



A BASIC GUIDE TO FREE TRADE AGREEMENTS

Ten questions and answers about Free Trade Agreements



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WHAT is a Free Trade Agreement?

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Free Trade Agreements (FTAs) are also known as Closer Economic Partnerships, or Strategic Economic Partnerships.

They are negotiated directly with countries or groups of countries to improve access for New Zealand exporters and investors into overseas markets, to reduce barriers impeding trade and to ensure current access is maintained. New Zealand also makes access commitments to the other parties of a Free Trade Agreement.



FTAS ALSO ESTABLISH A SET OF RULES TO CREATE A MORE SECURE TRADING PARTNERSHIP.

Because these negotiations are conducted between two or a few countries, they can make gains in less time than World Trade Organisation (WTO) negotiations. The WTO negotiations to liberalise trade involve 150 countries.

The FTA process also brings the trading relationship into sharper focus, gets the respective regulators and officials working more closely together, and can hone in on specific issues that exist between the countries involved.

FTAs complement the multilateral and regional approaches New Zealand pursues.



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WHY are we hearing more about FTAs now?

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Since 2000 there has been a proliferation of FTAs world-wide, in part due to the slow progress seen in the World Trade Organisation (WTO) negotiations. The WTO reports there are 300 FTAs or regional free trade agreements signed or under negotiation globally.

But FTAs are not new. New Zealand's first and highly successful FTA was signed in 1983 with Australia. The Australia-New Zealand Closer Economic Relations Agreement (CER) has been described by the WTO as "the world's most comprehensive, effective and mutually compatible free trade agreement". Over a 20 year period it has evolved to the point where now politicians and business leaders on both sides of the Tasman are discussing the development of a 'single economic market'.

FTAS ARE ESSENTIAL TO ENSURE THE ONGOING COMPETITIVENESS FOR EXPORTERS IN KEY MARKETS.

As competitors gain preferential advantage through agreements with countries where New Zealand has significant markets, New Zealand must match this, or find its own exporters disadvantaged. Therefore, in many instances, the FTA works to retain a level playing field for our exporters rather than opening up significant new preferences for New Zealand.



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HOW do FTA partners get together?

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Free Trade Agreements must be mutually beneficial to the countries involved. Countries considering an FTA typically look to determine whether the FTA will bring them economic benefit. But the rationale behind FTAs is not exclusively economic – it is often underpinned by political and strategic considerations.

In New Zealand's experience, FTA negotiations have been initiated at a political level following significant behind-the-scenes diplomatic work. Because of New Zealand's relatively small economy, it is not a high-priority FTA partner for many countries looking solely for export gains. However, New Zealand is an attractive FTA partner for other reasons. These include its experience in negotiating high-quality FTAs and its reputation as a credible FTA partner.

NEW ZEALAND IS ACTIVE IN FTA NEGOTIATIONS.



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New Zealand has negotiated four FTAs, it has four under negotiation and one partly negotiated and on hold. On top of this, New Zealand's politicians and diplomats are working through a range of political, diplomatic and economic channels to interest key trading partners in FTA negotiations, including Korea, Japan, and the United States. As a separate exercise, work is also underway on strengthening the economic relationship between New Zealand and the European Union.



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WHAT'S the FTA process?

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Negotiating a successful FTA can be a long process, spanning a number of years. Typically, potential FTA partners initiate a joint or separate economic study to determine the potential economic benefit.

If demonstrable benefit to the potential participants exists, negotiations may be launched and proceed through a series of rounds.



In the earlier rounds, participants will look to build confidence in each other, with negotiators bringing ideas to the table about their respective ambitions for a deal and what should be covered. In later rounds this switches to discussion on specific text, and on respective requests and offers for market access commitments, such as tariff cuts.

After negotiations have concluded and the treaty text has been agreed on and legally verified, a National Interest Analysis (NIA) is prepared, which sets out implications of the FTA for New Zealand. The NIA and treaty text are then submitted to Cabinet for approval. Any legislation required to give effect to the treaty is then drafted. Once Cabinet approval is obtained, New Zealand may sign the treaty. The treaty and NIA are then tabled in the House and referred to Parliament's Foreign Affairs, Defence and Trade Select Committee for consideration. If the Select Committee's report makes no recommendations to the Government, the enabling legislation can then be introduced to the House. When the enabling legislation has entered into force, New Zealand may become a party to the FTA in accordance with procedures specified in the FTA.

WHEN THE AGREEMENT ENTERS INTO FORCE, THE BENEFITS BEGIN TO FLOW.



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WHAT does an FTA cover?

New Zealand seeks high-quality comprehensive FTAs that cover trade in goods, services and investment, as well as a number of supporting rules areas and aspects of the relationship for closer consultation and cooperation.

Goods

FTAs try to bring trade as close to duty-free as quickly as possible. A high-quality FTA will eliminate duties on most traded goods within a commercially meaningful period of time after entry into force. There may also be other impediments to goods that the FTA tackles such as existing quotas, or import licence requirements.

Services

Services are a growing part of New Zealand's export profile. Through FTAs, New Zealand tries to remove or limit restrictions to trade in services which foreign governments might either have in place now, or have the ability to put in place in the future. The end goal is to ensure that New Zealand services exporters are treated the same way as domestic service suppliers within the market. This creates the environment of legal certainty needed to underpin the development and expansion of services trade.

There are two approaches to making services commitments under an FTA. With a negative list, a country commits to treating foreign service suppliers the same as domestic service suppliers in all sectors, except those for which restrictions are listed. With a positive list approach, commitments apply only in those service sectors indicated on the list.

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Investment

Similar to services, the FTA looks to remove or limit restrictions to investments in the foreign market with the goal of giving New Zealanders a more certain environment in which to invest.

Rules of Origin

The Rules of Origin (or ROO) protect the integrity of the goods agreement. Essentially they attempt to ensure that tariff preferences given to an FTA member country will not be used by another country outside the FTA. Countries outside the agreement may be required to pay higher tariffs but could seek to benefit from the FTA preferences simply by exporting their product via an FTA partner. Goods are required to undergo a 'substantial transformation' before being labelled a product of a specific country.

Trade Remedies

Trade remedy provisions in FTAs clarify when a country can take measures to protect a local industry against dumping, foreign subsidies and unanticipated import surges. If injury to local industry is determined, then the Ministry of Economic Development may impose anti-dumping measures, countervailing duties and/or safeguards to protect New Zealand industry.

Rules issues

New Zealand seeks to minimise barriers to trade and facilitate greater trade flows by including rules in Free Trade Agreements covering standards (technical barriers to trade – TBT), human/animal health and plant

health issues (sanitary and phytosanitary measures – SPS), verification of origin, temporary entry of personnel, intellectual property and customs procedures. FTAs ensure that such measures are not used as disguised barriers on international trade.

Other issues

Some Free Trade Agreements include government procurement and competition policy. New Zealand also negotiates labour and environment provisions to better integrate labour and environment-related issues in FTAs. This is to promote the integration of sustainable development into trade policy more generally.

Consultation and cooperation

A Free Trade Agreement is an evolving agreement with provisions to oversee the implementation of rules and the ongoing cooperation between member countries.

Legal and institutional issues

These include the general provisions of the agreement, dispute settlement mechanisms, the role of any joint commission associated with the FTA and provisions covering specific issues such as the start date. New Zealand also seeks to exclude from the FTA, through the general exceptions, any notion that the FTA could be used to challenge measures taken by the government to comply with the Treaty of Waitangi.



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HOW does an FTA work?

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In practice, an FTA is applied in different ways, depending on the sector.

For example, in goods, tariff cuts will be scheduled from day one on some products; some tariff lines may go to zero immediately. On others, the tariff will phase out over a period of time. New Zealand's negotiators will work closely with local industry to ensure that, if a tariff is going to be removed in an area of sensitivity, time is given for adjustment.

IN SERVICES AND INVESTMENT, UPFRONT COMMITMENTS TO REMOVE OR LIMIT RESTRICTIONS WILL SEE SOME BENEFITS FLOW IMMEDIATELY.



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Other benefits may come in time, either through reform in the partner country or as it negotiates FTAs with other countries.

Institutions to oversee implementation of the FTA will typically also start in the first year after entry into force. Generally, joint committees ensure that experts from both countries meet to discuss concerns, or areas for potential cooperation, on a regular basis.

The next step is for New Zealand companies to take advantage of the provisions negotiated.



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WHAT about the WTO?

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While FTAs provide an opportunity to go further and faster in opening up markets with some countries, the WTO remains New Zealand's number one priority.

Only in WTO negotiations is it possible to deal effectively with issues such as trade distorting subsidies and export subsidies. Concessions made in the WTO negotiations are made available to all WTO members. This makes multilateralism important for small countries like New Zealand.

The WTO permits FTAs as a departure from its fundamental rule of non-discrimination between countries so long as they cover "substantially all trade". This recognises that some WTO members are more ambitious and ready to move ahead of the WTO in terms of trade liberalisation.



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WHAT FTAs has New Zealand signed?

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WHAT is on the FTA negotiating agenda?

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New Zealand has completed four FTA negotiations:

- 1983 Australia-New Zealand Closer Economic Relations Agreement.
 - 2001 New Zealand and Singapore Closer Economic Partnership.
 - 2005 New Zealand and Thailand Closer Economic Partnership.
 - 2006 Trans-Pacific Strategic Economic Partnership (Brunei Darussalam/Chile/New Zealand/Singapore).
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New Zealand is negotiating four FTAs, with a fifth on hold:

- New Zealand and China Free Trade Agreement.
- New Zealand and Malaysia Free Trade Agreement.
- New Zealand and the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates).
- New Zealand-Australia and ASEAN Free Trade Agreement.
- New Zealand and Hong Kong Closer Economic Partnership. (Negotiations on this agreement are currently on hold pending further developments on outstanding issues and progress in the New Zealand and China FTA negotiation.)

For the latest update on progress in these FTA negotiations please go to
>>www.mfat.govt.nz/Trade-and-Economic-Relations/Trade-Agreements/index.php

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SHOULD I be involved?

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FTAs can target specific issues, be they tariff levels on particular products, restrictions in a service sector, or other rules issues that are hampering trade. It is vital that negotiators learn from exporters what problems they are facing and what opportunities they see in the future.



At the start of the FTA process, negotiators will call for submissions from all interested people, whether they support or oppose the FTA. This is an important opportunity to feed specific interests into the process and make sure that they are considered.

NEGOTIATORS WELCOME INPUT AT ANY STAGE OF THE FTA NEGOTIATING PROCESS AND KEEP ALL INTERESTED BUSINESSES AND GROUPS UPDATED ON PROGRESS.

If you or someone you know is interested in any New Zealand FTA negotiation, get in touch with the negotiating team.

In the first instance, contact the Ministry's Trade Policy Liaison Unit.

>>04 439 8000, tplu@mfat.govt.nz

www.mfat.govt.nz

ISBN: 0-477-03797-6

June 2007



NEW ZEALAND MINISTRY OF
FOREIGN AFFAIRS & TRADE
MANATŪ AORERE
