, among other reasons, efficient agricultural production in New Zealand and facilitated access to EU markets would further increase competition. The <u>European Dairy Association</u> declared that, in addition to the adverse impacts of the liberalisation of dairy imports on EU markets, New Zealand already enjoyed favourable market access conditions on some of the major dairy importing countries' markets, on account of its FTAs concluded with those countries. In an information note of January 2017 addressed to the Council, <u>Poland</u> asked for the exclusion of the dairy sector from trade liberalisation measures. Finally, <u>British sheep farmers</u> are concerned by the impact of a post-Brexit FTA with New Zealand.

New Zealand's <u>policymakers</u>, together with <u>officeholders</u> and <u>analysts</u>, respond to these concerns by highlighting several points. For example, the size of the land suitable for agricultural production is limited; therefore, production would be difficult to increase. It is unlikely that the volume of exports to the EU will rise, given the increased exports to countries with whom New Zealand already has FTAs, such as China. There are seasonal complementarities in the supply of certain products, such as kiwi fruits. Fonterra, New Zealand's largest dairy cooperative argues that because of its investments in Europe, it is exporting from Europe almost the same amount of goods as it is exporting to Europe.

EP supporting analysis

- Binder, K., <u>High-quality free trade agreements with Australia and New Zealand</u>, EPRS, European Parliament, January 2016.
- Rossi, R., <u>The sheep and goat sector in the EU Main features, challenges and prospects</u>, EPRS, European Parliament, September 2017.

Other sources

- Bellora, C. and Guimbard, H., <u>Évaluation quantitative d'un accord commercial entre l'Union européenne</u>, <u>l'Australie et la Nouvelle Zélande</u>, Rapport d'étude CEPII, October 2016.
- European Commission, <u>Recommendation for a Council Decision authorising the opening of negotiations for a Free Trade Agreement with New Zealand</u>, COM(2017)469 final, September 2017.

- European Commission, Commission Staff Working Document. Impact Assessment Accompanying the document Recommendation for a Council Decision authorising the opening of negotiations for a Free Trade Agreement with New Zealand, <a href="https://www.swb.commons.org/swb.comm
- Köllner, P., <u>Towards a comprehensive partnership between the EU and New Zealand</u>, GIGA Focus, Asia, Number 7, November 2016.
- Lee-Makiyama, H., <u>New Zealand: The EU's Asia-Pacific Partnership and the case for a next generation FTA</u>, European Centre for International Political Economy (ECIPE), Policy Brief No.07/2015, July 2015.
- Saunders, J., Saunders, C., McLellan, B., Obadovic, I. and Driver, T., <u>Modelling Agricultural Impacts of EU-NZ Trade Liberalisation</u>, Agribusiness and Economics Research Unit, Lincoln University, November 2016.
- <u>Trade Agenda 2030 Securing our place in the world</u>, Ministry of Foreign Affairs and Trade, New Zealand, 2017.

Endnotes

- ¹ Most-favoured nation (MFN) 'tariffs are what countries promise to impose on imports from other members of the WTO, unless the country is part of a preferential trade agreement' see: World Bank.
- ² The study uses <u>Global Trade Analysis Project</u> (GTAP) denominations. The category 'Bovine meat products' used here therefore corresponds to the <u>CMT sector</u> of the <u>GTAP database</u>. Based on concordances between <u>GTAP sectors and the United Nations general classifications ISIC and CPC</u>, this sector covers: 'Cattle meat: fresh or chilled meat and edible offal of cattle, sheep, goats, horses, asses, mules, and hinnies. Raw fats or grease from any animal or bird'.
- ³ The CJEU, in its opinion on the EU-Singapore FTA, concluded that competences in the following areas are shared between the EU and the Members States: '(i) non-direct foreign investment, (ii) investor-state dispute settlement (ISDS), and (iii) state-to-state dispute settlement relating to provisions regarding portfolio investment and ISDS'. Agreements containing areas of shared competences, such as non-direct investment and ISDS, need to be concluded as mixed agreements see: L. Puccio, <u>CJEU Opinion on the EU-Singapore Agreement</u>, EPRS, European Parliament, 2017.
- ⁴ 'In WTO terminology, subsidies in general are identified by "boxes" which are given the colours of traffic lights: green (permitted), amber (slow down i.e. be reduced), red (forbidden)' see: WTO: Domestic support in agriculture The boxes.
- ⁵ The analytical model used in the impact assessment simulated the impact of two parallel FTAs, one with Australia and one with New Zealand. While separate figures are available on changes to bilateral trade flows, only the combined impact is measured for the EU output, reallocation of labour and consumer price index.

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First edition. The 'International Agreements in Progress' briefings are updated at key stages throughout the process, from initial discussions through to ratification.