**Follow-up to the European Parliament non-legislative resolution of 26 October 2017 on the recommendation to the Council on the proposed negotiating mandate
for trade negotiations with New Zealand**

**2017/2193 (INI)**

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**2. EP reference number:** A8-0312/2017 / P8\_TA-PROV(2017)0420

**3. Date of adoption of the resolution:** 26 October 2017

**4. Subject:** the Parliament's recommendation to the Council on the proposed negotiating mandate for trade negotiations with New Zealand

**5. Competent Parliamentary Committee:** Committee on International Trade (INTA)

**6. Brief analysis/ assessment of the resolution and requests made in it:**

The Commission welcomes the resolution of the European Parliament. It comes at a very timely moment when the Commission and the Council are discussing the Commission proposal of negotiating Directives for the negotiations for a Free Trade Agreement (FTA) with New Zealand.

Overall, the Commission finds the positions detailed in this recommendation very useful, which give a clear indication of what the European Parliament expects from the negotiation process. Many requests coincide with what has been proposed in the Commission's draft negotiating directives.

The resolution highlights the existing good relations and shared values of the European Union and New Zealand, refers to the Commission's "Trade for All" Communication that sets out to strengthen the trade and investment relationship with New Zealand (**Paragraphs 1 and 2**) as well as the scoping exercise undertaken by the Commission with New Zealand, and welcomes the Commission's conclusion and publication of its impact assessment (**Paragraphs 5 and 6**).

The resolution supports the opening of the negotiations for a "modern, deep, ambitious, balanced, fair and comprehensive FTA" with New Zealand while not undermining progress at multilateral level (**Paragraphs 3 and 4**). The resolution also notes the difference in size between the EU single market and the New Zealand market (**Paragraph 22**).

The resolution identifies various issues that such negotiations should encompass, such as trade in goods, services, investment liberalisation, public procurement, trade defence, state owned enterprises, digital ecosystem, and cross-border data flows, non-tariff barriers, regulatory issues, intellectual property rights, including geographical indications, and Small and Medium Size Enterprises (SMEs), while highlighting that agriculture is a sensitive sector and due consideration of all stakeholders and cumulative impact of trade agreements must be taken into account (**Paragraphs 8, 15, 17, 18, 19, 20 (a)-(f) 20 (i)-(m), and 21**).

The resolution considers that a robust and ambitious trade and sustainable development chapter is an indispensable part of the FTA, that the FTA should enable appropriate participation of social partners and civil society, and that it should also promote corporate social responsibility (**Paragraphs15, 18, 19, 20 (g) and 20 (h)**). The resolution also considers that the FTA is to address gender issues, the fight against tax avoidance and corruption (**Paragraphs 14 and 15**).

The resolution refers to the Opinion of the Court of Justice of the EU (CJEU) 2/15 of 16 May 2017 on the EU-Singapore FTA and distribution of competences, and calls for clearly distinguishing between an FTA, which is the EU's exclusive competence including trade and liberalisation of foreign direct investment, and a potential second agreement which covers subjects whose competence are shared with Member States (**Paragraphs 10 and 11**).

The Commission takes note of the European Parliament's view regarding its role in the FTA process (**Paragraphs 23, 24 and 25**) as well as its request to conduct the negotiations transparently (**Paragraph 12**).

**7. Response to requests and overview of action taken, or intended to be taken, by the Commission:**

The Commission notes that following the Opinion of the Court of Justice on the EU-Singapore FTA, the Commission and the Council are engaged in a comprehensive discussion on the future architecture of EU trade and investment agreements. The Commission welcomes and shares the Parliament's view that there should be a clear distinction between two agreements: an FTA covering trade and foreign direct investment liberalisation, and potentially an investment agreement covering investment protection and its related enforcement tools, including the Investment Court System (ICS). The Commission recommendation to the Council for the negotiating Directives for an FTA with New Zealand (COM(2017) 469 final of 13.9.2017) covers the trade and foreign direct investment liberalisation elements. The Commission may make a new recommendation for an agreement on investment protection with New Zealand once there is a greater consensus on the new architecture (**Paragraph 11**). The Commission will fully respect the distribution of competences between the EU and its Member States (**Paragraph 12**).

The Commission fully shares the recommendation of the European Parliament to ensure the transparency of the negotiations. Member States and the European Parliament will be regularly informed. Meetings to discuss the negotiations will be held with main stakeholders. The Commission has published its recommendation and draft negotiating Directives and invited the Council to do the same once they are adopted. The Commission will make, as in other negotiations, [negotiating documents and reports of the negotiating rounds](http://ec.europa.eu/trade/policy/in-focus/eu-japan-free-trade-agreement/meetings-and-documents/) available online. The Commission is and will remain committed to achieving as much transparency as possible (**Paragraphs 13 and 23**).

