

PROACTIVE INFORMATION	
Process for signature and conclusion of the Europol Agreement	
Deadline: NA	Date of Response: 23 June 2022

### Purpose

1. This information note advises you of the process for signing the Europol Agreement (Agreement), media coordination of the announcement, and presentation of the Agreement to the Foreign Affairs, Defence, and Trade Select Committee (FADTC) for consideration and conclusion as part of the Parliamentary Treaty Examination process.

The Europol Agreement will enable the exchange of personal data between New Zealand and the European Union (EU) to fight serious crime and terrorism.

A New Zealand Police-led negotiating team has been working on the text of the Europol Agreement with EU officials on since late 2020. Cabinet recently agreed that the final negotiated text of the Agreement could progress to Parliamentary Treaty Examination and signature.

The Prime Minister intends to attend a joint signature ceremony in Brussels and release a media statement on 30 June 2022. New Zealand's Ambassador to the EU and NATO, Carl Reaich, will sign the agreement on behalf of New Zealand.

Following signature, Police will support you to introduce the Agreement to the FADTC for Parliamentary Treaty Examination.

### Background

2. The Agreement between New Zealand and the European Union (EU) has been negotiated to reciprocally share personal information between Europol (the EU agency responsible for law enforcement) and New Zealand's competent authorities<sup>1</sup> for the purposes of mitigating, and responding to, serious crimes and terrorism. The benefits to New Zealand of signing the Agreement are summarised at **Appendix One**.
3. In May 2022, the Cabinet External Relations and Security Committee (ERS) noted that negotiations have now been completed and agreed that the Minister of Police would present the Agreement for Parliamentary Treaty Examination [ERS-22-MIN-0015 refers]. ERS also authorised the Minister of Police to make any necessary minor or technical amendments to the Agreement, and to sign the final version.

<sup>1</sup> New Zealand's authorities competent for law enforcement activity confirmed under the Europol Agreement are New Zealand Police, New Zealand Customs Service, and New Zealand Immigration Service.

## **New Zealand and the EU are ready to sign the Agreement**

4. The European Council has indicated that it will adopt the Agreement for signature on 27 June 2022 and complete the signing formalities on 30 June 2022. As the Prime Minister will be in Europe at this time, there is an opportunity for New Zealand and the EU to participate in a joint signature ceremony.
5. The Ministry of Foreign Affairs and Trade's Legal Division (MFAT LGL) has advised Police that it is acceptable for signature to occur prior to Parliamentary Treaty Examination.
6. This means both New Zealand and the EU are now in a position where they can sign the Agreement and then ratify through our respective Parliaments.

## **Signature of the Agreement has been placed on the programme for the Prime Minister's upcoming travel to Europe**

7. The Prime Minister intends to attend a signature ceremony when visiting Brussels on 30 June 2022 as part of her Europe visit programme. The Prime Minister will attend the ceremony with the President of the European Commission, Ursula von der Leyen.
8. Signatories for the Agreement will be New Zealand's Ambassador to the EU and NATO, Carl Reaich, and the EU Commissioner for Home Affairs, Ylva Johansson. An Instrument of Full Powers is in place to enable New Zealand's Ambassador to sign the Agreement for New Zealand and support the Prime Minister's attendance at the ceremony.
9. At the ERS meeting on 10 May 2022, the Committee agreed that the Minister of Police sign the Europol Agreement [ERS-22-MIN-0015 refers]. However, given the subsequent opportunity for a joint signature ceremony with the Prime Minister and President of the European Commission, a revised approach was progressed in consultation with the Prime Minister's Office (PMO). Signature of the Agreement during the Prime Minister's visit will ensure a quick conclusion of formalities and show our commitment to implementation and sharing of information.

## **The Prime Minister's Office is interested in making a joint press release once the Europol Agreement has been signed**

10. The Prime Minister is likely to make an announcement on the joint signing of the Agreement as part of her visit.
11. Given the negotiation and Cabinet approval processes for the Agreement were led by Police, a joint press release between the Prime Minister and Minister of Police will be arranged. The joint press release will announce the signature of the Agreement by New Zealand and the EU as well as outline the benefits that New Zealand law enforcement will obtain through implementation of the Agreement. We will work with your Office, MFAT, and PMO to confirm this approach. A draft reactive statement is provided at **Attachment One**.

