

Departmental Disclosure Statement

Tariff (Free Trade Agreement between New Zealand and the Republic of Korea) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Foreign Affairs and Trade.

The Ministry of Foreign Affairs and Trade certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

20 April 2015.

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Part One: General Policy Statement

This Bill amends New Zealand law as part of the implementation of a free trade agreement, namely the Free Trade Agreement between New Zealand and the Republic of Korea done at Seoul, Korea, on 23 March 2015 (the Agreement). The Bill amends the Tariff Act 1988 and will enable the application of preferential tariff rates under the Agreement and will enable transitional safeguard measures to be applied in appropriate circumstances on imports originating from Korea.

The Agreement will also be implemented by regulations, which will amend the Tariff to enable the application of preferential tariff rates for imports originating from Korea and the Customs and Excise Regulations to give effect to the rules of origin applicable to imports into New Zealand which originate from Korea.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
A Joint Study was completed by the New Zealand Institute for Economic Research and the Korean Institute for International Economic Policy in November 2007. The study concluded that given the strong and complementary relationship between both sides, an FTA was feasible and would generate benefits for both countries. The report of the study can be found in the Publications section of the NZIER website (http://nzier.org.nz/).	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	YES
This Bill seeks to give effect to the <i>Free Trade Agreement between New Zealand and the Republic of Korea</i> ("the Agreement"), done on 23 March 2015 at Seoul, Korea. The Agreement text can be found at https://korea.fta.govt.nz .	

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	YES
The <i>Free Trade Agreement between New Zealand and the Republic of Korea: National Interest Analysis</i> (NIA) was prepared by the Ministry of Foreign Affairs and Trade and presented to the House on 24 March 2015 in accordance with the Parliamentary Treaty Examination process. A copy of the NIA can be accessed through the Parliament website and from https://korea.fta.govt.nz/ .	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
The NIA prepared by the Ministry of Foreign Affairs and Trade is an extended NIA incorporating the regulatory impact statement requirements. The NIA can be accessed through the Parliament website and from https://korea.fta.govt.nz .	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
Treasury was consulted regularly during the NIA drafting process. In consultation with the RIA Team in the Treasury it was decided that it was sufficient for the Ministry of Foreign Affairs and Trade to provide the quality assurance.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>A cost – benefit analysis of the Agreement is included in sections 1, 3 and 4 of the NIA, which can be found at https://korea.fta.govt.nz. The tariff implications of the Agreement are relatively low, given the small incidence of tariffs on imports of Korean products. There may be small gains for consumers of Korean products and users of intermediate goods sourced from Korea, but we anticipate no significant loss of income or wealth.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Bill enables the application of preferential tariff rates for Korea and transitional safeguard measures on imports originating from Korea as provided for in the Agreement, and therefore is consistent with New Zealand's obligations under the Agreement. MFAT considers that the policy given effect by the Bill is consistent with New Zealand's international obligations, including those arising under the World Trade Organisation (WTO) agreements, which require that any free trade agreement eliminates duties on substantially all trade between the parties.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Te Puni Kōkiri has been regularly consulted on the contents of the Agreement, particularly in regard to the Treaty of Waitangi. As with our other free trade agreements, the Agreement includes a Treaty of Waitangi exception which provides that nothing in the Agreement prevents the New Zealand Government from taking any measure it deems necessary to accord more favourable treatment to Māori, through the fulfilment of its obligations under the Treaty of Waitangi provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods and services.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

NO

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
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NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	NO
<p>As with any trade agreement negotiating process, the Ministry of Foreign Affairs and Trade, together with other government agencies, organised and conducted a wide-ranging consultation programme to raise public awareness of the negotiations for the Agreement and to seek stakeholder views, including on tariff negotiations. This programme used printed, emailed and website information, supported by extensive specific discussions with key stakeholders, such as exporters and industry sectors likely to be interested in or affected by the outcomes of the Agreement. There has been no limited consultation on the draft of the Bill given its limited scope.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
<p>While no specific testing or assessment has been completed, the Bill is based on previous models successfully used for implementing other New Zealand free trade agreements, including with Malaysia, China, Hong Kong and the ASEAN-Australia-New Zealand FTA.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
The Bill enables the application of preferential tariff rates under the Agreement to goods imported from Korea, and accordingly the tariffs that will be collected by New Zealand in respect of certain goods will be reduced and eventually eliminated. The Bill also enables New Zealand to temporarily reimpose duties that have been reduced or eliminated under transitional safeguards provisions.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO