CHAPTER 21

GOOD REGULATORY PRACTICE AND REGULATORY COOPERATION

Article 21.1
Definitions

For the purposes of this Chapter:

"regulatory authority" means:

(a) for New Zealand, any central government organisation that administers a regulatory measure covered by this Agreement;

(b) for the United Kingdom, a ministerial department of the central level of government; and

"regulatory measure" means:

(a) for New Zealand:

(i) a Public Act of the Parliament of New Zealand; or

(ii) a Regulation made by Order in Council,

which is a measure of general application related to any matter covered by this Agreement, excluding:

(iii) any measure that would have no or only minor impacts on businesses, individuals, or not-for-profit entities;

(iv) any measure imposing, abolishing, or varying any tax, duty, levy, or other charge (or any measure in connection with that measure);

(v) any measure in connection with public sector procurement;

(vi) any measure in connection with the giving of grants or other financial assistance by or on behalf of a public sector organisation;

(vii) any measure which is to have effect for a period of less than 12 months; or

(viii) any measure related to managing, mitigating, or alleviating the impacts of declared emergency events;

(b) for the United Kingdom:

(i) an Act of the UK Parliament; or

(ii) a statutory instrument made by a Minister of the Crown under an Act of the UK Parliament,

which makes provision in relation to a matter covered by this Agreement which relates to a business activity, excluding:

(iii) any measure imposing, abolishing, or varying any tax, duty, levy, or other charge (or any measure in connection with that measure);

(iv) any measure in connection with public sector procurement;

(v) any measure in connection with the giving of grants or other financial assistance by or on behalf of a public authority; or

(vi) any measure which is to have effect for a period of less than 12 months.

Article 21.2
General Principles

1. The purpose of this Chapter is to promote good regulatory practice, and regulatory cooperation between the Parties, with the aim of:

(a) promoting an effective, transparent, and predictable regulatory environment;

(b) promoting compatible regulatory approaches and reducing unnecessarily burdensome, duplicative, or divergent regulatory requirements;

(c) discussing regulatory measures, practice, or approaches of the Parties, including how to enhance their effective and efficient application; and

(d) reinforcing bilateral cooperation between the Parties in international fora.

2. Each Party shall be free to determine its approach to good regulatory practice and regulatory cooperation under this Agreement in a manner consistent with its own legal framework, practice, and relevant principles of governance.

3. Each Party shall be free to identify its regulatory priorities and prepare and adopt regulatory measures to address those priorities to ensure the levels of

protection that the Party considers appropriate to achieve its public policy objectives, which may include health, safety, and environmental goals.

4. This Chapter shall not be construed so as to require a Party to:

(a) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives, or would otherwise risk undermining or compromising those public policy objectives;

(b) achieve any particular regulatory outcome; or

(c) adopt or apply domestic procedures, processes, and mechanisms that are unlikely to be cost effective for that Party.

Article 21.3
Internal Coordination Processes and Mechanisms

Each Party shall maintain internal coordination processes and mechanisms that foster good regulatory practice and promote the application of good regulatory practice principles to its regulatory measures. Each Party shall make descriptions of those processes and mechanisms freely and publicly available through a digital medium.

Article 21.4
Public Consultation

In addition to paragraph 2 of Article 29.2 (Publication – Transparency), when developing a proposed[1] major[2] regulatory measure,[3] each Party is encouraged to:

(a) make its consultation documentation freely and publicly available through a digital medium, including information on how to provide input; and

(b) make publicly available a summary of how relevant input received has informed the development of the proposed regulatory measure.

[1] For New Zealand, for the purposes of this Chapter, obligations with respect to proposed regulatory measures apply to Government-initiated proposals only.
[2] Each Party may determine what constitutes a "major" regulatory measure for the purposes of its obligations under this Chapter.
[3] For greater certainty, for the purposes of this Chapter, a proposed major regulatory measure could take the form of a set of proposed policy options or policy changes that would need to be given effect, in whole or in part, by creating, amending, or repealing a regulatory measure.

Article 21.5
Impact Assessment

1. Each Party shall endeavour to carry out, in accordance with its own rules and procedures, proportionate impact assessments of proposed major regulatory measures.

2. Each Party shall establish and maintain processes and mechanisms for carrying out proportionate impact assessments. Those processes and mechanisms shall consider:

   (a) the need for a regulatory measure, including the nature and the significance of the issue that a regulatory measure intends to address;

   (b) any feasible and appropriate regulatory or non-regulatory options, including the option of not regulating, if available, that would achieve the Party's public policy objectives; and

   (c) reasonably obtainable existing information including relevant scientific, technical, economic, or other information, within the boundaries of the authorities, mandates, and resources of the regulatory authority responsible for undertaking the impact assessment.

3. When conducting regulatory impact assessments, a Party may take into consideration the potential impact of the proposed regulatory measure on SMEs.[4]

4. Each Party shall, in accordance with its own rules and procedures, publish the findings of its impact assessments in a timely manner. The Party may explain the grounds for concluding that the selected option achieves its public policy objectives effectively.

Article 21.6
Access to Regulatory Measures

In addition to paragraphs 1 and 4 of Article 29.2 (Publication –Transparency), each Party shall ensure, consistent with its own rules and procedures, that its regulatory measures that are in effect are freely available and searchable.

[4] For the United Kingdom, for the purposes of this Chapter, "SMEs" means small and micro businesses.

