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Subject: Relations with New Zealand

- Authorisation for the opening of negotiations for a Framework Agreement between the EU and its Member States and New Zealand

COMMON GUIDELINES

Consultation deadline for Croatia: 18.06.2012

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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"I/A" ITEM NOTE

From : Asia-Oceania Working Party

To : COREPER/Council and the Representatives of the Governments of the Member States meeting within the Council

No. Cion prop. : 8519/12 - RESTREINT UE

Previous doc. : 10432/12 - RESTREINT UE

Subject : Relations with New Zealand
- Authorisation for the opening of negotiations for a Framework Agreement between the EU and its Member States and New Zealand

COMMON GUIDELINES

Consultation deadline for Croatia: 18.06.2012

1. On 2 April 2012, the Commission submitted to the Council a Recommendation to authorise the Commission to open negotiations for a Framework Agreement between the EU and New Zealand (doc. 8519/12 RESTREINT UE).

2. The Asia-Oceania Working Party discussed the Recommendation on 25 April and 25 May 2012. On 5 June 2012, the Working Party agreed by silence procedure a Chair package¹ consisting of revised draft negotiating directives, a draft Council decision, a draft decision of the representatives of the governments of the Member States meeting within the Council, and a draft Joint Council and Commission statement. This package of texts exactly replicated the established recent precedents adopted by the Council in relation to the issue of the nature of the agreement.
3. In light of the above, the Permanent Representatives Committee is invited to
- confirm the agreement reached by the Asia-Oceania Working Party on the package;
 - suggest that the Council:
 - a) adopts the Council Decision authorising the Commission and the High Representative to negotiate on behalf of the European Union, the provisions of a Framework Agreement between the European Union and its Member States and New Zealand, that fall within the competence of the European Union, as set out in document 10812/12 as finalised by the Lawyer/Linguists;
 - b) adopts the Negotiating Directives set out in Annex I to this note;
 - c) enters into its minutes the Statement set out in Annex II to this note.

¹ Doc 10432/12 RESTREINT UE

4. The Representatives of the Governments of the Member States, meeting within the Council, are invited to adopt the Decision authorising the European Commission to negotiate, on behalf of the Member States, the provisions of a Framework Agreement between the European Union and its Member States and New Zealand, that fall within the competences of the Member States, as set out in document 10814/12 as finalised by the Lawyer/Linguists.

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**Directives for the negotiation of a Framework Agreement
between the European Union and New Zealand**

A. NATURE OF THE AGREEMENT

The EU and New Zealand have a longstanding cooperative relationship, developed under the 1999 Joint Declaration on Relations between New Zealand and the European Union. In 2007 the EU and New Zealand adopted a non-binding Joint Declaration on Relations and Cooperation, shaping the relationship for the following 5 years.

In the post-Lisbon setting and following the commitment for review of the Joint Declaration in 2012, a further upgrade of the EU-New Zealand relationship has become desirable. New Zealand has signalled its interest in entering into a legally-binding relationship with the EU. It is proposed to negotiate a Framework Agreement governing relations between the EU and New Zealand.

As regards its scope, the proposed Agreement should take as its point of departure the areas included in the Joint Declaration, namely global and regional security; counter-terrorism and human rights; movement of people; development cooperation; trade and economic cooperation; science, technology and innovation; education and professional exchanges; environment and climate change; fisheries; transport; and people-to-people links and outreach activities. It could also include additional areas of common interest.

Tariff liberalisation, agricultural subsidies and preferential market access issues are outside of the scope of the proposed Framework Agreement.

Shared values are to be expressed concretely through binding political clauses which are a key element of similar agreements with partner countries. Accordingly, the EU and New Zealand should project their commitments in areas such as human rights, non-proliferation and the fight against terrorism, fully in line with standard clauses in similar agreements, and tailored where necessary to the case of New Zealand where needed.

The proposed EU-New Zealand Framework Agreement should upgrade and replace the Joint Declaration on Relations and Cooperation adopted in 2007. It should create a coherent legally-binding overall framework for the EU's relations with New Zealand. All existing sector specific agreements shall remain in place.

There shall be a clear legal and institutional linkage between the Framework Agreement and both existing and future sectoral agreements. The framework for the administration of the agreements should be coherent.

Where relevant, new and updated provisions shall be based on those contained in other recent EU agreements of this kind, which will be suitably adapted for the case of New Zealand.

The special position of the UK, Ireland and Denmark in relation to Part Three, Title V of the TFEU shall be fully respected.

The subject matter included in the present negotiating directives includes areas of Union competences as well as areas of Member State competence.

The structure and legal basis of the agreement will be determined in light of the outcome of negotiations.

B. PROPOSED CONTENT OF THE AGREEMENT

Preamble

The Preamble of the proposed Framework Agreement should include references to:

- Shared values and commitments
- Strengthening bilateral dialogue and cooperation
- Enhancing coordination in regional and multilateral relations
- Developing common approaches to global challenges

The Preamble should also contain references to the shared policy goals and international commitments of the parties.

Basis for cooperation

This agreement is based on shared values and commitments, which should be expressed in the five binding political clauses which underpin all comprehensive relationships between the EU and third countries:

- Human rights, democracy and rule of law (HR);
- Non-proliferation of weapons of mass destruction (WMD);
- Fight against terrorism (CT);
- Prosecution of those accused of the most serious crimes of concern to the international community (ICC);
- Small arms and light weapons (SALW).

