



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi**

to the

Ministry of Foreign Affairs and Trade

on the

“Trade for all” agenda

P O Box 6645

Wellington

14 October 2018

1. Introduction

1.1. This submission is made on behalf of the 27 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 310,000 members, the CTU is one of the largest democratic organisations in New Zealand.

1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.

1.3. The CTU has a longstanding interest in international economic and political issues including trade and investment. Our views are encapsulated in submissions on various trade and investment agreements, such as the proposed Transpacific Partnership Agreement (TPPA)¹. We have appended to this submission a paper which summarises our general view in the context of this process. On a People-Friendly Globalisation

1.4. This submission briefly addresses the main issues as we see it with regard to the Key Principles approved by Cabinet. However the brevity is in the expectation that the process overseen by the Advisory Board following this consultation will allow us to engage in much greater depth.

1.5. The Key Principles approved by Cabinet are as follows:²

- The creation of a genuine conversation with the public and key stakeholders around the future direction of New Zealand's trade policy; this will include consultation with Māori, consistent with their role as a Treaty partner;
- A focus on creating new and more sustainable economic opportunities for New Zealanders of all incomes and backgrounds;
- Support for the international rules-based system and New Zealand's contribution to its modernisation;
- Support for multilateral negotiations as a first-best option for New Zealand, followed by open plurilateral negotiations;
- Enhancing New Zealand's economic integration with the Asia-Pacific region, and economic connections to other regions, including through regional and bilateral FTAs;

¹ See <http://www.union.org.nz/wp-content/uploads/2017/10/160324-Proposed-TPPA.pdf>

² As expressed at <https://www.mfat.govt.nz/en/trade/nz-trade-policy/trade-for-all-agenda/>

- Support for trade policy to contribute to maximising the opportunities and minimising the risks associated with global issues, including:
 - Environmental issues including climate change
 - Protecting New Zealanders' health and wellbeing
 - Labour rights
 - Gender equity
 - The rights of indigenous peoples
 - SME participation in international markets
 - Inclusive regional economic growth, poverty reduction and sustainable job creation
 - Protecting traditional knowledge
 - Preserving the right of governments to regulate in the public interest, including for national land markets, taxation of multinational businesses and public services
- The development of specific directives for future trade policies and negotiations to operationalise Trade for All.

2. Comments on the Key Principles

- *The creation of a genuine conversation with the public and key stakeholders around the future direction of New Zealand's trade policy; this will include consultation with Māori, consistent with their role as a Treaty partner;*

2.1. As noted above, this has yet to occur, and this submission process is only a beginning. We particularly note the need for a full and genuine process to consult Māori, and decisions of the Waitangi Tribunal as to what that constitutes should be adhered to. It should include Māori workers as well as leaders.

- *A focus on creating new and more sustainable economic opportunities for New Zealanders of all incomes and backgrounds;*

2.2. We observe that MFAT's apparent approach to this is to increase opportunities for different groups to engage in trade. For example, the paper on "Trade and Women's Economic Empowerment"³ summarises itself as "We want *Trade for All* to support gender equity and opportunities for New Zealand women to participate in trade." While we of course are supportive of women being engaged in trade, this seriously

³ At <https://www.haveyoursay.mfat.govt.nz/sites/default/files/2018-08/Trade%20and%20Womens%20Eco%20Empowerment.pdf>

misconstrues people's misgivings about the current structure of trade and investment agreements and the directions of globalisation.

- 2.3. Those centre on the domestic impacts of such agreements and the increasingly broad number of ways in which international economic integration reduces opportunities and increases disadvantage. To focus (as the MFAT papers such as the one quoted does) solely on conventional trade in goods and, to a lesser extent, on services, is misleading.
- 2.4. Intellectual property rules in these "trade" agreements can increase the costs of medicines. Related rules can hamstring public health efforts by restrictions on labelling of unhealthy products. Rules on state-owned enterprises can restrict our ability to use such entities for non-commercial, public good purposes such as reducing energy or communications costs. Rules on services impinge on our ability to run public services without harmful private competition and to reverse privatisations. Government procurement rules increasingly prevent both central government and potentially local government from using their buying power to support economic development to increase economic opportunities, productivity and higher paid jobs, and to raise employment standards; this is just one aspect of the barriers to moving the country up the value chain rather than being captured by current low-value traditional commodities. Trade rules narrow our options to tax multinational corporations whose business models avoid contributing to the revenue needed for our public services. Investment rules have become increasingly restrictive of our rights to set conditions on investors to ensure New Zealand benefits from the investment. You will be well aware of our concerns about the dangers of Investor-State Dispute Settlement which still exists in many of New Zealand's existing agreements. We have not received assurances that such rules will not be used in future to challenge more progressive labour laws and practices which increase economic opportunities by making distribution of income and opportunities fairer. The list could be continued.
- 2.5. Because many of these effects reduce the ability of the state to provide services and equalise opportunities, they disproportionately affect women, Māori and Pacific peoples because their lower lifetime incomes require greater assistance from the state. There are gender and ethnic effects in the model of globalisation being pursued which is inherently pro-commerce at the expense of public services.

2.6. While, possibly unlike the US, New Zealanders in general support conventional trade in goods (and to focus on it misses the main point of New Zealanders' concerns), the inquiry must also acknowledge that conventional trade has the potential to cause harm to some New Zealanders, such as when international competition causes the closure of New Zealand businesses. It may be argued that it is in the long run better for New Zealanders' welfare to import goods and services rather than produce them, but even accepting that, there must be policies in place to ensure that the workers who lose their jobs "in the greater good" do not bear the cost. Trade policy must therefore encompass support for people through the change it continues to bring, with levels of income replacement much higher than the current impoverishing benefit levels, active assistance in career-planning, opportunities for retraining, and other aspects of effective and humane active labour market policies. We can provide advice on what is good international practice in this area. Otherwise "opportunities for all" becomes "opportunities for some".

- *Support for the international rules-based system and New Zealand's contribution to its modernisation;*
- *Support for multilateral negotiations as a first-best option for New Zealand, followed by open plurilateral negotiations;*
- *Enhancing New Zealand's economic integration with the Asia-Pacific region, and economic connections to other regions, including through regional and bilateral FTAs;*

2.7. While we have a long record of support multilateral approaches, and for a rules-based system, it is the nature of the rules and the degree to which they need to be modified for New Zealand (and indeed for other countries too) which is of concern.

2.8. We agree with Professor Dani Rodrik and other observers that there is a limit to which it is advisable to pursue economic integration given we wish to maintain our democratic institutions. Given events such as the election of Donald Trump, Brexit and similar reactions in Europe, it is likely that economic integration has already passed that limit. Rather than debate whether we should have greater integration and which FTAs we should sign up to, this consultation should be responding to the popular wish for the *nature* of that integration to be changed. Many people, including ourselves, see it as limiting opportunities rather than extending them, and creating a less fair society.

- *Support for trade policy to contribute to maximising the opportunities and minimising the risks associated with global issues, including:*
 - *Environmental issues including climate change*
 - *Protecting New Zealanders' health and wellbeing*
 - *Labour rights*
 - *Gender equity*
 - *The rights of indigenous peoples*
 - *SME participation in international markets*
 - *Inclusive regional economic growth, poverty reduction and sustainable job creation*
 - *Protecting traditional knowledge*
 - *Preserving the right of governments to regulate in the public interest, including for national land markets, taxation of multinational businesses and public services*

2.9. We agree with these objectives. However as already outlined beginning at paragraph 2.2, it would be a mistake for the inquiry to assume that addressing these simply means getting more people involved in trade. Instead it primarily means that not only should the structure of trade and investment agreements, and the principles that underlie them, support these objectives, but there must be accompanying domestic policies that are consistent with the objectives and which offset the damaging effects of trade and investment so that benefits to some New Zealanders are not at the expense of a cost to others.

2.10. On the specific issue of labour rights, and indeed other human rights, it is important that respect for these are integrated into entire agreements. While we support the development of an enforceable and effective labour chapter, it is powerless if labour rights can be challenged or undermined in for example investment chapters or by disregard of the impacts of the agreement on job security, good wages, the relative bargaining power of workers and employers, and their access to public services.

2.11. We have previously discussed better models of labour chapters with officials, and we hope that there will be active discussion with us that leads to adoption of significant improvements for New Zealand's future agreements.

- *The development of specific directives for future trade policies and negotiations to operationalise Trade for All.*

2.12. This is also an opportunity for a discussion on the process of negotiations. Given the wide-ranging effects of agreements on New Zealand's society and economy, they should be treated much as domestic legislation is treated, with openness, honesty and consultation about objectives at the outset, including an impact assessment using realistic economic modelling (or a variety of models) and covering evaluations of for example health, environmental and human rights impacts and release of the mandate for negotiations before the beginning of negotiations. This should be followed by periodic releases of the text during negotiations and further impact assessments if the negotiations are drawn out or take significant unexpected turns. Finally, there should be a meaningful public consultation and independent impact assessment before negotiations are finalised, and a binding vote in Parliament before ratification.

3. Conclusion

3.1. We hope these brief comments and the attachment provide a useful outline of our approach to the "Trade for All Agenda". We are happy to provide a deeper explanation and evidence. We look forward to further engagement at greater depth as the consultations proceed.