Article 21.7
Periodic Review of Measures

1. Each Party shall endeavour to maintain processes or mechanisms to promote periodic reviews of major regulatory measures at intervals it deems appropriate.

2. Each Party shall endeavour to ensure that periodic reviews consider, where appropriate:

   (a) whether there are opportunities to achieve its public policy objectives more effectively and efficiently;[5] and

   (b) whether those regulatory measures are likely to remain fit for purpose.

Article 21.8
Cooperation General Provisions

1. The Parties shall cooperate to facilitate the implementation of this Chapter and to maximise the benefits arising from it, including those envisioned in paragraph 1 of Article 21.2 (General Principles).

2. Each Party may propose a good regulatory practice or a regulatory cooperation activity to the other Party through the designated contact points in accordance with Article 21.10 (Contact Points on Good Regulatory Practice) and Article 21.13 (Contact Points on Regulatory Cooperation**)** respectively or through direct contact between the relevant regulatory authorities.

Article 21.9
Cooperation on Good Regulatory Practice

1. Good regulatory practice cooperation activities may include:

   (a) information exchanges, dialogues, or meetings between policy officials responsible for oversight of good regulatory practice;

   (b) engaging with interested persons, including business and consumers;

   (c) seeking to collaborate in relevant international fora; and

   (d) other activities that the Parties may agree.

[5] For greater certainty, this may include whether unnecessary regulatory burdens, including on SMEs, can be reduced.

2. The Parties may undertake cooperation activities under this Article on a voluntary basis.

Article 21.10
Contact Points on Good Regulatory Practice

1. Each Party shall designate and notify a contact point on good regulatory practice to facilitate communication and cooperation between the Parties on any good regulatory practice covered by this Chapter.

2. Each Party shall promptly notify the other Party of any change to its good regulatory practice contact point.

Article 21.11
General Principles on Regulatory Cooperation

1. The Parties affirm the importance of regulatory cooperation and its role in:

   (a) facilitating economic activity, trade, and investment, including the efficient operation of value chains;

   (b) helping to reduce or remove potential regulatory barriers;

   (c) improving the effectiveness of domestic regulation; and

   (d) facilitating innovation, including the adoption of new technologies and dealing with the risks and opportunities arising out of those new technologies,

   while furthering public policy objectives, and ensuring certainty and predictability for businesses.

2. The Parties affirm the importance of undertaking regulatory cooperation in the most efficient way, having regard to the full range of regulatory cooperation activities. Activities include considering unilateral recognition or adoption and less formal arrangements such as information sharing and joint capacity building, along with equivalence, harmonisation, and mutual recognition.

3. The Parties recognise the value of regulatory cooperation, both bilaterally and in concert with other trading partners. The Parties may, whenever practicable and mutually beneficial, approach regulatory cooperation in a way that is open to participation by other international trading partners. Each Party may also, whenever practicable and mutually beneficial, approach regulatory cooperation with other international trading partners in a way that is open to participation by the other Party. The Parties may share information and,

where appropriate, take a coordinated approach to influencing regulatory settings in non-parties and the development of international models in international fora.

4. Where a Party is engaging in regulatory cooperation activities with a non-party, it is encouraged to give positive consideration to a request from the other Party to participate in this activity.

Article 21.12
Regulatory Cooperation Activities

1. Regulatory cooperation activities may include:

   (a) information exchanges, dialogues, or meetings between policy officials;

   (b) formal cooperation, including mutual recognition, equivalence, or harmonisation;

   (c) engaging with interested persons, including business and consumers; and

   (d) other activities that the Parties may agree.

2. Where the Parties agree to engage in a regulatory cooperation activity, and where they agree it is appropriate, each Party shall endeavour to:

   (a) inform the other Party of the development of new regulatory measures or the revision of existing regulatory measures that are relevant for the regulatory cooperation activity;

   (b) on request, provide information and discuss measures that are relevant for the regulatory cooperation activity; and

   (c) consider, when developing new regulatory measures or revising existing regulatory measures, any regulatory approaches by the other Party on the same or a related manner.

3. The Parties acknowledge the importance of regulators having a mandate and powers that enable them to cooperate with each other. Each Party shall endeavour to encourage informal cooperation between its regulators and their counterparts in the other Party to address barriers to trade and investment.

4. The regulatory cooperation contact points in Article 21.13 (Contact Points on Regulatory Cooperation) shall endeavour to:

(a) proactively identify potential opportunities for undertaking regulatory cooperation between regulatory authorities of the Parties;

(b) consider regulatory cooperation activities that respond to business concerns or issues raised by regulatory authorities, where those concerns or issues are not solely addressed in other Chapters of this Agreement; and

(c) prioritise those cases that would reduce regulatory barriers for SMEs or best support the efficient operation of value chains that operate between the Parties, including those that extend into other regions.

5. The contact points shall endeavour to ensure that regulatory cooperation activities under this Chapter add value in addition to any related initiatives underway in other relevant fora or other Chapters of this Agreement.

Article 21.13
Contact Points on Regulatory Cooperation

1. Each Party shall designate and notify a contact point on regulatory cooperation, to facilitate communication and cooperation between the Parties on any regulatory cooperation matter covered by this Chapter.

2. Each Party shall promptly notify the other Party of any change to its regulatory cooperation contact point.

Article 21.14
Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

Article 21.15
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter.