INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	EU-Australia and EU-New Zealand free trade agreements		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	TRADE C2 - 2015/TRADE/040	**DATE OF ROADMAP**	27/1/2016
LIKELY TYPE OF INITIATIVE	Commission recommendation for Council Decision of negotiating directives for international agreements		
INDICATIVE PLANNING	*1st quarter 2017*		
ADDITIONAL INFORMATION	*Insert link to "Commission decides" or to the specific website for the initiative*		
This Inception Impact Assessment is provided for information purposes only and can be subject to change. It does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.			

A. Context, Subsidiarity Check and Objectives

Context

The current initiative is in the framework of the EU's external trade and investment policy. It is also included in the Policy Communication "Trade for All - Towards a more responsible trade and investment policy" (http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf) that provides an overall policy orientation, priorities and identifies proposed initiatives. In particular the Communication sets out that the Commission will request authorisation to negotiate free trade agreements (FTAs) with Australia and New Zealand, taking into account the EU agricultural sensitivities.

The EU has negotiated a number of FTAs, some of them including investment provisions, aiming at generating new economic opportunities for operators, particularly in sectors that have the greatest potential to create jobs and growth, seeking to enhance regulatory convergence, and to promote other EU objectives (e.g. sustainable development).

The EU, in 2015, has concluded political framework agreements with Australia and New Zealand respectively to further strengthen the partnerships that are based on joint values and principles such as respect for democratic principles and human rights and fundamental freedoms, rule of law, international peace and security. These political framework agreements provide a comprehensive policy framework of the bilateral relations with Australia and New Zealand respectively. These agreements also contain some provisions on trade and investment, which are of a non-preferential nature. These agreements do not contain specific (preferential) market access provisions such as elimination or lowering of import tariffs or removal on non-tariff barriers. The signature of these political framework agreements are foreseen for 2016. There are a number of bilateral sectoral agreements covering some non-tariff barriers for industrial products (Mutual Recognition Agreements (MRAs) with both Australia and New Zealand), animal products (in the case of New Zealand) and trade in wine (in the case of Australia).

The Commission has been engaged with Australia and New Zealand respectively regarding potential FTAs.

- In the case of New Zealand the leader's joint statement of 25 March 2014 set out a reflection process (http://europa.eu/rapid/press-release_STATEMENT-14-83_en.htm), and this was followed up by a joint statement setting out the next steps on 29 October 2015 (http://europa.eu/rapid/press-release_STATEMENT-15-5947_en.htm?locale=en).
- In the case of Australia there was an informal process of exchanges at technical level that was also noted in the joint declaration of HRVP Mogherini and the Australian Foreign Minister Bishop on 22 April 2015 (http://eeas.europa.eu/statements-eeas/2015/150422_04_en.htm). This was followed by a joint statement of the leaders setting out the next steps on 15 November 2015 (http://europa.eu/rapid/press-release_STATEMENT-15-6088_en.htm).

Issue

Australia and New Zealand are among the fastest-growing developed economies. The two countries together are already valuable partners of the EU with EU exports of €34.1Bn of goods (2014) and €21.0Bn of services (2013). Australia is the 15th, while New Zealand is the 50th-largest export market for goods for the EU. The EU's foreign direct investment (FDI) stocks in these two countries are also sizeable, worth €127.8Bn (2013), and the

EU is the largest foreign direct investor in Australia, and the second-largest in New Zealand.

While the EU-Australia and the EU-New Zealand framework agreements enhance political and sectorial cooperation between the parties and provide for an updated institutional framework, there is an untapped potential in the areas of trade, investment and economic co-operation.

Both Australia and New Zealand have concluded numerous free trade agreements with their other partners that leave the EU's economic operators with comparably less favourable conditions to access these markets. For example the 5-year trend growth rate of Australia's imports from the US (4.1%) and ASEAN (4.9%) outpaced that from the EU (3.3%) – the US and the ASEAN countries have FTAs with Australia. A similar pattern holds for New Zealand: the 5-year trend in growth rate of New Zealand's imports from ASEAN (9.7%) surpassed the corresponding figure for the EU (6.36%) - the ASEAN countries have FTAs with New Zealand.

Barriers to EU exports and investments to Australia and New Zealand include:

- There are relatively high tariffs in Australia and New Zealand for processed agricultural and food products (e.g. cheeses, wines and spirits) where the EU is globally competitive. Australian biosecurity measures impede exports of European products such as pig meat products. New Zealand plant health measures impede some exports from the EU.
- EU geographical indications especially for food products (other than wines and spirits) are confronted with abuses and imitations in Australia and New Zealand.
- Cars imported from the EU are, in practice, the only ones to pay import duties in Australia as a result of FTAs between Australia and the US, Japan, Korea and China. The situation will be similar in the case of New Zealand once the Trans-Pacific Partnership (TPP) enters into force.
- Non-tariff measures could result in unnecessary burden and additional cost to EU businesses. Ensuring favourable environment for trade and investment is important for all industrial sectors – beyond the ones covered by existing bilateral agreements – including such as raw materials.
- The EU is the largest investor in Australia, but EU investors face stricter screening thresholds than investors from other countries (e.g. the US, China) that have already concluded FTAs with Australia. TPP will replicate this situation in New Zealand.
- Some impediments remain to further accessing the government procurement markets as some local content requirement or price preference polices are in place in Australia. Large infrastructural developments in Australia (such as the ones linked to mining and transport) and in New Zealand (such as the ones linked to the Christchurch earthquake rebuilding) would provide important new opportunities for European companies.