The Commission will follow the interinstitutional agreement and, as relevant, its past practice regarding seeking the Parliament's consent/ position before the application of the FTA (**Paragraph 24**).

The Commission has taken note of the detailed recommendations by the European Parliament which in their great majority refer to EU trade policy areas which are already subject to continuous constructive discussions and exchanges with the European Parliament. The Commission agrees and is confident that the FTA with New Zealand will be truly advantageous to the EU's economy and that real, new market access opportunities should be provided (**Paragraphs 20 and 20 (a)**). In particular:

The Commission's impact assessment paid particular attention to sectors in European **agriculture** such as beef, sheep meat or dairy that are sensitive in the context of these FTA negotiations. The Commission fully agrees that agricultural sensitivities must be taken into account, and special treatment must be applied where appropriate. The specific treatment will be subject to negotiations, along with any possible bilateral safeguard mechanism (**Paragraph 20 (k)**).

The Commission has been promoting **animal welfare** issues at international level, seeking animal welfare standards and their implementation by all third countries. The Commission intends to address cooperation as well as possible commitments on equivalence on animal welfare (**Paragraph 17**).

The Commission will aim for simplified **rules of origin** that reflect the EU's interests while taking into account global value chains, and user-friendly and transparent procedural requirements (**Paragraph 20 (j)**).

The Commission confirms that the FTA should reduce unnecessary **non-tariff barriers** and strengthen **regulatory cooperation** on a voluntary basis, while ensuring the **right to regulate** economic activity in the public interest, in order to achieve legitimate public policy objectives (**Paragraphs 20 (d) and 21**).

The Commission confirms that the negotiations should aim at (i) the progressive and reciprocal liberalisation of **trade in services**, by eliminating restrictions to market access and national treatment beyond the current level of commitments between the two Parties, and at (ii) the update of rules, taking into account inter alia any possible results of Trade in Services Agreement (TiSA) negotiations. Moreover, the liberalisation of audio-visual services should not be covered in these negotiations, and public services will continue to be protected according to the EU's long-standing approach in its various trade agreements (**Paragraph 20 (a)**). In the context of the increasing digitalisation of trade, the negotiations should result in rules covering **digital trade** and cross-border data flows in the FTA, while neither negotiating nor affecting the EU’s personal data protection rules (**Paragraph 20 (l)**).

The Commission intends to achieve comprehensive provisions on **liberalisation of foreign direct investment** taking into account the CJEU Opinion 2/15 (**Paragraph 20 (i)**).

The Commission confirms that the further opening in **public procurement** is an offensive interest in these negotiations. The FTA with New Zealand should substantially improve access to public procurement markets in all sectors and at all levels of government. Furthermore, the FTA with New Zealand should establish procedural rules which build on the WTO Agreement on Government Procurement and which include new generation disciplines aiming at enhancing transparency and ensuring non-discrimination (**Paragraph 20 (e)**).

The Commission confirms that the FTA should include a dedicated chapter to assist Small and medium-sized enterprises (**SMEs)** to fully benefit from the opportunities offered by this agreement and foster their internationalisation (**Paragraph 20 (f)**).

The Commission, as in all recent and ongoing EU FTA negotiations, includes binding provisions on **Trade and** **Sustainable Development** (TSD) in the future FTA which are enforceable via a dispute settlement mechanism and appropriate institutional structures. The Commission has launched a debate on the effective implementation and enforcement of TSD chapters. The Commission welcomes Parliament's views and inputs on this issue. On the recommendation for effective implementation of a number of international conventions, the Commission reiterates its determination to include commitments on the key international agreements on labour and environmental issues and to promote corporate social responsibility (**Paragraphs 20 (g) and (h)**).

The Commission will seek commitments promoting trade in legally obtained and sustainably managed natural resources, including fisheries (**Paragraph 18 and 19**).

The Commission notes that cooperation with New Zealand on **gender equality, good governance on tax issues and anti-corruption** is already addressed in the EU-New Zealand Framework Agreement; therefore, these issues were not included in the Commission recommendation for an FTA with New Zealand (**Paragraphs 14 and 15**).

The Commission fully agrees that the FTA should include strong and enforceable measures regarding the recognition and protection of **intellectual property rights**, including geographical indications (**Paragraph 20 (j)**).

The Commission carried out an impact assessment that also covered the EU's **outermost regions,** and least developed countries. In its Communication on "A stronger and renewed strategic partnership with the EU's outermost regions" (COM(2017) 623 of 24.10.2017), the Commission committed to reinforcing the attention paid to the outermost regions at all stages of the life of EU trade agreements. The Commission notes that **overseas countries and territories** are not part of the EU's customs territory or the EU's single market (**Paragraphs 5 and 20 (m)**).