

## **NEW ZEALAND-UK FREE TRADE AGREEMENT** **AGREEMENT IN PRINCIPLE**

New Zealand and the UK have reached agreement in principle on the key elements of a new high quality, comprehensive and progressive free trade agreement (FTA). These are set out below.

Underpinning this agreement in principle is the legal text of the agreement. In most areas, negotiations, on this text have also been substantially concluded. Work to finalise the text in accordance with this document will continue over the coming weeks, alongside the commencement of the legal review and verification of the agreement.

This agreement in principle does not create any legally binding obligations. Work is continuing to finalise the legal text of the FTA. Once the text has been finalised and legally verified, and domestic approval processes have been completed, arrangements will be made for the signing of the FTA. Following signature, and subject to completion of both countries' domestic requirements, the FTA will enter into force.

### **1. National treatment and market access for goods**

New Zealand and the UK commit to the removal of all customs duties on bilateral trade, with most tariff lines, covering the vast majority of current exports, being fully liberalised on entry into force of the agreement. Other mechanisms will facilitate trade and address non-tariff barriers between our two countries.

Key commitments include:

- New Zealand and the UK will remove customs duties on 100% of tariff lines for originating products, in line with the agreed treatments which will be set out in respective tariff schedules.
- The UK will eliminate tariffs on 96.7% of tariff lines on the day the FTA enters into force.
- New Zealand will eliminate tariffs on 100% of tariff lines on the day the FTA enters into force.
- New Zealand and the UK will share tariff preference utilisation data.
- New Zealand and the UK will also agree commitments in respect of prohibiting export duties, facilitating trade in remanufactured, repaired and altered goods, ensuring transparency of import and export licensing procedures, and upholding WTO rules in respect of import and export restrictions.



For specific products, the following has been agreed:

### *Beef*

- The UK will remove duties on beef after 10 years (duty-free from Year 11 onward).
- During the first 10 years following entry-into-force of the Agreement, a duty-free transitional quota will be made available for originating beef imports from New Zealand. This quota volume will increase in equal annual instalments, in line with the below:
  - o Year 1: 12,000MT
  - o Year 10: 38,820MT
- If this quota is filled in a given year, any further originating imports of beef from New Zealand will be subject to MFN base rates.
- During years 11-15 following entry-into-force, a product specific safeguard will be applied to beef. Trigger volumes will increase in equal annual instalments, in line with the below:
  - o Year 11: 43,056MT
  - o Year 15: 60,000MT
- If the trigger volume is met in a given year, the UK will apply a duty of 20% to any further originating imports of beef from New Zealand, for the remainder of the year.
- The product specific safeguard will be removed at the end of Year 15 and beef trade will be fully liberalised.

### *Sheep meat*

- The UK will fully liberalise sheep meat after 15 years (duty-free from Year 16 onward).
- During this time, a duty-free transitional quota will be made available for originating imports of sheep meat from New Zealand. This quota volume will be set as below:
  - o Years 1-4: 35,000MT per year
  - o Years 5-15: 50,000MT per year
- If this quota is filled in a given year, any further originating imports of sheep meat from New Zealand will be subject to MFN base rates.
- In a given year, trade can only occur under the FTA quota once the utilisation of New Zealand's WTO country-specific sheep meat quota into the UK has reached 90%.

### *Butter*

- The UK will fully liberalise butter duties in 6 equal reductions over 5 years.
- During this time, a duty-free transitional quota will be made available for originating butter imports from New Zealand. This quota will open at 7,000MT from entry into force and will build in equal annual instalments to 15,000MT at Year 5.
- Butter will be duty free, quota free from Year 6 onwards.

### *Cheese*

- The UK will fully liberalise cheese duties in 6 equal reductions over 5 years.
- During this time, a duty-free transitional quota will be made available for originating cheese imports from New Zealand. This quota will open at 24,000MT from entry into force and will build in equal annual instalments to 48,000MT at Year 5.
- Cheese will be duty free, quota free from Year 6 onwards.

### *Fresh apples*

- Duties on fresh apples exported from 1 January to 31 July will be fully liberalised from entry into force.
- For fresh apples exported from 1 August to 31 December the UK will fully liberalise duties in equal instalments over 3 years.
- During this time, a seasonal, duty-free transitional quota will be made available for originating fresh apple imports from New Zealand. This quota will be set at 20,000MT per year for 3 years.
- Fresh apples will be duty free, quota free year-round from Year 4 onwards.

New Zealand will manage the administration of all transitional volumes for the products set out above. No additional conditions or restrictions will apply, beyond those set out in respect of sheep meat.

Customs duties on all other UK tariff lines will either be eliminated on entry into force of the agreement, or in a small number of cases will be removed in equal reductions over 3 or 7 years.

## **2. Rules of origin**

New Zealand and the UK commit to rules of origin that will facilitate trade and reflect modern production processes and global value chains. The commitments will create simple and efficient processes for traders and customs authorities to prove and confirm the originating status of goods.



Commitments in the rules of origin chapter will include:

- Efficient and low-cost processes to prove originating status of goods, minimising the amount of paperwork at the border for traders and customs authorities.
- Producers, exporters and importers will be able to declare the origin and claim tariff preferences on their goods.
- No requirement for verification visits by the importing country to ascertain if goods being imported into its territory are originating.
- New Zealand and the UK will explore how the agreement's cumulation provisions could be extended in the future, including in relation to developing countries and mutual FTA partners.
- A tolerance threshold for non-originating materials of 15%, including a weight-based threshold for Harmonised System (HS) chapters 1-24 and 50-63, and by value for all products.

The rules that determine if specific products are eligible to benefit from tariff preferences under the FTA are agreed. These rules are designed to enable existing and future supply chains and facilitate trade, while also ensuring goods benefiting from market access under the FTA undergo sufficient production or processing in New Zealand and the UK. Key elements of the structure will include:

- A change-of-tariff-classification (CTC) approach for the majority of products.
- For almost all industrial products, traders will also have the benefit of choosing to meet origin through an alternate Regional Value Content (RVC) rule. Process rules will apply for specific industrial products.
- For agricultural goods, origin will be established through CTC and specific processing rules (for example, grinding or refining).
- Some product rules will reflect specific industry priorities such as an RVC of 25% for finished automotive vehicles in HS code 8703.

### **3. Customs procedures and trade facilitation**

New Zealand and the UK commit to efficient and transparent customs procedures that will support increased trade under the FTA. Goods will be released from customs within clear timeframes to provide certainty for traders. Paperwork will be minimised where possible, with more information available electronically (complementing paperless trading commitments which will be set out in the digital chapter). The rules agreed will reinforce New Zealand and the UK's ability to maintain effective customs control.

Commitments in the customs procedures and trade facilitation chapter will include:

- Goods to be released as soon as possible on or before arrival, but in any case within 48 hours of arrival at customs provided all requirements have been met.
- Expedited customs procedures for expedited shipments (for example fast-track parcels), including allowing for single submissions of information and release of expedited shipments within 6 hours if all requirements have been met.
- Perishable goods to be released within 6 hours if all requirements have been met. Such products will also be given appropriate priority when scheduling any required examinations.
- A maximum time period of 90 days for issuing advance rulings on tariff classification and origin to traders.
- Customs brokers will not be required to be used for import and export procedures.
- Information regarding customs procedures will be made available online.
- Review mechanisms will be made available to traders in respect of customs authority decisions.
- A commitment that New Zealand and the UK will work together on how customs procedures can be further simplified to support trade between the countries. New Zealand and the UK will endeavour to further simplify procedures, including further reducing data requirements, for traders fulfilling certain defined criteria.

#### **4. Sanitary and phytosanitary measures (SPS)**

New Zealand and the UK already benefit from a world-leading Sanitary Agreement that recognises the equivalence of sanitary measures maintained by both countries for the protection of public and animal health. The FTA will build on this and existing WTO obligations by including additional sanitary and phytosanitary provisions that will facilitate trade while ensuring protection of human and plant life and health. Imports will still have to meet the same food safety and biosecurity standards in New Zealand and the UK. Both countries recognise the importance of independent SPS regimes.

New Zealand and the UK also agree that composite products, as defined by EU retained law Commission Decision 2007/275/EC of 17 April 2007, will be brought into the scope of the UK-New Zealand Sanitary Agreement.

Commitments in the SPS chapter will include:

- Provisions which state that the countries affirm their rights under the WTO SPS Agreement, and provisions which set out the relationship between the SPS chapter and the WTO SPS Agreement.

- Recognition of the principle of equivalence of SPS measures where the exporting country objectively demonstrates that its measures achieve the importing country's appropriate level of protection.
- Outlining how phytosanitary regional conditions can be recognised in a way that enables New Zealand and the UK to take into account the pest status of areas from which goods may be sourced while protecting plant life and health.
- Provisions allowing for New Zealand and the UK to adopt emergency measures to address urgent problems of human or plant health protection.
- Provisions that will promote transparency and mechanisms to discuss and resolve incidents where New Zealand or the UK considers that a measure or draft measure, or its implementation, is inconsistent with the chapter.
- Provisions on audit and verification activities which will allow both New Zealand and the UK to maintain confidence in each other's SPS regimes.
- A commitment to remove approval processes for establishments and facilities within the scope of the chapter, acknowledging the robustness of each other's SPS regimes.
- A provision which will set out New Zealand and the UK's understanding that, other than for phytosanitary purposes, low risk food within the scope of the chapter will not require health certification under their respective laws and regulations. The two countries have agreed in principle to recognise that a risk assessment would justify the introduction of health certification for a particular low risk food.
- A commitment to enhance cooperation on antimicrobial resistance both bilaterally and in relevant international fora with particular focus on addressing the unnecessary use of antibiotic agents in the rearing of animals for food production and protecting the efficacy of critical antibiotic agents.

## **5. Animal welfare**

Recognising the importance that both countries attach to high animal welfare standards, New Zealand and the UK commit to a chapter on animal welfare. Commitments will include:

- Reaffirming New Zealand and the UK's right to regulate on animal welfare and to set respective policies and priorities for the protection of animal welfare.
- Recognition that New Zealand and the UK's farming practices are substantively different but each country accords a high priority to animal welfare in those practices, and that in multiple areas their respective animal welfare standards and associated official control systems provide comparable outcomes.
- A commitment to cooperate to further improve understanding of each other's regulatory systems and approaches, provide a forum for ongoing areas of



cooperation, and work together in international fora to promote animal welfare standards.

- Provisions in respect to non-derogation and a best-endeavours non-regression commitment to not weaken animal welfare standards for farmed animals in order to encourage trade or investment between New Zealand and the UK.

## **6. Technical barriers to trade (TBT)**

New Zealand and the UK commit to provisions that ensure technical barriers to trade are non-discriminatory and do not create unnecessary obstacles to trade, while preserving each country's ability to take measures to fulfil legitimate objectives, including for the protection of health, safety, national security and the environment. The FTA will result in increased cooperation regarding technical regulations, standards and conformity assessment.

Commitments in the TBT chapter will include:

- Coverage of standards, technical regulations and conformity assessment procedures at central government level, with some transparency and discussion commitments relating to regulation made at regional level of government.
- A future review of the chapter to consider whether to broaden it to include a commitment on national treatment of conformity assessment bodies.
- Language setting out best practice on conformity assessment and accreditation.
- Provisions on transparency and information exchange to build understanding of each other's systems.
- Incorporation of certain provisions of the WTO TBT Agreement, bringing these under the FTA dispute settlement mechanism.
- Upon request, a commitment to positively consider accepting technical regulations of the other country where they are found to be equivalent. Where a request is not accepted, the country will provide an explanation of the reasons why.
- Provisions which promote the use of international standards to further facilitate trade between New Zealand and the UK and to encourage respective standards bodies to cooperate.
- Cross-cutting commitments on marking and labelling.
- Provisions aimed at enhancing cooperation between New Zealand and the UK on market surveillance.

New Zealand and the UK commit to a Wine Annex and a Distilled Spirits Annex containing provisions on:

- Recognition by the UK of New Zealand wine-making practices which are confirmed as substantively the same as those the UK already recognises for other countries. The UK will also assess other practices requested for recognition by New Zealand with the aim of recognising as many as possible before signature of the FTA.
- Core principles in wine labelling to ensure certainty and reduce burdens in exporting to multiple markets for industry.
- Confirmation of removal of VI-1 certification requirements on New Zealand exports.
- Mandatory and enforceable lot codes for distilled spirits.
- New Zealand's commitment to support an application by the UK to FSANZ (Food Standards Australia New Zealand) through established procedures, in line with the whisky/whiskey definition set out in the Distilled Spirits Annex.

The agreement will also include a number of other sector-specific commitments:

- Cosmetics: commitment to maintain respective bans on animal testing and support the development and validation of alternatives to animal testing for cosmetics, as well as other cooperation outcomes.
- Medicines: commitment to collaborate where appropriate through relevant international organisations, such as VICH, PIC/S and ICMRA on medicines for human and veterinary use and other cooperation outcomes promoting exchange of information. Such collaboration and cooperation includes, for example, regulatory cooperation and cases in response to global health threats, such as anti-microbial resistance.
- Medical Devices: commitment to collaborate where appropriate through relevant international organisations such as IMDRF and initiatives on medical devices.

In addition, New Zealand will recognise in a side-letter that per New Zealand's Fair Trading Act, representations that are found to constitute misleading or deceptive use of Scottish Whisky localities to label or advertise whisky/whiskey are not permitted.

## **7. Trade remedies**

New Zealand and the UK commit to including a chapter on trade remedies that will retain both countries' rights and obligations under the WTO rules on anti-dumping, subsidies, countervailing measures, and safeguards. In some specific areas, the chapter will build on this by:

- Application of the "lesser duty rule" when imposing antidumping and countervailing duties.

- Consideration of the “public interest” during antidumping and countervailing investigations.
- Including additional procedures for conducting fair and transparent trade remedies investigations.
- A general injury-based bilateral safeguard mechanism for all goods to provide a safety net for industry if they face serious injury, or threat of serious injury, from increased imports as a result of tariff elimination under the FTA. This mechanism will also allow for provisional application of a bilateral safeguard for up to 200 days.

## **8. Cross-border trade in services**

New Zealand and the UK commit to liberalising services in a manner that strengthens existing bilateral trade, deepens market access and makes it easier for services companies to trade and for professionals to operate in each other’s economies.

Commitments in the cross-border trade in services chapter will include:

- High quality, modern rules that will promote and facilitate cross-border trade between New Zealand and the UK.
- Coverage of auxiliary air services that goes beyond the WTO and reflects best precedent in our FTAs, including through coverage of airport operation services, ground handling, and speciality air services.
- Coverage of UK and New Zealand-flagged vessels, allowing these to benefit from guaranteed market access and non-discriminatory treatment when operating in New Zealand and the UK.
- A commitment that audio visual services will not be covered by the chapter.
- The following market access commitments:
  - o Non-discrimination provisions that ensure UK and New Zealand exporters will benefit from the same treatment granted to local and international businesses. This includes a ‘most-favoured nation’ provision that will capture future access granted to services exporters from other countries.
  - o To not restrict the number of businesses able to operate in a sector, require specific types of corporate form, or to impose other market access restrictions.
  - o Prohibiting requirements for businesses to establish a physical presence before they can provide services in a market.
  - o New Zealand and the UK will agree respective commitments against these obligations using a comprehensive and transparent ‘negative list’ scheduling approach. Through this approach, both countries accept various reservations (exceptions) to these obligations.

- o These market access commitments will ensure that services exporters will benefit from market access comparable to New Zealand and the UK's best FTAs while preserving both countries' ability to regulate in the public interest in the future.

The agreement will also include annexes covering the following services:

*Professional services and recognition of professional qualifications*

- A professional services and recognition of professional qualifications annex will benefit UK and New Zealand professionals who want to work in each other's territory, including by promoting cooperation between UK and New Zealand regulatory bodies while protecting the ability of New Zealand, the UK and their respective relevant authorities to set standards for their professions and prioritise consumer and public safety.
- Under the recognition of professional qualifications provisions New Zealand and the UK will encourage their respective relevant authorities to operate a route to recognition for professionals with qualifications obtained in New Zealand and the UK who seek to practise their profession in the other country. These routes to recognition should be efficient and transparent. These commitments will be complemented by regulatory dialogue.
- Legal services provisions within this annex will ensure that UK and New Zealand lawyers can continue to provide legal advisory services related to their respective home jurisdiction, foreign law (not including host jurisdiction), and international law, as well as to provide arbitration, mediation and conciliation services related to international, foreign, or their home jurisdiction law in the other country's territory without needing to requalify into the local legal profession.
- There will also be provisions aimed at driving collaboration between legal services relevant authorities to address other barriers to practising the local profession.
- Recognising the importance of sustainability skills in architecture, the annex provides for a dialogue between relevant authorities in New Zealand and the UK responsible for regulating architects, to consider whether sustainability skills, such as the study of sustainable design or energy efficiency, should be a condition for recognition.

*International maritime transport services*

- This new, standalone annex which reflects FTA best precedent will provide broad coverage of maritime-related services and ensure that UK and New Zealand vessels and service suppliers have non-discriminatory access to ports and related services, subject to respective cabotage regimes and reservations. The

annex will prohibit New Zealand and the UK from introducing preferential cargo-sharing agreements with third countries in the future.

## *Express delivery services*

- This annex will ensure a level playing field for express delivery operators by ensuring any universal service providers do not engage in market distorting practices, while also allowing governments to maintain universal service obligations if they choose.

## **9. Domestic regulation**

This chapter, a first in New Zealand and UK FTA practice, reflects both countries' support for ambitious rules which build on those currently under development in WTO negotiations.

The domestic regulation chapter will:

- Apply to both services and non-services sectors, as part of a whole economy approach.
- Include commitments to operate impartial, transparent and responsive regulatory systems in relation to licensing and qualification requirements and procedures, and technical standards.
- Confirm these requirements and standards will not be used to create unnecessary barriers to trade, ensuring that both countries remain global leaders for ease of doing business.
- Support the ability of businesses or individuals to supply services remotely, with provisions encouraging the digital publication and consolidation of relevant authorisation requirements, electronic payment of any fees and electronic applications.
- To the extent practicable, ensure the process of applying for authorisation is as transparent as possible, with indicative timeframes published in advance and the processing of applications commenced without undue delay.
- Ensure that where the number of licenses are limited there is transparency for selection procedures and guarantees of impartiality.

## **10. Financial services**

The financial services chapter will include:

- Market access that builds on the already high-quality access both countries have committed to at the WTO. This will be achieved in three ways:
  - o A negative list of commitments in respect to financial services provided through a commercial presence in each other's territories.

- o Comprehensive commitments in respect to the supply of financial services in the territory of one country to a person of the other country (mode 2 service supply).
- o A finite list of cross-border market access commitments for mode 1 service supply that go beyond the UK and New Zealand's WTO commitments in respect to insurance of large risks and portfolio management services.
- Commitments to promote sustainable finance and diversity in finance through the sharing and promotion of best practice and cooperation in international fora on these issues.
- A commitment to facilitate the transfer of data internationally, subject to exceptions where they are needed to protect privacy, protection of personal data, or are required for prudential reasons.
- A commitment to prohibit unjustifiable localisation of financial data. This will be subject to exceptions, including in relation to requirements relating to legitimate public policy purposes, protection of personal data, confidentiality requirements, and other safeguards which will be included in the chapter.
- Commitments to high standards of transparency that reflect those in the domestic regulation chapter but ensure the rules are tailored to meet the specific needs of financial regulators.
- A commitment recognising the importance of allowing financial service suppliers to offshore their back-office functions in certain circumstances, and to avoid the imposition of arbitrary requirements on the performance of those functions.
- A commitment to allow the provision of new financial services in situations where these are permitted domestically.
- An FTA-wide exception that preserves both countries' rights to regulate for prudential reasons, including to ensure the stability and integrity of the financial system.

## **11. Telecommunications**

New Zealand and the UK commit to provisions that guarantee non-discriminatory and transparent access to telecommunications infrastructure - creating benefits for telecoms suppliers seeking to provide services in each other's territory.

Commitments in the telecommunications chapter will include:

- Ensuring competition in our telecommunications markets through adopting and maintaining competitive safeguards and approaches to regulation that prevent anti-competitive practices including through ensuring non-discriminatory treatment.
- Commitments to allow access to essential facilities and interconnection for the provision of public telecommunications services.

- Ensuring service suppliers of both countries have access to and use of any public telecommunications network or service on a timely basis and on reasonable, and non-discriminatory terms and conditions.
- Maintaining the independence of telecommunications regulatory authorities, and that regulators are sufficiently empowered to regulate the sector.
- Allowing telecoms services and networks to operate without prior authorisation including licensing.
- A provision that ensures suppliers who receive information through negotiations will protect the confidentiality of that information, and both countries will adopt or maintain measures to protect the confidentiality of telecommunications and related traffic data of users in accordance with local laws.
- Commitment to cooperate on international mobile roaming services as appropriate to promote transparent and reasonable rates which support consumers and businesses and to consider steps to enhance transparency and competition with respect to such rates.
- Provisions that will support regulatory authorities to resolve disputes at an operator-to-operator level.
- New Zealand and the UK have committed to cooperate through exchanging information on opportunities and challenges in the telecommunications sector and working together in international fora to promote a shared approach to international standards.

## **12. Temporary entry of business persons**

New Zealand and the UK commit to mutually ambitious provisions on temporary entry that will support post-COVID-19 economic recovery, provide certainty for businesses, remove barriers and allow people to temporarily travel and work for business purposes.

- Ambitious and liberal commitments for the following categories of entry:
  - o Contractual Service Suppliers: New Zealand and the UK to bind in an ambitious list of sectors with no numerical caps on this category. These commitments are subject to certain safeguards.
  - o Independent Professionals: New Zealand and the UK commit to substantially build on their WTO commitments through additional sector coverage with no numerical caps. This includes additional sectors that support outcomes in other areas of the FTA, such as the professional services and recognition of professional qualifications annex.
  - o Intra-Corporate Transferees (ICTs): Both countries commit to allow ICTs such as senior managers/managers, executives and specialists to work for a period of 3 years without requiring an economic needs test or imposing other quantitative restrictions. In addition, family members (spouses,



- unmarried and same sex partners, and dependents) will be permitted to accompany ICT business people.
- o Business visitors: New Zealand and the UK are committing to an ambitious package that will support trade in goods and services as well as investment, including attending conferences or business meetings and negotiations. Both countries agree that economic needs tests or quantitative restrictions will also not apply to this category.
  - These outcomes are supplemented by supporting provisions in the chapter text, including commitments to:
    - o Process applications for the above categories as expeditiously as possible.
    - o Ensure visa processing fees for these temporary entry categories do not unduly impair or delay trade.
    - o Ensure transparency of entry requirements and that processes provide clarity and certainty for business persons.

### **13. Investment**

New Zealand and the UK commit to investment provisions that will underpin the already significant investment relationship between our two countries and support the COVID-19 economic recovery. Commitments, including those on market access, will build on both countries' existing FTA practice. Importantly, the chapter will also ensure that the rights of governments to continue to regulate in the public interest are protected. The FTA will not include an investor-state dispute settlement mechanism.

Commitments in the investment chapter will include:

- Coverage of all foreign direct investment and portfolio investments in all sectors (excluding financial services which are covered by a dedicated chapter).
- Protection for UK and New Zealand investors based on CPTPP, including from unfair or discriminatory treatment or expropriation of assets without due compensation.
- The following market access commitments:
  - o Non-discrimination provisions that ensure UK and New Zealand investors will benefit from the same treatment granted to local and international businesses. This includes a 'most-favoured nation' provision that captures future access granted to investors and investments from other countries.
  - o A market access commitment that prohibits certain quantitative restrictions on investment across the whole economy.

- o Commitments to prohibit nationality and residency requirements for senior managers and company directors, allowing UK and New Zealand enterprises to maintain control over business operations and recruitment.
- o A prohibition on performance requirements that builds on existing FTA practice and minimises market distortions and barriers for investors. This includes the prohibition of export restrictions, headquarter localisation requirements, mandatory levels of research and development, and local hiring requirements.
- o New Zealand and the UK will agree respective commitments against the above market access obligations using a comprehensive and transparent 'negative list' scheduling approach. Through this approach, both countries will also agree to various reservations (exceptions) to these obligations.
- o These market access commitments ensure that investors will benefit from market access comparable to New Zealand and the UK's best FTAs while preserving the countries' ability to regulate in the public interest in the future.
- o Investment screening thresholds raised to the level New Zealand provides for under CPTPP.

#### **14. Digital trade**

New Zealand and the UK have agreed in principle on ambitious commitments that will increase opportunities across all sectors of the economy, promote inclusive digital trade, and build consumer confidence including by ensuring privacy and other legitimate public policy objectives are protected. The chapter will also look to the future by supporting the development of a closer digital partnership between New Zealand and the UK through commitments that will enhance cooperation in a range of policy and regulatory areas.

Commitments in the digital trade chapter will:

- Enable cross-border data flows and avoid unjustified data localisation, while also ensuring governments can enact measures in respect to data protection, privacy and other legitimate public policy objectives.
- Commit to open digital markets by establishing effective principles that allow businesses to operate fairly and competitively, including recognition that consumers benefit from reasonable treatment by internet service providers and a commitment not to impose customs duties on electronic transmissions.
- Reduce barriers to digital trade by addressing restrictive practices such as requirements for paper-based trade administration documents, promotion of e-invoicing and a commitment to accept e-contracts except in circumstances provided for under New Zealand or the UK's laws. The two countries will ensure

that electronic transactions and electronic transferable records regulations are implemented in a manner consistent with international frameworks.

- Promote a safe trading environment which builds business and consumer trust, including through commitments that discourage unsolicited commercial electronic messages (spam), protect personal information and support cooperation in the establishment of New Zealand's and the UK's respective digital identities frameworks. The two countries will also recognise the importance of working together on cyber security issues and encouraging businesses to improve their cyber security resilience.
- Improve the accessibility, as appropriate, of publicly available, anonymised government data and information, in a machine-readable format for the purpose of economic, social and research benefit.
- Protect innovation by preventing the forced tech transfer of encryption keys, subject to legitimate scrutiny and regulatory interventions by appropriate authorities alongside other protections to address emerging issues in these areas.
- Support ongoing cooperation on important digital trade issues, including on digital innovation, emerging technologies, and digital identities. Both countries will cooperate on digital inclusion, to ensure that all people and businesses can harness the potential benefits arising from digital trade.

## **15. Government procurement**

New Zealand and the UK commit to a high-quality chapter on government procurement that will include new and expanded rules in the text, and market access that goes beyond the WTO Government Procurement Agreement (GPA).

The provisions in the government procurement chapter will include:

- Facilitating participation of small and medium-sized enterprises (SMEs).
- Considering environmental, social and labour outcomes in procurement.
- Ensuring integrity in procurement processes.
- The use of paperless procurement and open data.

New Zealand and the UK also commit to provide additional market access and allow suppliers to participate in each other's government procurement markets beyond the WTO GPA. The two countries will make improvements across the different annexes which collectively as a package will achieve balance and proportionality across procurement market access. These market access commitments will include:

- A commitment to comprehensive coverage of central government entities and agreement to broaden coverage in other areas.

- New Zealand and the UK to negotiate to broaden coverage should New Zealand cover local authorities and State Sector entities (which includes State Services entities not currently required to follow the New Zealand Government Procurement Rules) in another FTA, or if these entities are required to follow the New Zealand Government Procurement Rules in future.

## **16. Intellectual property**

New Zealand and the UK commit to intellectual property (IP) provisions that will support our vibrant economies through adequate, effective and balanced protection of IP rights that encourage innovation and creativity, and balance the interests of users and support social objectives. The FTA will include provisions on copyright and related rights, design protection, trade marks, geographical indications (GIs), trade secrets, enforcement, patents and test data. This FTA will not affect the cost of medicine for the NHS or in New Zealand.

Commitments in the IP chapter will include:

- A commitment from New Zealand to extend copyright term by 20 years for authors, performers and producers, which will be implemented within 15 years of entry into force of the FTA.
- A commitment to adopt or maintain artist's resale right schemes and operate them on a reciprocal basis. In New Zealand's case this scheme will be introduced within two years of entry into force of the FTA.
- Commitments to adopt or maintain a public performance right for performers to cover communication to the public of phonograms.
- A commitment from New Zealand to make all reasonable efforts to join the Hague Agreement on Industrial Designs.
- No other commitments in the IP chapter will require changes to IP regulatory settings for either New Zealand or the UK.

Additionally, the chapter will include commitments that reflect both countries' IP policies that support innovation across our economies. These outcomes reflect New Zealand and the UK's existing high quality enforcement regimes (including in the digital environment), protection for trade secrets, and provide further opportunities to cooperate.

The chapter will also include commitments to ensure effective enforcement of IP rights including injunctive relief, and a requirement that routes to legal recourse be accessible and not unreasonably costly.

In respect to GIs, if New Zealand introduces a bespoke scheme for agricultural products or foodstuffs, or substantively amends its domestic registration system, New Zealand and the UK will review the FTA to ensure this protection is afforded to UK GIs and that equivalent protection is afforded to New Zealand GIs in the UK. If no changes have been made within two years of entry into force of the FTA, the two countries will review these GI provisions.

Reflecting their importance to New Zealand, including Māori, the chapter will include provisions on genetic resources, traditional knowledge and traditional culture expression that: recognise the relevance of traditional knowledge associated with genetic resources to IP systems; provide for consideration of traditional knowledge associated with genetic resources in patent examination processes; commit both countries to working together to promote multilateral outcomes on these issues at the World Intellectual Property Office InterGovernmental Committee (WIPO IGC); and provide for review of these provisions in the FTA (including within 2 years of entry into force if no international instrument has been adopted at WIPO).

## **17. Competition**

New Zealand and the UK commit to maintaining and enforcing laws that promote competition and address anti-competitive activities. Enabling open and fair competition and effective cooperation between enforcement agencies will result in economic efficiencies and provide benefits for consumer welfare.

Commitments in the competition chapter will include provisions to:

- Maintain national competition laws that proscribe anti-competitive agreements, anti-competitive practices by entities that have substantial market power, and address mergers with substantial anti-competitive effects.
- Apply and enforce national competition law to all commercial activities in a manner which does not discriminate on the basis of nationality or ownership, subject to transparent exemptions from application based on public policy grounds.
- Maintain an operationally independent national competition authority.
- Address procedural fairness including in respect to merger reviews.
- Ensure fair treatment for individuals and businesses regarding the enforcement of New Zealand and the UK's national competition law, including a reasonable opportunity to be legally represented and rules around legal privilege.
- Guarantee individuals and business the rights to bring private cases under competition law, both independently and following a finding of violation by a national competition authority.

- Recognise the importance of cooperation on competition policy and law, in particular between New Zealand and UK competition authorities, on the application and effective enforcement of competition law.

## **18. Consumer protection**

New Zealand and the UK have co-created a consumer protection chapter that will recognise the importance of consumer trust and confidence in enabling consumers to access the benefits of trade in both countries. The chapter will include commitments to uphold consumer protection rights and ensure that consumers continue to benefit from trade in both online and offline settings.

Commitments in the consumer protection chapter will include:

- Continued cooperation on consumer rights and protection between enforcement agencies, ensuring that the two countries stay at the forefront of global approaches to consumer protection.
- Proscribing commercial activities that harm consumers, such as deceptive, unfair, fraudulent and misleading conduct.
- Providing for transparency in relation to consumer protection, such as countries providing information on how consumers can pursue remedies.
- Requiring goods to be of satisfactory quality at the time of delivery and consistent with the supplier's claims regarding the quality of the goods.
- Requiring services to be performed with reasonable skill and care, in a reasonable time and consistent with the supplier's claims regarding quality.
- Recognising the importance of consumer redress mechanisms and working together to identify what the obstacles might be for consumers trying to access redress mechanisms for claims involving suppliers from the other country.

## **19. State-owned enterprises and designated monopolies (SOEs)**

New Zealand and the UK commit to including a chapter on SOEs that will provide rules aimed at ensuring open and fair competition between commercially oriented SOEs and private businesses and will provide for cooperation in the future.

Commitments in the SOEs chapter will include:

- Provisions that provide for open and fair competition between commercially oriented SOEs and private businesses; for example, rules around non-commercial assistance to SOEs and non-discrimination.
- Rules around courts and administrative bodies, such as ensuring administrative bodies regulate state-owned enterprises in an impartial manner.
- In addition to other exceptions, a fixed turnover threshold below which the provisions of the SOEs chapter will not apply.
- Provisions that ensure SOEs, particularly those providing public services, can continue to operate as they do now.

- Provisions that ensure a country is transparent about the activities of SOEs, when requested by the other country.
- Commitment that New Zealand and the UK share information about their SOEs.

## **20. Good regulatory practice (GRP) and regulatory cooperation**

New Zealand and the UK commit to a chapter on GRP and regulatory cooperation that contains provisions which will support a transparent and predictable regulatory environment as well as regulatory cooperation to support trade and investment.

Commitments in the GRP and regulatory cooperation chapter will include:

- Use of Regulatory Impact Assessments for major proposed regulatory measures.
- Provisions relating to public consultation and periodic review.
- Provisions that will facilitate communication on and coordination of regulatory cooperation activities and identify opportunities for undertaking regulatory cooperation between regulatory authorities.

## **21. Labour**

New Zealand and the UK commit to mutually supportive trade and labour policies and practices, and affirm their obligations as members of the International Labour Organisation (ILO). The chapter will also promote the Decent Work Agenda and non-discrimination and women's equality in the workplace, and reflect our ambition to tackle modern slavery in global supply chains.

Commitments in the labour chapter will include:

- Provisions that commit the UK and New Zealand to respect, promote and realise in its laws the principles concerning the fundamental rights at work, maintain effective enforcement systems, and not derogate from their respective labour laws in order to encourage trade and investment.
- Recognition of the right to regulate, which confirms that each government may establish its own levels of domestic labour protection and its own priorities relating to labour, and to establish, adopt or modify its labour laws and policies consistent with its international commitments including those under the chapter.
- New provisions with respect to women's equality in the workplace and on modern slavery in global supply chains.
- Recognition of the importance of working towards ratification and implementation of the fundamental conventions of the ILO in accordance with their national conditions, circumstances and priorities.



- Commitments to promote the objectives of the Decent Work Agenda with respect to labour protection, with due regard to national conditions, circumstances and priorities.
- Commitments to adopt and maintain measures governing decent working conditions (as determined by each of New Zealand or the UK) with respect to minimum wages, hours of work, and healthy and safe working conditions.
- Recognition that it is inappropriate to use labour laws for protectionist purposes or to weaken or reduce protections to encourage trade or investment.
- Provisions for public awareness and consultation regarding the implementation of the chapter and providing responses in a timely manner.
- Provisions that will require the two countries to consult as appropriate with domestic stakeholders to provide input on the implementation of the chapter. In addition, the two countries will convene joint dialogues with members of their advisory groups, including representatives of their worker and employer groups, to provide input on the implementation of the chapter.
- Adopting CPTPP consultation and enforcement provisions with amendments to ensure a comprehensive and collaborative approach to dispute resolution in a bilateral context.

## **22. Environment**

New Zealand and the UK commit to an ambitious chapter that will support both governments' trade and environment agendas and responses to the urgent threat of climate change. Acknowledging the special relationship of Māori with the environment in New Zealand, the chapter will include Maori concepts such as kaitiakitanga, Mauri, and whakapapa.

The environment chapter will include provisions that:

- Commit New Zealand and the UK to maintain and effectively enforce their domestic environmental laws and policies.
- Recognise it is inappropriate to use environmental laws in a manner which would constitute a disguised restriction on trade or investment. New Zealand and the UK also commit to not derogating from their respective environmental laws in order to encourage trade and investment.
- Preserve New Zealand and the UK's right to regulate to meet our respective climate action targets and wider environmental objectives, and recognise that nothing in the FTA will prevent either the UK or New Zealand from fulfilling their commitments under the United Nations Framework Convention on Climate Change (UNFCCC) or Paris Agreement provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination against the other country or a disguised restriction on trade. Affirm

commitments made by New Zealand and the UK under the UNFCCC, Paris Agreement and Montreal Protocol (including Kigali), and the need to take action to reduce greenhouse gas emissions and strengthen the global response to climate change.

- Affirm commitments to implement Multilateral Environmental Agreements (MEAs).
- Acknowledge Māori perspectives on sustainability and the importance of the environment to Māori.
- Promote trade and investment in environmental goods and services which support the transition to a low carbon economy, and cooperation on carbon markets and pricing. This will include the most comprehensive list of environmental goods agreed to date, with tariff elimination at entry into force of the FTA for these environmentally beneficial products.
- Contain precedent-setting commitments on environmentally harmful subsidies, clean energy and sustainable trade to:
  - o Transition away from fossil fuels, including ending unabated coal-fired electricity generation, and taking steps to eliminate fossil fuel subsidies where they exist with limited exceptions in support of legitimate public policy objectives.
  - o Address inadequate fisheries management; illegal, unreported and unregulated (IUU) fishing and specific subsidy prohibitions to tackle IUU fishing, overfishing and overcapacity.
- Contain commitments on a comprehensive range of environment and trade issues, for example on:
  - o Sustainable agriculture, marine pollution and litter, circular economy, biodiversity and air quality.
  - o Continuing to reduce the use of ozone-depleting substances, pursuing an ambitious phasedown of the use of hydrofluorocarbons and cooperating on environmentally-friendly alternatives.
  - o Contributing to combatting illegal logging and deforestation, including through promoting sustainable trade in commodities that are generally associated with deforestation.
- Include CPTPP consultation and enforcement provisions with amendments to ensure a comprehensive and collaborative approach to dispute resolution in a bilateral context.

### **23. Small and medium-sized enterprises (SMEs)**

New Zealand and the UK commit to enhance the ability of SMEs to benefit from the FTA and to promote SME participation in international trade. The chapter will require both New Zealand and the UK to publish information about the FTA which is useful for SMEs. It will include provisions that facilitate cooperation between New Zealand and the UK in areas that will benefit SMEs in both countries, including by identifying ways to help SMEs take advantage of the FTA.

Commitments in the SMEs chapter will include:

- Establishing and maintaining information in digital form that SMEs can draw on when trading, investing, or doing business in our respective markets.
- Encouraging cooperation between New Zealand and the UK, such as through the exchange of information on programmes to assist SME participation in global markets.
- Cooperating on promotional activities, such as joint roadshows targeted at SMEs, as part of implementing the FTA.

Beyond the SMEs chapter, New Zealand and the UK commit to a range of additional outcomes across the FTA which are targeted at reducing the compliance and other costs SMEs face when exporting. These will include facilitating participation of SMEs in government procurement markets; eliminating tariffs and other barriers to goods and services trade, reducing cost of trade through electronic means and streamlined self-declaration of origin procedures; and ensuring customs procedures are transparent and more trade-friendly through a trade single window which accepts e-documentation.

### **24. Trade and gender equality**

New Zealand and the UK commit to a dedicated chapter that will advance women's economic empowerment and promote gender equality in trade. This chapter will be supplemented by a number of gender equality provisions agreed across the FTA.

Commitments in the trade and gender equality chapter will include:

- Provisions to implement the obligations under existing international agreements and instruments that New Zealand and the UK have signed up to and which address women's rights or gender equality.
- Commitments on cooperative activities that aim to enhance the ability of women to benefit from the FTA and address barriers for women in trade such as lack of access to markets, business and leadership networks, and finance. Future

cooperation may focus on promoting financial inclusion, building trade-related capacity and enhancing skills of women at work, in business and at senior levels, fostering women's entrepreneurship, and supporting economic opportunities for diverse groups of women in trade and investment, including wahine Māori.

- A commitment to develop a framework for analysing sex or gender-disaggregated data, and gender-focused analysis of trade policies.

