# The EU-New Zealand trade agreement and climate

*A public case summary*

## What happened

Over the past two years the government of Aotearoa New Zealand has walked back a series of climate and environmental protections. Parliament passed a law in August 2026 that bars tort claims for harm caused by greenhouse gas emissions and applies retrospectively to cases already before the courts, including Smith v Fonterra, brought by Mike Smith (Ngāpuhi, Ngāti Kahu). The government removed the legal requirement that the settings of its emissions trading scheme accord with the country's pledge under the Paris Agreement, reversed the ban on new offshore oil and gas exploration, and lowered its 2050 methane reduction target range from 24-47 per cent to 14-24 per cent.

New Zealand is also falling short of its 2030 pledge by its own estimate, and its 2035 pledge sits well below what its own Climate Change Commission advised was feasible. The government's own officials advised against several of these measures. On the law that closed the courts to climate claims, the Ministry of Justice advised against it and had "not identified any evidence that the ongoing court proceedings have had a measurable impact on business confidence"; the government nonetheless set confidence for businesses and investors as the law's objective, and its own impact statement said the law could attract international investment. Ninety-three per cent of the 623 written submissions to Parliament's Justice Select Committee opposed that law; Parliament passed it anyway.

## What the Free Trade Agreement says

The EU-New Zealand Free Trade Agreement, in force since May 2024, contains two separate promises that matter here.

Skyline Aukland

First, neither side may weaken its environmental protections in order to attract trade or investment. Second, each side must effectively implement the Paris Agreement and must refrain from any action or omission that materially defeats its object and purpose. The two promises carry different consequences. Only the Paris promise sits in the track that can end, after a long formal process, in the suspension of trade benefits, a first for any EU trade agreement. The Paris promise has two layers, delivering the agreement in practice and not acting against its object and purpose; only the higher layer carries the suspension pathway.

The International Court of Justice's 2025 advisory opinion on states' climate obligations, welcomed by the United Nations General Assembly on 20 May 2026, with New Zealand voting in favour while recording reservations on the legal issues, is relevant context for reading these commitments. The complaint argues that the law closing the courts to climate claims and the reopening of offshore exploration breach the first promise on the government's own stated reasoning, and that the measures taken together breach the second. New Zealand negotiated these provisions, signed them, and has presented them at home as evidence of the agreement's quality.

## What the Single Entry Point is, step by step:

1. A complaint is lodged. Only EU-based organisations can file. It sets out the alleged breach and the evidence behind it.
2. The Commission assesses it against published criteria and responds to the complainant.
3. The matter is raised with the New Zealand government through the committees the agreement itself created.
4. Formal government-to-government consultations follow.
5. If consultations fail, an independent panel of experts examines the matter and publishes its findings, whatever happens afterwards.
6. A compliance period. If the panel finds a breach, New Zealand is given time to say how it will fix it.
7. Suspension of trade benefits is the final step, available only where the panel finds that the object and purpose of the Paris Agreement has been materially defeated, and it applies to benefits granted to New Zealand as a country, never to a company. The government can stop the process at any stage by coming back into compliance.

### Why the complaint comes from civil society, and why from Both ENDS

Every EU trade agreement since 2011 contains a chapter on trade and sustainable development, and in its 2022 review the European Commission committed to enforce those chapters and to attach trade consequences to a partner's failure to comply with the Paris Agreement. In practice, enforcement depends on the European Commission choosing to act, and it has done so only once, on South Korea's labour commitments. So the EU created a route for civil society: the Single Entry Point, a formal complaints mechanism through which organisations based in the EU can ask the Commission to examine whether a trading partner is keeping the sustainability commitments it negotiated.

Both ENDS files in its own name, as a European organisation with a direct interest in whether those commitments are enforced in practice rather than displayed on paper.

Both ENDS serves on the EU's civil society advisory groups under four other EU trade agreements and has worked for decades with partners worldwide on the accountability of trade and investment agreements. The concerns in the complaint were on the public record before filing, including in an April 2026 letter from members of the European and New Zealand parliaments to the European Commission and in the Commission's reply.


*New Zealand parliament*

**Read more about this case**

*Aerial view of green fields in Nelson, New Zealand (Unsplash)*

The complaint is accompanied by sponsor statements from organisations and individuals in Aotearoa New Zealand: the Environmental Law Initiative, Greenpeace Aotearoa, Ngāti Pūkenga Iwi ki Tauranga Trust, OraTaiao: New Zealand Climate and Health Council, Mike Smith and Professor Emeritus Jane Kelsey. Each statement records, in its author's own words, how they contested these measures through New Zealand's own processes and why they sponsor the complaint. In Europe, La Via Campesina supports the complaint.

## What the complaint asks

One thing: that New Zealand keep the commitments it signed and continue to claim credit for. It seeks nothing against any company, farmer, grower or exporter, and it has no power over the New Zealand Parliament.

## What filing does right away

From the moment the complaint is lodged, the evidence enters the public record in both Europe and New Zealand, the Commission is examining against its published criteria whether its flagship sustainability agreement is being breached, and the matter comes within reach of European parliamentary scrutiny, well before the process approaches its final step. Both ENDS publishes a short update at each stage, so the public record of the case does not depend on anyone else.

## How long it takes

There is no fixed timetable, and the mechanism is young: a handful of complaints so far, none previously on environmental or climate grounds, mostly handled through engagement rather than panels. The only sustainability panel convened under an EU trade agreement to date, on South Korea's labour commitments in 2021, found a breach; what that agreement lacked was any consequence to attach to the finding. This agreement has one. That is what this case tests.

## For more information


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