A provision should be included stipulating that respect for human rights, democracy and rule of law guide the domestic and foreign policies of the parties. The HR clause is defined as an essential element of the Agreement. The first paragraph of the WMD clause also constitutes an essential element.

Aims of cooperation

It is proposed to use the current Joint Declaration of 2007 as a point of departure to determine the scope and aims of future cooperation. The following aims should be included; they may be adjusted and expanded where necessary.

- Strengthening dialogue and cooperation to support and promote our shared values; in particular by closer coordination in all relevant regional and international fora and organisations to foster human rights and democratic values worldwide;
- Strengthening cooperation in our approach to global challenges in line with our shared aims, notably by promoting multilateral solutions to common problems. The issues to address should include peace and security, non-proliferation, terrorism and transnational crime, the universalisation of the Rome Statute for the International Criminal Court, crisis management and environment;
- Deepening bilateral cooperation on economic and trade matters and in the fields of justice, freedom and security (including migration), research and innovation, education and people-to-people links, as well as in other areas of common interest;
- Raising the profile of the EU and New Zealand in each others' regions.

Dialogue and Cooperation on political and security matters

The EU and New Zealand should reaffirm their common values and develop a common approach to addressing global challenges.

The EU and New Zealand should cooperate not only bilaterally, but should also seek to coordinate their positions in the relevant regional and multilateral fora.

A provision should be included referring to Political Dialogue between the EU and New Zealand.

Cooperation on economic and trade issues

Economic policy dialogue

Provisions should be included on sharing experiences on macro-economic policies and trends.

Trade and investment issues

Trade-related provisions of the Framework Agreement should reaffirm the shared commitment to the multilateral trading system and aim to create an environment which promotes greater bilateral trade and investment between the EU and New Zealand. In this context, the Commission will in particular endeavour to foster enhanced cooperation in areas of specific interest to the EU such as Intellectual Property Rights (including Geographical Indications), public procurement and sanitary and phyto-sanitary measures. Tariff liberalisation, agricultural subsidies and preferential market access issues are outside of the scope of the proposed Framework Agreement.

Cooperation in the area of justice, freedom and security

The agreement should include provisions in the following areas:

Security. Prevention of and fight against transnational organised crime, cyber crime, other illegal activities and terrorism, including ratification of international anti-terrorism instruments and law enforcement cooperation.

Migration, asylum, visas and border issues. Migration – covering both legal and illegal migration – asylum, integration, visas, border issues and document security (taking into account the standard clause on migration).

Illicit drugs. Cooperation in the area of illicit drugs with the aim of reducing their demand and supply chains.

Money laundering and terrorism financing. Prevention of the use of financial systems to launder the proceeds of criminal activities and of the financing of terrorism.

Judicial cooperation. Further development of judicial cooperation.

Protection of personal data. Ensuring adequate standards of privacy and data protection in the context of exchanges of all personal information.

Diplomatic and consular protection. Specifying that consular and diplomatic authorities of any Member State can provide protection to nationals of any other Member State in line with Articles 20 and 23 of the Treaty on the Functioning of the European Union.

Cooperation on global development

The agreement should include provisions in the following areas:

Common commitment to poverty eradication and to cooperation with a view to fulfilling international commitment on aid and development effectiveness.

Strengthening of cooperation in regional and international fora, with a view to enhancing aid and development effectiveness on the ground.

Cooperation in the field of sustainable development and other sectors

The Agreement should cross-reference and seek to include and expand other areas of co-operation wherever relevant including in areas such as:

- Environment
- Climate change
- Civil protection
- Energy
- Transport
- Financial services
- Customs

- Taxation (reflecting the agreed EU position on promoting adherence to the principles of good governance in the tax area)
- Financial cooperation, including anti-fraud provisions
- Agriculture, rural development and forestry
- Maritime affairs and fisheries
- Employment, decent work and social affairs
- Education and training
- Civil society co-operation
- Culture, audiovisual and media
- Research and innovation
- Information society

If, in the course of negotiations, areas of further potential cooperation are identified, these may be covered using appropriate and specifically-tailored language.

Institutional framework and final provisions

The Framework Agreement will upgrade and replace the Joint Declaration. It will create a coherent legally-binding overall framework for the EU's relations with New Zealand. Sector specific agreements shall remain in place.

There shall be a clear legal and institutional linkage between the Framework Agreement and both existing and possible future sectoral agreements.

The provisions relating to the role and functioning of the Joint Committee should ensure full complementarity with the structures and procedures established under sectoral agreements to ensure a coherent and efficient institutional framework.

The provisions relating to non-execution and dispute-settlement of the Framework Agreement should be in line with those found in other recent EU international agreements.

A provision should be included stipulating that nothing in the Framework Agreement shall cause prejudice to national or EU laws and regulations regarding public access to official documents.

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Joint Council and Commission Statement to be entered into the minutes of the Council

"With reference to the Negotiating Directives for a Framework Agreement between the European Union and its Member States and New Zealand, which start from the presumption that the likely outcome of the negotiations would be a mixed agreement, the Council and the Commission confirm that the final legal nature of the Agreement will be determined at the end of the negotiations on the basis of an analysis of the precise scope of the coverage of the individual provisions".

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