## **25. Indigenous trade**

Acknowledging that Te Tiriti o Waitangi/The Treaty of Waitangi is a foundational document of constitutional importance to New Zealand, and recognising the significant interest among Māori in the FTA, New Zealand and the UK have committed to develop an indigenous trade chapter that will include:

- Recognising the value of Māori leadership and economy, Mātauranga Māori and the Te Ao Māori world view.
- Providing for cooperation as appropriate between New Zealand, including Māori, and the UK in a way that promotes Māori participation in the agreement, including the trade and investment opportunities that will arise from the FTA.
- A commitment by the UK to cooperate with New Zealand to identify appropriate ways to advance recognition and protection of the Haka Ka Mate. Separately, a side letter will also acknowledge Ngāti Toa Rangatira's guardianship of the Haka Ka Mate.
- Reference to relevant international instruments.

## **26. Trade and development**

Acknowledging the importance of development in promoting sustainable and inclusive economic growth, New Zealand and the UK commit to include a chapter dedicated to trade and development issues.

Commitments in the Trade and Development chapter will include:

- Exchanging information and sharing best practices on trade and development policies and programmes.
- Cooperation and joint advocacy in international fora in areas of mutual interest related to trade and development.
- Further cooperation as may be decided between New Zealand and the UK, including activities in support of least developed countries and small island developing states and sharing best practices for analysing trade agreements and monitoring, jointly or individually, the impact of this FTA on developing countries.

Other trade and development outcomes will be set out in other chapters of the FTA, such as rules of origin, technical barriers to trade, digital trade, trade and gender equality and cross-border trade in services. These provisions will ensure the whole FTA supports mutual trade and development objectives.

## **27. Anti-corruption**

New Zealand and the UK commit to best-practice anti-corruption provisions that combat the distorting effect of bribery and corruption on international trade and investment. Both countries re-affirm their international obligations at the OECD and United Nations to combat bribery and corruption.

Commitments in the anti-corruption chapter will include:

- The criminalisation of bribery, measures regarding the maintenance of books and records, a reasonable statute of limitations regarding bribery and corruption offences, and disallowance of tax deductibility of bribes.
- The criminalisation of embezzlement and money laundering, and measures to facilitate asset recovery.
- Identifying competent domestic authorities, reporting procedures, and whistleblower protections for individuals to encourage reporting of bribery and corruption.
- Promoting integrity among public officials, including in the exercise of their public functions.
- Encouraging the participation of the private sector and civil society in preventing and combatting bribery and corruption in matters affecting international trade or investment.
- Addressing the harmful effects of facilitation payments.

## **28. Transparency**

The transparency chapter will reflect international best-practice and New Zealand and the UK's commitment to open and transparent government.

Both countries commit to the promotion of transparency and facilitating public participation in government decision-making, including by encouraging digital means of publication, where possible, including consideration of accessibility and open, machine-readable format.

## **29. Initial provisions and general definitions, final provisions**

Commitments in these cross-cutting chapters will:

- Ensure that the FTA will take into account the effects of the Protocol on Ireland/Northern Ireland.
- Confirm the territorial scope of the FTA, including how the FTA will apply in respect of the UK and its Crown Dependencies and Overseas Territories (including Gibraltar) including a mechanism for future territorial extension.
- Confirms the coverage of natural persons under the FTA, including in a way that reflects approaches taken in the WTO.

### **30. General exceptions and general provisions**

A paramount objective for both countries in negotiating the FTA has been to protect the right of governments to regulate in the public interest. This will be achieved in a number of different ways, including the careful design of FTA obligations, limiting the scope of obligations where appropriate, and through specific exceptions included throughout the agreement. In addition, New Zealand and the UK commit to a number of general exceptions that will apply across the FTA. The general exceptions will include:

- Incorporation of WTO GATT and GATS exceptions related to human, animal and plant life or health, the environment, public morals and national treasures of artistic, historic or archaeological value. New Zealand and the UK will also confirm their understanding that measures taken by governments which are necessary to mitigate climate change could also fall within these exceptions.
- A national security exception that will ensure action can be taken to meet international security obligations or to protect either country's essential security interests. Exceptions that enable governments to respond appropriately to a balance of payments crisis and permit policy-making discretion in the design and application of taxation measures.
- A creative arts exception that will preserve the ability of governments to adopt measures necessary to protect national works or specific sites of historical or archaeological value, or to support creative arts of national value. This exception will not apply to the intellectual property chapter.
- An exception recalling provisions across the FTA allowing New Zealand and the UK to protect their respective health services, including the NHS and New Zealand's health and disability system.
- The Treaty of Waitangi exception which will protect the New Zealand government's ability to adopt policies it considers necessary to fulfil its obligations to Māori, including under the Treaty of Waitangi.

### **31. Dispute settlement**

New Zealand and the UK commit to an effective and timely dispute settlement mechanism that will provide a clear avenue to promptly progress to arbitration in the unlikely event it is required. This will boost certainty for UK and New Zealand traders. The chapter will prevent forum shopping and ensure an efficient arbitration process, and will be complemented by Rules of Procedure and Code of Conduct that will provide certainty and flexibility.

#### **Additional outcomes**

In parallel to negotiations on the FTA, New Zealand and the UK also commit to the following:

- New Zealand will remove all their objections to the UK's WTO Goods Schedule and conclude negotiations under Article 28 of the GATT.
- New Zealand will not seek additional tariff liberalisation or otherwise accelerated tariff liberalisation in the UK's accession to CPTPP than agreed under the UK-New Zealand FTA.
- In the context of the UK's CPTPP accession process, investor-state dispute settlement provisions of CPTPP will not apply between New Zealand and the UK.
- New Zealand and the UK have also committed to a mobility dialogue outside of the FTA that will consider how people-to-people links can be deepened even further. This will include working expeditiously to extend and improve the existing New Zealand-UK Working Holiday/Youth Mobility scheme. Work on this will begin immediately.

**Agreed on 20 October 2021**