## Conclusion of the Agreement will require Parliamentary Treaty Examination

12. Following signature of the Agreement, Police will support presentation of the Agreement to FADTC for Parliamentary Treaty Examination, as required for a bilateral treaty of particular significance per Standing Order 405, for conclusion of New Zealand's treaty process.
13. MFAT LGL has advised Police that Parliamentary Treaty Examination does not require an initial briefing or reading speech. The Agreement will be referred directly to FADTC, at which point the Committee will have 15 sitting days in which to hear from officials, to deliberate and potentially to call for public submissions before reporting back to the House of Representatives on the outcome of their examination. We do not anticipate the Committee will call for public submissions on this occasion.
14. Given information sharing through the Agreement will be confined to personal information for serious criminal offences<sup>2</sup> and that information transfers will be subject to robust data protection requirements and privacy supervision, we do not expect FADTC will recommend any changes to the Agreement. If any changes are recommended, these will be confirmed with the EU prior to ratification.
15. The Agreement will then enter into force through exchange of diplomatic notes. Application of the Agreement will commence once the implementing administrative arrangements, required under Article 22 of the Agreement, have been concluded between Europol, New Zealand's competent authorities, and the Contracting Parties' supervisory authorities.<sup>3</sup>

## Next steps

16. PMO will shortly confirm the Prime Minister's attendance at the signature ceremony on 30 June 2022 as part of the visit programme.
17. We will support the alignment of Ministerial communications regarding signature of the Agreement with PMO, MFAT, and your Office. We will advise you further on these matters as this work progresses.
18. Following signature of the Agreement, Police will support submission of the Agreement for Parliamentary Treaty Examination, beginning in late July 2022. We will keep you informed of the outcome of the examination process and next steps to enable ratification and implementation of the Agreement.

<b>Reviewed by</b>	Tim Blackmore, Manager: Policy	§ 9(2)(a) OIA
<b>Approved by</b>	Gillian Ferguson, Director: Policy	§ 9(2)(a) OIA

<sup>2</sup> These offences are contained in Annex I of the Europol Agreement, which is an exhaustive list of serious crimes that are consistent across the EU's international agreements on criminal justice. The list includes serious offences such as terrorism, organised crime, drug trafficking, money-laundering activities, trafficking in human beings, murder, computer crime, and child sexual exploitation.

<sup>3</sup> Supervisory authorities are one or more domestic independent authorities responsible for data protection and privacy. In New Zealand, the supervisory authority role will be jointly performed by the Office of the Privacy Commissioner and the Director of Human Rights Proceedings. In the EU, the supervisory authority will be the European Data Protection Supervisor.

## **Appendix One: Benefits of the Europol Agreement**

*New Zealand will have access to more information to disrupt and respond to the victims of serious crimes and terrorism*

1. The Agreement will provide New Zealand law enforcement agencies access to a broader range of information to respond to and disrupt serious criminal offending.
2. The information that Europol provides access to will assist New Zealand law enforcement to disrupt and respond to transnational organised crime, drug trafficking, money laundering, child sexual exploitation, cybercrime, violent extremism, and terrorism.
3. These are some of the most serious crimes affecting New Zealand victims. Enhancing law enforcement's ability to respond will improve outcomes for victims and increase overall public safety.

*The Agreement will improve New Zealand's relationship with the EU*

4. The Agreement is a significant milestone for New Zealand and the EU's relationship. It reflects our shared principles of democracy, the rule of law, and respect for human rights. Signature and ratification of the Agreement will promote and lead to greater collaboration between New Zealand and EU law enforcement agencies as well as symbolising our shared strong commitment to privacy and seeing justice to the victims of crime.

*The Agreement reinforces New Zealand's strong data protection framework*

5. The Agreement reflects the strong human rights considerations, privacy protections, and data security measures that are required by New Zealand and the EU's domestic legal frameworks. The Agreement contains robust processes for information transfer, with ongoing privacy and data protection in New Zealand and in the EU.

*The Agreement is a pathway to future international agreements*

6. The Agreement will also improve New Zealand's credentials to enter other agreements to improve transnational information flows.
7. For example, the United States of America's Clarifying Lawful Overseas Use of Data Act (CLOUD) is designed to enable other countries to expeditiously obtain information from US-based services providers, such as Meta, Apple, Google, and Microsoft, without a lengthy mutual legal assistance process.