The EU's current trade and investment policy towards Australia and New Zealand has already delivered good results; nevertheless barriers remain to further expand trade in goods and services, investment and public procurement. (C.f A number of trade barriers are also included in the Commission's Market Access Database (MADB).)

In order to further trade and investment relations new tools are to be considered. Removing existing market access barriers for goods, services, investment and public procurement will be for the benefit of the European operators. European stakeholders, manufacturers, services industry, traders and their workforce as well as consumers and regulators would forgo potential additional benefits if no policy action is taken. At the same time, however, the EU agricultural sensitivities need to be taken into account.

Subsidiarity check

The initiative falls under the exclusive competence of the EU according to Article 207 of the Treaty on the Functioning of the European Union (TFEU). Therefore the subsidiarity principle does not apply.

Main policy objectives

The initiative aims at generating new economic opportunities, and to create jobs and growth, while promoting the EU's model of social and environmental protection.

More specifically the policy objectives are to:

- Realise the untapped potential of enhanced trade and investment flows between the EU and Australia and between the EU and New Zealand respectively, taking into account the EU agricultural sensitivities. The policy objectives include reducing existing barriers for trade and investment, and explore forward looking regulatory cooperation in select areas as appropriate.

- Level the playing field with other countries that already have preferential treatment due to their free trade agreements with Australia and New Zealand.
- Provide a new, up-to-date framework for the EU-Australia and EU-New Zealand economic relationship building on the political framework agreements that were recently concluded with both Australia and New Zealand respectively.

B. Option Mapping

Baseline scenario – no EU policy change

Baseline scenario

The baseline scenario is to continue to operate under the framework already in place for bilateral relations and continue to utilise existing sectoral bilateral agreements covering only a very limited number of sectors. The existing sectoral agreements are - by their nature - limited in their scope to specific sectors covering some non-tariff barriers for industrial products (Mutual Recognition Agreements (MRAs) with both Australia and New Zealand), animal products (in the case of New Zealand) and trade in wine (in the case of Australia).

In addition the baseline will take into account other agreements concluded by the EU, Australia and New Zealand respectively and major bilateral and plurilateral agreements that the EU, Australia or New Zealand are party to.

Options of improving implementation and enforcement of existing legislation or doing less/simplifying existing legislation

Improved implementation scenario

The baseline scenario with improved implementation would, to some extent, provide for better results, but not provide for addressing tariff and non-tariff barriers in other sectors for goods, barriers to trade in services and investment, and would not address new emerging aspects such as the digital economy. The current MRAs with Australia and New Zealand cover one of the highest number of sectors among the EU's similar agreements, however, earlier analysis had showed that these kind of agreements delivered relatively limited benefits, therefore the EU's overall policy has evolved. (c.f. Commission Staff Working Paper SEC(2004)1072 Priorities for Bilateral/Regional trade related activities in the field of Mutual Recognition Agreements for industrial products and related technical dialogue http://ec.europa.eu/DocsRoom/documents/6802/attachments/1/translations/en/renditions/native)

Alternative policy approaches

Sectoral agreements scenario

Building on the currently existing bilateral agreements further areas could be considered, including tariff-only or services-only agreements. These would likely provide additional benefits related to their specific scopes, but would not be able to address or provide new, modern frameworks for the overall bilateral economic relationship with Australia and New Zealand respectively. Administrative burden of engaging in several sectoral agreements needs to be considered. Ensuring policy coherence would present some challenges.

- This option could be further divided to sub-options depending on sectors chosen for Australia and New Zealand respectively.

High quality comprehensive EU-Australia and EU-New Zealand free trade agreements scenario

This option would provide for high-quality comprehensive agreements involving, inter alia, major effort to eliminate tariff and non-tariff barriers, liberalisation and facilitation of services and investment, as well as providing for further regulatory cooperation, while taking into account existing sensitivities and exceptions.

- This option could be further divided to sub-options depending on the level of ambition to be aimed at.

Alternative policy instruments

Alternative policy instruments, such as non-regulatory alternatives, self- or co-regulation, market-based solutions would not be able to address tariff and non-tariff barriers for goods, barriers to trade in services and investment, as these must be subject to international agreements in line with World Trade Organisation (WTO) rules.

Alternative/differentiated scope

Regarding "think small first" principle please see under "likely impact on SMEs" section what will be further examined in the impact assessment stage.

Options that take account of new technological developments

The digital economy is an emerging field and along with other new technological developments would be considered as part of the different options to the extent applicable to trade and investment policy.

Preliminary proportionality check

The scenarios indicated under the section of alternative policy approaches differ inasmuch whether they address only some of the issues and objectives outlined above (the sectoral agreements scenario) or comprehensively address all the issues and aim to fulfil all the objectives identified above (the comprehensive FTAs scenario). None of the options considered go beyond what is necessary or appropriate to achieve the EU's expected policy objective. However, some of the options would only partially address the EU's policy objectives. The Impact Assessment will analyse different options also to evaluate their proportionality.

C. Data Collection and Better Regulation Instruments

Data collection

Data on trade and investment flows, production patterns and information on environmental, social and regulatory aspects are required. Data would be available from Eurostat and from a possible exchange of further data with Australia and New Zealand. Further information would be collected through the stakeholder consultation, economic modelling and an external study that would feed into the impact assessment analysis.

Consultation approach

The 12-week internet-based public consultation will take place during the preparation of the initiative and will feed into the impact assessment.

The launch of stakeholder consultations related to this initiative will be announced in the consultation planning that can be found at *http://ec.europa.eu/yourvoice/consultations/docs/planned-consultations_en.pdf*.

Will an Implementation plan be established?

☐ Yes ☒ No

No Implementation Plan is foreseen, as negotiations of international agreements are conducted according to Article 218 of the TFEU.

D. Information on the Impact Assessment Process

An Inter-Service Steering Group (ISG) was established with the participation of all relevant services of the Commission - Secretariat-General, Legal Service, DG Communication, DG Economic and Financial Affairs, DG Internal Market, Industry, Entrepreneurship and SMEs, DG Competition, DG Employment, Social Affairs and Inclusion, DG Agriculture and Rural Development, DG Energy, DG Mobility and Transport, DG Climate Action, DG Environment, DG Research and Innovation, Joint Research Centre, DG Communications Networks, Content and Technology, DG Maritime Affairs and Fisheries, DG Financial Stability, Financial Services and Capital Markets Union, DG Regional and Urban Policy, DG Taxation and Customs Union, DG Education and Culture, DG Health and Food Safety, DG Migration and Home Affairs, DG Justice and Consumers, Service for Foreign Policy Instruments, DG Trade, DG Neighbourhood and Enlargement Negotiations, DG International Cooperation and Development, DG International Cooperation and Development, DG Humanitarian Aid and Civil Protection (ECHO), Eurostat, DG Informatics, DG Budget - and the European External Action Service (EEAS).

E. Preliminary Assessment of Expected Impacts

Detailed assessment of expected impacts will be carried out during the IA work.

Likely economic impacts
Removing existing barriers to trade and investment would facilitate more economic activity contributing to an overall increase in growth and jobs in the EU. An economic modelling and an external study are planned to assess the likely economic impact and will feed into the impact assessment.
Likely social impacts
By facilitating trade and investment activity, the initiative, aims to contribute to jobs and growth that, in turn, would have a net positive social impact. In the "Trade for All" communication the Commission pledged that no EU trade agreement will lead to lower levels of social and labour protection than offered today in the EU. No negative impact in this area is expected. Appropriate provisions may even deepen co-operation in this area and may improve the effective implementation by the Parties of international labour conventions. The magnitude and the direction of the likely social impact will be analysed in the Impact Assessment, as well as the likely impacts on human rights.
Likely environmental impacts
On the one hand the expected increased economic activity could lead to some negative environmental impact, on the other hand the spread of environmental friendly techniques and renewable energy could lead to positive results. In the "Trade for All" communication the Commission pledged that no EU trade agreement will lead to lower levels of environmental protection than offered today in the EU. No negative impact is expected in the regulatory environment. Appropriate provisions may even deepen co-operation in this area and may improve the effective implementation by the Parties of multilateral environmental agreements. The magnitude and the direction of the likely environmental impact will be analysed in the Impact Assessment.
Likely impacts on simplification and/or administrative burden
Increased regulatory cooperation could lead to more work for the public regulatory bodies, but that in turn could result in less administrative burden overall for the economic actors benefiting from increased regulatory compatibility. The likely impacts will be analysed in the Impact Assessment.
Likely impacts on SMEs
SMEs would likely benefit as removing trade and investment barriers would provide further opportunities for SMEs' internationalisation, including access to new market opportunities and international networking, as well as reducing administrative costs. The likely impacts on SMEs will be analysed within the Impact Assessment.
Likely impacts on competitiveness and innovation
The initiative would contribute to innovation by further strengthening business interactions and investment that would provide further boost to existing innovation and research and technology cooperation and could open up new opportunities. The likely impacts on competitiveness and innovation will be analysed within the Impact Assessment, including in more details for selected sectors.
Likely impacts on public administrations
Additional administrative efforts would depend on the options and are expected to be in line with similar other initiatives. The likely impacts will be analysed in the Impact Assessment.
Likely impacts on third countries, international trade or investment
Australia and New Zealand will be directly affected. Bilateral trade and investment agreements could lead to some trade diversion for third countries; however, this impact could be counterbalanced by overall expanding economic activity and associated increase of trade and investment opportunities for third countries. Removing some of the existing barriers to trade and investment could benefit third countries. The likely impacts, including those on Least Developed Countries (LDCs), will be analysed in the Impact Assessment.